

LONE WOLF
GROUNDWATER CONSERVATION
DISTRICT RULES

Adopted: November 9, 1999

Effective: December 1, 1999

Amended: February 7, 2000; June 5, 2000;

November 5, 2001; May 5, 2003;

October 20, 2006; April 1, 2008; and

February 5, 2020

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PREAMBLE

In accordance with the terms and provisions of Article XVI Section 59 of the Constitution of Texas, Chapter 36 of the Texas Water Code, and SB2 and HB 2529 as enacted by the 77th Texas Legislature, the following rules are hereby ratified and adopted as the rules of the Lone Wolf Groundwater Conservation District, in Texas, by its Board. All rules or parts of rules, in conflict with these rules, are hereby repealed. The Lone Wolf Conservation District first adopted rules on November 9, 1999, and adopted amendments to its rules on February 7, 2000; June 5, 2000; November 5, 2001; May 5, 2003; October 20, 2006; April 1, 2008; and February 5, 2020.

Nothing in these rules shall be construed as depriving or divesting the right of ownership as recognized by Section 36.002 of the Texas Water Code.

The rules, regulations and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the groundwater laws of the State and the rules of this District. To the end that these objectives be attained, these rules shall be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances, and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion, where such exists; nor shall they in any event be construed to deprive the Board of an exercise of powers, duties, and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information which may be required for the proper administration of the law.

HISTORY OF THE LONE WOLF GROUNDWATER CONSERVATION DISTRICT

The Lone Wolf Groundwater Conservation District (LWGCD) was created as a temporary district with the passage SB 1911 by the 76th Texas Legislature. Existing or grandfathered wells were identified by landowners or well operators by completing and returning specified forms to the District during the 3-month enrollment period. The District mailed information to all Mitchell County property owners to notify them of the enrollment period and received more than 2,000 water well enrollment forms during that time.

The passage of SB2 and HB 2529 by the 77th Texas Legislature allowed for the permanent creation of the District. The voters within the District formally authorized the LWGCD on February 2, 2002 through the required confirmation election. The voters also approved a property tax rate not to exceed 3 cents per \$100 valuation to fund the activities of the District.

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS

- (a) **"Abandoned Well"** – shall mean a well that has not been in use for six consecutive months. A well is considered to be in use in the following cases: (1) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or (2) a non-deteriorated well which has been capped.
- (b) **"Acre"** – shall mean unit of land measurement equaling 43,560 square feet.
- (c) **"Acre-foot"** – shall mean, the volume of water that will cover an area of one acre to a depth of one foot (approximately 325,829 gallons).
- (d) **"Applicant"** – shall mean the Owner of the land on which a well(s) or proposed well(s) is/are located, unless the Owner authorizes another person to act on his/her behalf with respect to transactions involving the District.
- (e) **"Affected Person"** – shall mean a person who has a personal justifiable interest related to a legal right, duty, privilege, power or economic interest that is within the District's regulatory authority and is or may be affected by the matter before the District. An interest common to members of the general public does not qualify as a personal justifiable interest.
- (f) **"Agriculture Use"** -- shall mean a use of activity involving: cultivating the soil to produce crops for human food, animal feed, or planting seed, or for the production of fibers; the practice of floriculture, viticulture, silviculture and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower; raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having commercial value; planting cover crops, including cover crops cultivated for transportation, or leaving land idle for the purpose of participating in any government program or normal crop or livestock rotation procedure; wildlife management; and raising or keeping equine animals.
- (g) **"Aquifer"** – shall mean a formation or group of saturated geologic units capable of storing and yielding water in usable quantities.
- (h) **"Beneficial Use or Beneficial Purpose"** – shall mean a use as described in Rule 12.4 herein.
- (i) **"Board"** – shall mean the Board of Directors of the Lone Wolf Groundwater Conservation District.
- (j) **"Brackish Groundwater"** – shall mean groundwater that has a total dissolved solids content that is equal to or greater than 3,000 milligrams per liter.

- (k) **“Casing”** – shall mean a tubular watertight structure installed in an excavated or drilled hole to maintain the well opening.
- (l) **“Commercial Irrigation System”** – shall mean any water distribution device, installed above ground or below ground, that applies water to the surface or subsurface of the earth and is used to irrigate land intended for commercial use. Water delivery devices used to water lawns and for non-commercial use are not considered commercial irrigation systems.
- (m) **“Conservation”** – shall mean practices, techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the use of recycled water.
- (n) **“Desired Future Condition”** – shall mean a quantitative description, adopted in accordance with Section 36.108 of the Texas Water Code, of the desired condition of groundwater resources in a management area at one or more specified future times.
- (o) **“Deteriorated Well”** – shall mean a well, the condition of which will cause, or is likely to cause, pollution of groundwater.
- (p) **“Dewatered Well”** – shall mean an opening in the surface of the earth that is designed to remove water with the intent of lowering the groundwater level temporarily during a construction period.
- (q) **“District”** – shall mean Lone Wolf Groundwater Conservation District
- (r) **“District Act”** – shall mean Acts of the 77th Legislature (2001). HB2529 and SB2 and the non-conflicting provisions of Chapter 36, Water Code.
- (s) **“District Management Plan”** – shall mean the comprehensive groundwater management plan adopted by the District, pursuant to Section 36.107 of the Texas Water Code.
- (t) **“Domestic Use”** – shall mean the use of groundwater by an individual or household for drinking, washing, or culinary purposes; irrigation of a family garden or orchard, the product of which is for household consumption only.
- (u) **“Gallons per minute” or “GPM”** – shall mean the amount of water in U.S. gallons that a well or well system is capable of delivering or is actually delivering per minute.
- (v) **“Grandfathered well”** – shall mean a well drilled prior to December 1, 1999, provided that its use of water is within the District
- (w) **“Groundwater”** – shall mean water percolating below the surface of the earth but does not include water produced with oil in the production of oil and gas.

- (x) **"Hearing Body"** – shall mean the Board, any committee of the Board, or a Hearing Examiner at any hearing held by the District in accordance with Section 14 of the District rules.
- (y) **"Hearing Examiner"** – shall mean a person appointed by the Board to conduct a hearing or other proceeding.
- (z) **"Lechate Well"** – shall mean a Well used to remove contamination from soil or groundwater.
- (aa) **"Livestock Watering Well"** – shall mean a well of any type used to provide drinking water for commercial farm and ranch animals ranging in normal concentrations for the species. This definition of livestock watering well does not include wells used in confined animal operations (i.e. confined swine, beef cattle, dairy cattle, sheep and goats, poultry or any other types of livestock production units and/or feedlots for swine, beef cattle, dairy cattle, sheep and goats, poultry or other types of livestock).
- (bb) **"Modeled Available Groundwater"** – shall mean the amount of water that the executive administrator of the Texas Water Development Board determines may be produced on an average annual basis to achieve a desired future condition established under the Texas Water Code Section 36.108.
- (cc) **"Monitoring Well"** – shall mean an artificial excavation constructed to measure or monitor the quantity or movement of substances below the surface of the ground. The term does not include any monitoring well used in conjunction with the production of oil, gas, or other minerals.
- (dd) **"Open or Uncovered Wells"** – shall mean an excavation at least ten feet in depth dug for the purpose of producing groundwater that is not covered or capped as required by the Texas Water Code.
- (ee) **"Owner"** – shall mean, without limitation, any person, partnership, firm, corporation, municipal corporation, governmental or proprietary body, association of such persons or agent of such entity that has the right to produce water from the land, where the water well or proposed water well is located, either by contract, lease, easement, or any other estate in the land.
- (ff) **"Permitted Well"** – shall mean a well that is authorized to operate by a permit issued by the District.
- (gg) **"Person"** – shall mean any individual, partnership, firm, governmental agency, political subdivision, corporation, or other legal entity.
- (hh) **"Pollution"** – shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

- (ii) **"Presiding Officer"** – shall mean President, Vice-President, Secretary or other Board member presiding at any hearing or other proceeding, or a Hearing Examiner conducting any hearing or other proceeding.
- (jj) **"Replacement Well"** – shall mean a well that is drilled to replace a well where:
a) the well that is being replaced is permanently closed; b) the replacement well is drilled within 30 feet of the closed well; and c) the well will be used to produce the same amount of groundwater and for the same purpose as the original well.
- (kk) **"Reworking Wells"** – shall mean any work on an existing well that may or may not increase or reduce the well production including, but not limited to, pump removal or installation, motor removal or installation and cleaning wells.
- (ll) **"Rules"** – shall mean the rules of the District compiled in this document and as may be supplemented or amended from time to time.
- (mm) **"Texas Open Meeting Law"** – shall mean Chapter 551, Government Code.
- (nn) **"Texas Open Records Law"** – shall mean Chapter 552, Government Code.
- (oo) **"Transportation of Groundwater"** – shall mean pumping, transferring, or moving groundwater out of the District from a withdrawal point of origin within the District.
- (pp) **"Waste"** – shall be defined by Chapter 36.001 of the Texas Water Code and Section 12 herein.
- (qq) **"Well"** – shall mean any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.
- (rr) **"Well Owner or Well Operator"** – shall mean (1) the person who owns the land upon which a well is located or is to be located or (2) the person who operates a well or a water distribution system supplied by a well.
- (ss) **"Well System"** – shall mean a well or group of wells tied to the same distribution system.

SECTION 2. GENERAL RULES

- RULE 2.1 PURPOSE OF RULES:** These rules are adopted to implement applicable provisions of the District Act and Ch. 36, Texas Water Code, and accomplish the purposes set forth therein and in Section 59, Article XVI, Texas Constitution.
- RULE 2.2 USE AND EFFECT OF RULES:** The District uses these rules as guides in the exercise of the power conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction of the exercise of any discretion, nor be construed to deprive the District or Board of the exercise of any powers, duties, or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.
- RULE 2.3 RULES AMENDMENT:** After notice and hearing, the Board shall adopt and enforce rules to implement Chapter 36 of the Texas Water Code, including rules governing procedure before the Board. The Board shall have the right to revise or restructure, after due public notice and hearing, any portion of these rules it deems necessary. The Board may adopt emergency rules without prior notice or hearing in accordance with Chapter 36 of the Texas Water Code.
- RULE 2.4 HEADINGS AND CAPTIONS:** This section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.
- RULE 2.5 CONSTRUCTION:** Construction of words and phrases are governed by the Code Construction Act, Chapter 311, Government Code.
- RULE 2.6 METHODS OF SERVICE UNDER THESE RULES:** Except as otherwise expressly provided in these rules, any notice or document required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative (a) in person, (b) by agent, (c) by courier receipted delivery, (d) by certified mail sent to the recipient's last known address, or (e) by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient is either required to act or respond or has the right to act or respond within a prescribed time after service, three days will be added to the prescribed time period; Where service by one or more methods has been attempted and failed, service is complete upon notice by publication in a generally circulated newspaper in Mitchell County.

RULE 2.7 TIME

(a) **COMPUTING TIME:** In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a legal holiday.

(b) **TIME LIMIT:** Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing at the Board's offices at Colorado City, Texas, or, in proper case, at the office of the proper county committee, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

RULE 2.8 SEVERABILITY AND SAVINGS CLAUSE: If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid, illegal, or unenforceable for any reason, by the final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules, irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid, illegal or unenforceable.

RULE 2.9 VALIDITY OF WELL SITES AND PERMITS: All well drilling sites or permits authorized by the District prior to amendment of these rules remain valid and in effect according to the terms of the permit. However, these permits continue to be subject to the rules of the District, as amended; the District Management Plan, as amended; and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries as authorized by Chapter 36 of the Texas Water Code, as amended.

SECTION 3. BOARD

RULE 3.1 PURPOSE OF BOARD: The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District in order to conserve, preserve, and protect the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules, policies, permits and orders.

RULE 3.2 BOARD STRUCTURE, OFFICERS: The Board consists of the members appointed or elected and qualified as required by the District Act. The Board will elect one of its members to serve as President to preside over Board

meetings and proceedings; one to serve as Vice-President to preside in the absence of the President; and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. The board will elect officers at its regular meeting in November or after the general election in November of each year. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.

RULE 3.3 MEETINGS: The Board will hold a regular meeting once every other month and as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least two members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

RULE 3.4 COMMITTEES: The President may establish committees for formulation of policy recommendations to the Board, and to research and study issues of importance to the district. The President may appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

SECTION 4. DISTRICT

RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT: All documents, reports, records, and minutes of the District are available for public inspection and copying/certification under the provisions of Texas Open Records Law. Upon written application of any person, the District will furnish copies of its public records. A reasonable copying and certification charge, pursuant to policies established by the District, will be assessed. A list of the charges for copies and certification will be furnished by the District.

RULE 4.2 DISTRICT MANAGEMENT PLAN: The District has adopted a long-term management plan in accordance with Ch. 36.1071-36.1073. Additionally, the District is available to the Region F planning group and GMA 7 as a resource and may hold public hearings concerning appropriate goals for subsequent long-term management plans.

RULE 4.3 DISTRICT OFFICE: The District will maintain its office at 139 West 2nd Street, Colorado City, Texas 79512. The District's phone number is (325) 728-2027 and fax is (325) 728-9304.

RULE 4.4 DISTRICT STAFF: The Board may employ or contract with a person to serve as General Manager of the District and to perform such duties as the Board may from time to time specify. The General Manager may delegate duties as may be necessary to effectively and expeditiously accomplish those duties, provided that no such delegation may ever relieve the General Manager from

responsibilities under the District Act or Board orders. The General Manager, with the approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District and their salaries will be set by the Board.

RULE 5. PERMIT EXEMPTIONS AND REGISTRATION

RULE 5.1 PERMIT EXEMPTIONS: Only the following wells are exempt from obtaining a Permitted Well and the permitting requirements of these Rules and shall be registered in accordance with Rule 5.2.

- (a) Drilling or operating a well, used solely for domestic use, or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;
- (b) The drilling of a water well used solely to supply water for a drilling rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas, provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig; or
- (c) The drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

The District may require a permit for a well if the groundwater withdrawals that were exempted under Rule 5.1 are no longer used solely to supply water for a drilling rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas.

RULE 5.2 WELL REGISTRATION FOR EXEMPT OR GRANDFATHERED WELLS: Registration is required for all exempt wells (as listed in Rule 5.1) and grandfathered wells in the District, even if these wells do not require a permit.

Registration shall include the following information, submitted on forms provided by the District:

- (a) the exact location of the well to be drilled, as provided in the application, including the latitude and longitude, the county, section, block, survey and township; and the exact number of yards to the nearest non-parallel property line, or other legal description;

- (b) proposed use of the well to be drilled;
- (c) the size of the pump and the estimated gallons per minute production;
- (d) the name and address of the owner of the acreage upon which the well is located, and the person with the ownership and legal control interest in the groundwater if separate; and
- (e) such additional data as may be required by the Board.

Registration is effective upon the determination by the General Manager that all required information is included on the registration form, spacing requirements are verified, and has been completely and correctly filed with the District.

Approved registrations for all exempt and grandfathered wells, shall be sequentially numbered. Notice or Board action is not required for registration of a well.

RULE 5.3 WELL PERMIT REQUIRED: The District shall require a registered well to obtain a permit if the well no longer meets the Rule 5.1 permit exemption criteria.

SECTION 6. APPLICATION FEE FOR PERMITS

RULE 6.1 FEE: For all non-exempt and non-grandfathered wells, a permit application must be submitted prior to drilling. An application processing fee, sufficient to cover all reasonable and necessary costs to the District of processing the application, shall accompany each permit application. If the fee is determined by the General Manager or the Board to be insufficient to cover anticipated costs of processing the application, the Applicant may be required to post a deposit in an amount determined by the General Manager or the Board's representative to be sufficient to cover anticipated processing cost. As costs are incurred by the District in processing the application, those costs may be reimbursed from funds deposited by the Applicant.

Any funds remaining on deposit after the conclusion of the application processing shall be returned to the Applicant. If initially deposited funds are determined by the General Manager to be insufficient to cover costs incurred by the District in processing the application, an additional deposit may be required. If the Applicant fails to deposit funds as required by the District, the application may be dismissed.

RULE 6.2 RETURN: One hundred dollars (\$100) of the application fee for permits shall be returned to the Applicant by the District if (1) the application is denied, or (2) the application is granted, upon final inspection of the well by District staff and a driller's log of the well has been delivered to the District office, or (3) said location is abandoned without having been drilled, upon return and surrender of said permit marked "abandoned" by the Applicant.

In the event that neither the driller's log of the well nor permit marked "abandoned", is returned to the District office within 60 days after the approval date of the Permitted Well, or the extension date thereof, the said deposit shall become the property of the District.

Failure to provide the District with the required signed Drilling Permit and driller's log of the well could result in the District requiring that the well be plugged and/or other enforcement action pursuant to these Rules.

SECTION 7. LWGCD WELL SPACING REQUIREMENTS

RULE 7.1 APPLICABILITY: Wells registered under Section 5 are not subject to the well spacing requirements of this Section.

RULE 7.2 SPACING RULES: In order to prevent waste, protect correlative rights, and ensure the beneficial use of groundwater, the District finds wells drilled within the boundaries of the District should be spaced as follows:

Maximum Production Rate	Minimum Well Spacing From Other Wells on the Property (Feet)	Minimum Well Spacing From Property Lines (Feet)
Up To:		
25 GPM or 36,000 GPD	500	250
50 GPM or 72,000 GPD	700	350
75 GPM or 108,000 GPD	850	425
100 GPM or 144,000 GPD	900	450
150 GPM or 216,000 GPD	1000	500
200 GPM or 288,000 GPD	1500	750
Over 200 GPM or Over 288,000 GPD	2000	1000

RULE 7.3 SETBACK: No well shall be drilled closer to a property line than a distance equal to one-half (1/2) the well spacing required by Rule 7.2.

RULE 7.4 RECLASSIFICATION OF WELL SPACING. Reclassification of a well shall require a permit amendment. The Board may consider the reclassification of a well in the event that a well owner requests the well reclassification to accommodate the drilling of an additional well.

RULE 7.4 VARIANCES: The owner of a new water well may apply for a variance (up to 25%) to the spacing requirements of this rule.

- (a) In order to protect property rights, to prevent waste, or to prevent confiscation of property, conserve, protect and preserve the aquifer or to protect rights of owners of interest in groundwater the Board may grant variances to the well spacing rules. This rule shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board.
- (b) If a variance to such regulations is desired, application shall be submitted by the Applicant, in writing, to the Board at its District Office, on forms furnished by the District. The application shall explain the circumstances justifying an exception to classification, spacing, or production provision. The application shall also contain the names and addresses of all property owners adjoining the tract on which the permitted well is to be located and the ownership of the permitted wells within one-half mile of the proposed location. Such application shall be signed and notarized that all facts herein are true and correct.
- (c) Such variance may be granted by the Board, ten (10) days after notice of hearing by certified mail with return receipt requested, pursuant to these Rules, has been given to the Applicant and to all well owners, land owners, and owners of water rights identified by county appraisal district records located less than the minimum required distance from the proposed permitted well site and after a public hearing at which all interested may appear and be heard, and after the Board has decided that an variance should be granted. However, if all such owners execute a waiver in writing, stating that they do not object to the granting of such waiver, the Board may proceed to decide upon the granting or refusing of such application, without notice or hearing except to the Applicant.

SECTION 8. PERMITTING PROCEDURES

RULE 8.1 PERMITTING PROCESS: All wells drilled after December 1, 1999, regardless of size or type of well, must have a permit application submitted to the District office. In order to begin drilling, the well owner or well operator must first obtain an authorization to drill from the District. Approved applications for permits of all new wells shall be sequentially numbered.

RULE 8.2 DETERMINATION OF PERMITTING APPLICABILITY:

- (a) It is a violation of these rules for a well owner, well operator, water well driller, or water well pump installer to drill or operate any non-exempt well within the District without a Permitted Well form being filed with the District before the well is drilled or operated.
- (b) For all wells an application for a water well permit must be submitted by the well owner, well operator, or water well driller prior to being drilled.
- (c) The District staff will review the application and make a preliminary determination of whether the well meets the exemptions or exclusions provided in Rule 5.1. If the preliminary determination by District staff finds that the well is exempted or excluded from permitting requirements, the registrant may begin drilling immediately upon completing the application.
- (d) If it is determined that the well being applied for is not excluded or exempted from permitting requirements, then the procedure of this Section 8 shall apply.

RULE 8.3 ISSUANCE OF WATER WELL PERMITS

- (a) The Board shall issue or cause to be issued sequentially numbered water well permits for the purpose of drilling a water well.
- (b) An application for a water well permit shall be considered filed when properly filled out on District forms, signed, tendered and accompanied by the required fee at the District office.
- (c) The signatures of three Directors of the District on a permit shall constitute a recommendation that the permit be issued. The refusal of three or more Directors to sign the application shall constitute a recommendation for rejecting of the application.
- (d) If three or more Directors recommend the issuance of the permit, and if there be no contest thereon, and the Applicant is in compliance with all District rules on all properties within the District's jurisdiction, the application may be issued and the Applicant may proceed at his own risk to drill the permitted well. Once the well is drilled and completed, the well owner or water well driller shall provide the District with a Driller's Log.

- (e) The application shall not be officially granted until the same have been passed upon and granted by the Board during its regular course of business.
- (f) If, before the Board officially grants a permitted well location, a contest shall arise over the application, or if another owner shall within such time file an application for a well permit within less than a minimum spacing distance for such well, then the Board may conduct a hearing in accordance with Section 15 of these rules, upon due notice to both parties, to hear and determine the contest or to determine which of the applications should, in its judgment, be granted. In the event of a contest, or such conflicting application, the drilling of a well shall not be commenced until the matter is passed upon by the Board. A contest shall be deemed filed when written notification is filed with the Board at its office with authorized personnel. Thereafter, both Applicants, or the Applicant and the contestant, or contestant, after due notice, shall be entitled to a hearing before the Board. At such hearing all parties may introduce pertinent evidence as to why the particular application should be granted or denied, including evidence as to the protection of property rights, and other pertinent matters, which evidence shall be taken into consideration by the Board. The Board shall also take into consideration which of the Applicants duly filed his application first.
- (g) If any application is not favorably recommended by three of the Directors, the Applicant shall have the right to appeal to the Board. Such appeal must be delivered by registered mail within fifteen (15) business days from the time that the third Director declined to sign the application. If no such appeal is filed, the application shall be deemed to have been abandoned by the Applicant. Upon receipt of such appeal the Board shall conduct a hearing in accordance with Section 15 of these Rules.

RULE 8.4 ELEMENTS OF AN APPLICATION FOR WATER WELL PERMIT

- (a) An Applicant must qualify himself in one of the following ways:
 - (1) If the Applicant is an individual, the application shall be signed by the Applicant or his duly appointed agent. The agent shall present satisfactory evidence of his authority to represent the Applicant.
 - (2) If the application is by partnership, the Applicant shall be designated by its legal firm name and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.
 - (3) In the case of a corporation, public district, county, or municipality, the application shall be signed by a duly authorized official. A copy

of the resolution or other authorization to make the application may be required by the officer of agent receiving the application.

- (4) In, the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.

(b) Information required on the application is as follows:

- (1) The name and address of the owner of the land upon which the application is made;
- (2) The proposed location of the well to be drilled as provided in the application including Block and Section and:
 - (A) The number of feet to each of two non-parallel survey lines and the number of feet to existing wells on the property, or
 - (B) The location of all existing wells measured in feet from the nearest two non-parallel survey lines, and a signed agreement that the well drilled under the authority of the permit will be located such that it is not in conflict with District Rules 8.1and 8.2; and
 - (C) The proposed well's casing size, pump column size, pump capacity and anticipated well production in gallons per minute;
- (3) The proposed use of the water;
- (4) Verification of total contiguous acreage or the amount of adjoining land (land which touches at a point or along a boundary or is separated only by a road or highway) in which the fee simple title is owned or water rights are leased by a single person or entity on which the well is to be drilled; and
- (5) Signed affidavit that all wells owned or operated by Applicant and/or Owner are in compliance with the District rules.

(c) The application must be signed and sworn to.

RULE 8.5 TIME DURING WHICH PERMIT SHALL REMAIN VALID: Any permit granted hereunder shall be valid if the work permitted shall have been completed within two (2) months from the filing date of the application. It shall thereafter be void. Provided, however, that the Board or General Manager, for good cause, may extend the life of such permit for an additional two (2) months if an application for such extension shall have been made known to the District during the first two (2) month period. Provided further, that when it is made known to the Board that a proposed project will take more time to complete, the Board, upon

receiving the written application may grant or cause to be granted such time as is reasonably necessary to complete such project.

RULE 8.6 PROOF OF REGISTRATION OR PERMIT REQUIRED

- (a) Any person actively engaged in the drilling of a well must have, in their possession while at the drilling site, a copy of their water well permit or registration.
- (b) Any person actively engaged in the drilling of a well must provide proof if requested by any District director, employee, or other legally authorized agent who presents his official credentials.

RULE 8.7 FRAUDULENT INFORMATION: It shall be considered to be a fraud upon the District, and on the adjacent landowners, for any Applicant to willfully give erroneous information in his application. If any operator willfully produces his well at a higher rate than represented in his application and/or approved in his permit, such action may be enjoined by the Board.

SECTION 9. RECORDS OF DRILLING ACTIVITIES

RULE 9.1 DRILLING LOGS

- (a) Accurate records shall be kept and reports thereof made to the District of all wells drilled.
- (b) No person shall produce water from any well, except that necessary for drilling and testing, until the District has been furnished with a completed driller's log (Form TCEQ - O199 State of Texas Well Report or its successors).
- (c) Complete records must be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled in the District. Such records must include an accurate Driller's log and any mechanical log that may have been made. Such reports must be filed within sixty (60) days after completion of the well.

SECTION 10. WELL LOCATION AND COMPLETION/PLUGGING

RULE 10.1 RESPONSIBILITY: After an application for water well permit has been issued, the well, if drilled, must be drilled within thirty (30) feet of the location specified on the permit, not closer to property lines or existing wells that would cause the well location to be in violation of these Rules, and not elsewhere.

RULE 10.2 COMPLETION/ PLUGGING OF WELLS

- (a) All water wells drilled within the District shall be completed or plugged in accordance with the Administrative Rules of the Texas Department of Licensing and Regulation, Texas Administrative Code, Title 16, Part 4, Chapter 76, Water Well Drillers and Pump Installers, as amended. .
- (b) A violation of the Texas Administrative Code, Title 16, Part 4, Chapter 76, Water Well Drillers and Pump Installers, as amended, shall be considered a violation of District Rules and disposition of such violations shall be subject to enforcement under these Rules.

SECTION 11. REWORKING, REDRILLING, REPLACING, OR CHANGING THE USE OF A PERMITTED WELL

RULE 11.1 REWORKING AND REDRILLING: Reworking and/or redrilling operations that do not increase the production capacity of a permitted or registered well do not require an additional permit. Reworking and/or redrilling operations that may increase the production capacity of a permitted or registered well must be permitted under these Rules.

Prior to beginning any reworking or redrilling activities, an authorization to drill must be obtained from the District.

Within thirty (30) days following completion of any reworking and redrilling operations, updated registration information as listed in Rule 5.2 shall be provided to the District.

RULE 11.2 REPLACING A PERMITTED WELL: A Replacement Well, as defined by Rule 1.1, does not require a new permit.

Prior to beginning any drilling activities, an authorization to drill must be obtained from the District.

Within thirty days following completion of a Replacement Well, the well replaced by a new well shall be plugged and abandoned and updated registration information as listed in Rule 5.2 shall be provided to the District.

RULE 11.3 CHANGING THE USE OF A PERMITTED WELL: Changing the use of the water from a permitted well does not require a new permit. Prior to any change in use of the water from a permitted well, the permit Applicant or Owner must notify the District.

SECTION 12. WASTE, WASTE PREVENTION, AND BENEFICIAL USE/PURPOSE

RULE 12.1 WASTE AND WATER CONSERVATION: The following Rules contained within this document provide for the conservation, preservation, protection, and prevention of waste of groundwater as authorized in Chapter 36 of the Texas Water Code.

- (a) Groundwater produced within the District shall not be used within or outside the District, in such a manner as to constitute waste.
- (b) Any person producing or using groundwater shall use every reasonable precaution, in accordance with reasonable methods, to stop and prevent waste of such water.
- (c) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.

RULE 12.2 WASTE MEANS ANY ONE OR MORE OF THE FOLLOWING:

- (a) Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- (b) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (c) Escape of groundwater from a groundwater reservoir to any other reservoir that does not contain groundwater.
- (d) Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater, other deleterious matter admitted from another stratum or from the surface of the ground.
- (e) Willfully or negligently causing, suffering, or permitting groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well.

- (f) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well, unless permission has been granted by the occupant of the land receiving the discharge.
- (g) Groundwater pumped for industrial use or application in excess of that quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification as being the maximum amount of water necessary to efficiently meet the demands for the particular use or application to which the groundwater is being made.
- (h) Groundwater used for heating or cooling that is allowed to drain on the land surface as tailwater and not re-circulated back to the aquifer.

RULE 12.3 WASTE PREVENTION:

- (a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in these Rules.
- (b) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.
- (c) No person shall commit waste.

RULE 12.4 CATEGORIES OF BENEFICIAL USE OR BENEFICIAL PURPOSE:

- (a) Agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (b) Exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- (c) Any other purpose that is useful and beneficial to the user as determined by the Board.

RULE 12.5 CAPPING WELLS: Abandoned wells, deteriorated wells, wells constituting a threat to the water quality of any aquifer, and wells containing mineral or other substances injurious to vegetation or agriculture shall be closed and plugged in compliance with these Rules and those of the Texas Department of Licensing and Regulation. The District shall use any remedies authorized by law to protect groundwater quality from point source and non-point source Pollution.

The District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well must remain capped until such time as the conditions that led to the capping requirement

are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well must be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata in which case the well must be plugged. The cap must be capable of sustaining a weight of at least four hundred (400) pounds when installed on/in the well.

SECTION 13. REGISTRATION OF PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS

RULE 13.1 All persons engaged in well drilling or pump installation or repair must comply with the applicable standards set forth in Texas Department of Licensing and Regulation's ("TDLR") rules and the District's rules. In the event that a specific provision in the District's rules conflicts with a specific provision in TDLR's rules, the more stringent provision will govern.

RULE 13.2 REGISTRATION OF WATER WELL DRILLERS

- (a) It is a violation of District rules for any person to be actively engaged in the commercial drilling of a well in the District without first having been registered with the District.
- (b) Only persons who are licensed water well drillers in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially drill water wells within the District.
- (c) Registration with the District shall be on forms provided by the District and be in accordance with and contain information called for on the form.
- (d) The requirement to have a water well driller's license issued by TDLR pursuant to subsection (b) of this section does not apply to any person who personally installs or repairs a water well pump on his own property, or on property that he has leased or rented, for his own use; or any person who is a ranch or farm employee whose general duties include personally installing and repairing a water well pump or equipment on his employer's property for his employer's use.

SECTION 14. HEARINGS

RULE 14.1 The District conducts three general types of hearings: (1) hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; (2) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedures of the District; and (3) enforcement hearings.

Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for hearing before a Hearing Examiner, heard by a quorum of the Board along with an appointed Hearing Examiner who officiates during the hearing, or conducted by the State Office of Administrative Hearings. For actions for which a hearing is not required, the Board shall act at a meeting, as defined by Section 551.001, Government Code, unless authority has been delegated to the General Manager under these rules.

PERMIT HEARINGS

RULE 14.2 The District may hold hearings on original permit applications, permit amendments, permit revocations, or any other types of enforcement proceedings. Notice of hearings concerning permits may be scheduled before a Hearings Examiner or Presiding Officer.

RULE 14.3 Not later than the 10th day before the date of a hearing, the General Manager, as instructed by the Board, is responsible for giving notice by:

- (a) Publishing at least once in a newspaper of general circulation in the District;
- (b) Posting in a place readily accessible to the public at the District office;
- (c) Providing a copy to the County Clerk;
- (d) Providing by regular mail to the Applicant; and
- (e) Providing by mail, facsimile, or electronic mail to any person who has requested notice.

RULE 14.4 A person having an interest in the subject matter of a hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of hearings. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure by the District to provide written notice to a person under this Section does not invalidate any action taken by the Board.

RULE 14.5 The notice referenced under Rule 14.2 must include:

- (a) the name of the Applicant;
- (b) the address or approximate location of the well or proposed well;
- (c) a brief explanation of the purpose of the proposed use or change of use;
- (d) a general explanation of the manner by which a person may contest the matter;
- (e) the time, date and location of the hearing; and
- (f) any other information the Board or General Manager deems relevant and appropriate to include in the notice.

RULE 14.6 An administratively complete application shall be set for hearing on a specific date within sixty (60) calendar days after the date it is deemed administratively complete. A hearing may be scheduled during the District's regular business hours and will be held at the District office. The Board may, however, change the dates, times and places for hearings at its discretion.

RULEMAKING HEARINGS

RULE 14.7 The Board may hold a hearing, after giving notice, to consider adoption of new or revised District Management Plan or to amend or adopt new District Rules.

RULE 14.8 RULEMAKING HEARING NOTICE: Not later than the 20th day before the date of a rulemaking hearing, the General Manager, as instructed by the Board, is responsible for giving notice by:

- (a) Posting notice in a place readily accessible to the public at the District office;
- (b) Providing notice to the Mitchell County Clerk;
- (c) Publishing notice in one or more newspapers of general circulation in Mitchell County;
- (d) provide notice by mail, facsimile, or electronic mail to any person who has submitted a written request of a rulemaking hearing; and
- (e) make available to the public a copy of all proposed rules at the District office during normal business hours.

RULE 14.9 NOTICE CONTENTS: The notice provided must include:

- (a) the time, date and location of the rulemaking hearing;

- (b) a brief explanation of the subject of the rulemaking hearing; and
- (c) a location at which a copy of the proposed rules may be reviewed or copied.

RULE 14.10 A hearing may be scheduled during the district's regular business hours. All rulemaking hearings may be held at the District Office. The Board may change or schedule additional dates, times, and places for hearings at its discretion.

RULE 14.11 The District shall make available a copy of all proposed rules at a place accessible to the public during normal business hours, and post an electronic copy of the rules on the District's website.

RULE 14.12 Interested persons are encouraged to submit written comments on the rulemaking to the General Manager ten (10) days prior to the hearing. However, written and oral comments will be accepted and considered by the Board at the rulemaking hearing.

The presiding officer shall conduct a rulemaking hearing in the manner the presiding officer determines to be most appropriate to obtain information and testimony relating to the proposed rule as conveniently and expeditiously as possible without prejudicing the rights of any person at the hearing. The presiding officer may hold the record open after the conclusion of the hearing to receive additional written comments. The Board may require participants in a rulemaking hearing to submit a registration form stating the person's name, address and representation capacity.

The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio recording.

A person may submit to the General Manager a written request for notice of a rulemaking hearing. A written request for notice of a rulemaking hearing is effective for the remainder of the calendar year in which the request is received by the General Manager. To receive notice of a hearing in a later year, a person must submit a new request. Failure to provide notice does not invalidate any action taken by the District at the hearing.

The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.

At the end of the rulemaking hearing, the presiding officer shall close the record and submit the matter to the Board for consideration. The Board action on the rules amendment(s) takes effect at the conclusion of the meeting.

RULE 14.13 Consideration of revision of the District's Management Plan must follow the guidelines set out above.

ENFORCEMENT HEARINGS

RULE 14.14 HEARING PROCEDURE: Notice of an enforcement hearing shall include the following:

- (a) The time date and place for the hearing;
- (b) The basis of each alleged violation;
- (c) The permit, rule or order that the District alleges to be violated or is currently being violated; and
- (d) A request that the person duly appear and show cause of the reasons an enforcement action should not be pursued.

The hearing notice shall be provided by certified mail, return receipt requested; hand delivery; first class mail; facsimile; email; FedEx; UPS; or any other type of public or private courier or delivery service.

The District may pursue immediate enforcement action if the person identified in this hearing notice fails to appear and show cause of the reasons an enforcement action should not be pursued.

After conclusion of the hearing, the District may commence suit or pursue civil penalties, injunctive relief and all other legal remedies. Any suit shall be filed in a court of competent jurisdiction in Mitchell County. If the District prevails in the suit brought under this section, the District may seek and court shall grant in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

GENERAL HEARING PROCEDURES

RULE 14.15 AUTHORITY OF THE PRESIDING OFFICER: The Presiding Officer may conduct the hearing or other proceeding in the manner the Presiding Officer deems most appropriate for that particular proceeding.

The Presiding Officer has the authority to:

- (a) Set hearing dates;
- (b) Convene the hearing at the time and place specified in the notice for public hearing;
- (c) Establish the jurisdiction of the District concerning the subject matter under consideration;
- (d) Rule on motions, the admissibility of evidence, and amendments to pleadings;

- (e) Limit the number of witnesses appearing whose testimony may be merely cumulative.
- (f) Designate parties and establish reasonable time limits and the order for testimony and presentation of evidence;
- (g) Administer oaths to all persons presenting testimony;
- (h) Examine witnesses;
- (i) Prescribe reasonable time limits for the presentation of evidence and oral arguments;
- (j) Ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party to the proceeding;
- (k) Conduct public hearings in an orderly manner in accordance with these rules;
- (l) Recess any hearing from time to time and place to place;
- (m) Reopen the record of a hearing for additional evidence when necessary to make the record more complete; and
- (n) Exercise any other lawful power necessary or convenient to effectively carry out the responsibilities of the Presiding Officer.

RULE 14.16 REGISTRATION FORMS: Each individual attending a hearing or other proceeding of the District who wishes to testify or otherwise provide information to the District must submit a form to the Presiding Officer providing the person's name and address, whether the person plans to testify, and any other information relevant to the hearing or other proceeding.

RULE 14.17 APPEARANCE; REPRESENTATIVE CAPACITY: Any interested person may appear in person or may be represented by counsel, an engineer or other representative, provided the representative is authorized to speak and act for the principal. The person or person's representative may present evidence, exhibits or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. A person appearing in a representative capacity may be required to prove proper authority to appear.

RULE 14.18 ALIGNMENT OF PARTIES; NUMBER OF REPRESENTATIVES HEARD: Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The Presiding Officer may require the members of an aligned class to select one or more persons to represent the class in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative

from each aligned class to be heard in the proceeding or on any particular matter or ruling.

RULE 14.19 APPEARANCE OF APPLICANT: The Applicant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the Presiding Officer deems it necessary in order to fully develop the record.

RULE 14.20 RECORDING OF HEARINGS: A record of the hearing in the form of an audio or video recording shall be prepared and kept by the Presiding Officer in a contested hearing. The District does not prepare transcriptions for the public of hearings or other proceedings recorded on audio cassette on District equipment, but will arrange for a party in interest to have access to the recording. If a hearing is uncontested, the Presiding Officer may substitute minutes of the meeting in lieu of an audio recording. The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording.

RULE 14.21 CONTINUANCES: The Presiding Officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing by the Presiding Officer before it is recessed, a notice of any further setting of the hearing must be delivered at a reasonable time to all parties, persons who have requested notice of the hearing and any other person the Presiding Officer deems appropriate. It is not necessary to post at the courthouse and nor publish a newspaper notice of the new setting.

RULE 14.22 FILING OF DOCUMENTS; TIME LIMITS: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these Rules or by law must be received in hand at the District's Office within the time limit, if any, set by these Rules or by the Presiding Officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.

RULE 14.23 ADMISSIBILITY: Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties to the proceeding.

RULE 14.24 TESTIMONY SHALL BE PERTINENT: The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent, or immaterial, the person conducting the hearing may forthwith terminate such line of interrogation.

RULE 14.25 STIPULATIONS: Evidence may be stipulated by agreement of all parties of interest.

RULE 14.26 AFFIDAVIT: If a party to a hearing or other proceeding is required to make an affidavit, the affidavit may be made by the party or the party's representative. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

RULE 14.27 BROADENING THE ISSUES: No person will be allowed to appear in a hearing or other proceeding that in the opinion of the Presiding Officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

RULE 14.28 CONDUCT AND DECORUM: Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the Presiding Officer, a person is acting in violation of this provision, the Presiding Officer will warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the Presiding Officer may exclude that person from the proceeding for such time and under such conditions as the Presiding Officer determines necessary.

RULE 14.29 BOARD ACTION FOLLOWING CONCLUSION OF HEARING: After the record of the hearing is closed on a permit or rulemaking hearing and the matter is submitted to the Board, the Board may take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought, grant the action sought in whole or part, or take any other appropriate action. Board action on a rulemaking hearing takes effect at the conclusion of the meeting in which the Board took the action and is not affected by a request for rehearing. In the case of hearings involving permit applications, the Board should act within sixty (60) days after the close of the hearing.

SECTION 15. INVESTIGATIONS AND ENFORCEMENT

RULE 15.1 CONTINUING RIGHT OF SUPERVISION: District permits are issued subject to the rules of the District, the District Management Plan, and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries as authorized by Chapter 36 of the Texas Water Code. The decision of the Board on any matter contained herein may be reconsidered by the Board on its own motion or upon motion showing changed conditions, or upon the discovery of new or different conditions or facts after the hearing or decision on such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having granted or denied an application, it shall give notice via certified mail with return receipt requested to persons who were proper parties to the original action, and such persons shall be entitled to a hearing thereon, if they file a request within fifteen (15) days from the date of the mailing of such notice.

RULE 15.2 RIGHT TO INSPECT AND TEST WELLS: Any authorized officer, employee, agent or representative of the District shall have the right to enter upon lands upon which a well(s) may be located, within the boundaries of the District, to inspect such well(s) and to read, or interpret any meter, weir box or other instrument for the purpose of measuring production of water from said well(s) or for determining the pumping capacity of said well(s); and any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times to enter upon any lands upon which a well(s) may be located, within the boundaries of the District, for the purposes of testing the pump and the power unit of the well(s) and of making any other reasonable and necessary inspections and tests that may be required or necessary for the formulation or the enforcement of the Rules of the District. The operation of any well may be enjoined by the Board immediately upon the refusal to permit the gathering of information as above provided from such well.

Prior to entering property for the purpose of conducting an investigation, the person seeking access shall give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the well owner or lessee, as determined by information contained in the application on file with the District. Notice is not required if prior permission has been granted to enter without notice.

The District may not gather information not specifically related to the purposes of the District, the District Act, these Rules, or District policy.

RULE 15.3 ENFORCEMENT OF RULES: All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36 of the Texas Water Code and subsequent changes thereto. The District may enforce Chapter 36, as amended, and its Rules, by injunction, mandatory injunction, or other appropriate remedy, in a court of competent jurisdiction.

If it appears that a person has violated, is violating, or is threatening to violate any provision of Chapter 36 of the Texas Water Code or any Board order, rule,

or permit, the Board may authorize the General Manager to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty of up to \$10,000.00 for each violation and for each day a violation continues, or for both injunctive relief and civil penalties.

Once the District discovers that its Rules have been violated, the General Manager will first send a notice of violation to the violator. The notice will include the corrective steps that must be taken, the date upon which the violation must be corrected and any penalties that shall be assessed.

If the violation is not remedied by the date in the District's initial violation notice and penalty has not been received, a show-cause order may be sent by the General Manager informing the violator of the time and place to appear before the Board. If the violation requires immediate remedial action, the General Manager may take appropriate measures, including but not limited to seeking an immediate injunction against the violator.

RULE 15.4 RIGHT TO CURE: The District may afford an opportunity to cure an apparent alleged violation of any District rule, order or permit through informal communication, coordination and negotiation with the District. In the event that an apparent alleged violation is not addressed to the satisfaction of the Board, a hearing shall be set.

RULE 15.5 If, after ten (10) days' notice and a hearing, the Board determines that a person has violated any provision of the Rules, the Board may pursue legal remedies including, but not limited to, assessment of a penalty against that person. A penalty under these Rules is in addition to remedies provided by law, and these Rules may be enforced by filing a complaint in a court of competent jurisdiction in Mitchell County, Texas.

RULE 15.6 PENALTIES: Unless otherwise provided in these rules, the penalty for a violation of any District rule shall be either \$10,000.00 per violation or a lesser amount, based on the severity of the violation, as set forth in the Enforcement Policy and Civil Penalty Schedule attached to these rules as Appendix B, which is adopted as a Rule of the District for all purposes. The Board may amend such schedule from time to time via resolution in a properly noticed meeting.

Each day of a continuing violation constitutes a separate violation.

RULE 15.7 BOARD CONSIDERATIONS FOR PENALTIES: In determining the amount of a civil penalty within the penalty range above, the Board shall consider the following factors:

- (a) Compliance history;
- (b) Efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;

- (c) The penalty amount necessary to ensure future compliance and deter future noncompliance;
- (d) Any enforcement costs related to the violation; and
- (e) Any other matters deemed necessary by the Board.

RULE 15.8 MAXIMUM PENALTY: Notwithstanding the penalty range set forth in Rule 15.3, in accordance with Chapter 36 of the Texas Water Code, upon consideration of the factors, the Board may set civil penalties for breach of any rule not to exceed \$10,000.00 per day per violation for severe or continuing violations, and each day of a continuing violation constitutes a separate violation.

RULE 15.9 ATTORNEY'S FEES: If the District prevails in a suit to enforce its rules, the District may seek, and the court shall grant, in the same action, in the interests of justice, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of attorney's fees awarded by a court under this rule shall be fixed by the court.

If the District prevails on some, but not all of the issues in the suit, the court shall award attorney's fees and costs only for those issues on which the District prevails. The District has the burden of segregating the attorney's fees and costs in order for the court to make an award.

RULE 15.10 SEALING WELLS: Upon completion of the enforcement hearing procedure as outlined in this Section, the District may, upon orders from a judge of competent jurisdiction, seal wells that are prohibited from withdrawing groundwater within the district to ensure that a well is not operated in violation of the District Rules.

A well may be sealed when:

- (1) No application has been made for a permit to drill a new water well which is not excluded or exempted; or
- (2) The Board has denied, canceled or revoked a drilling permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well. Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

RULE 15.11 Nothing in this rule shall constrain the authority of the District to take action, including emergency action or any other enforceable action, against a person at any time, regardless of whether the District decides to hold a hearing under this section.

If the Board determines that an emergency exists requiring the immediate entry of an order to prohibit waste or pollution, or protect the public health, safety and welfare on matters within the District's jurisdiction, a temporary order may be entered without notice and hearing provided for up to thirty (30) days or until a hearing may be conducted.

SECTION 16. TRANSFER OF GROUNDWATER OUT OF DISTRICT

RULE 16.1 PERMIT REQUIRED: If an Applicant or Owner proposes to transfer any amount of groundwater produced from a Well inside the District's boundaries to somewhere outside of the District's boundaries, the District shall require a permit for the transfer of groundwater out of the District in order to:

- (a) Increase the amount of groundwater to be transferred under a continuing arrangement in effect before the effective date of this Rule, or
- (b) Transfer groundwater out of the District after the effective date of this Rule under a new arrangement.

RULE 16.2 WATER TRANSPORT FEE: As authorized by Chapter 36 of the Texas Water Code, entities transporting water outside of the boundaries of the District are subject to a water export fee using one of the following methods:

- (a) A fee negotiated between the District and the transporter;
- (b) A rate not to exceed 2.5 cents per thousand gallons of water transported out of the District; or the equivalent of District's tax rate per \$100 valuation, per thousand gallons of water, whichever is greater.

The Board may annually review all fee rates during the annual budgetary process.

RULE 16.3 HEARING REQUIRED: Before issuing a permit under this Section, the District must give notice of the application and may hold a public hearing under Section 14 of these Rules.

RULE 16.4 ELEMENTS OF THE APPLICATION: In determining whether to issue a permit under this Section, the District shall consider the following information, to be provided by the Applicant:

- (a) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;

- (b) The availability of feasible and practicable alternative supplies to the Applicant;
- (c) The amount and purposes of use in the proposed receiving area for which water is needed;
- (d) The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
- (e) The approved regional water plan and certified district management plan.

The District may limit a permit if the above conditions warrant the limitation.

RULE 16.5 TIME FOR CONSIDERATION: After a permit application is filed with the District, the District may consider the application for a period not to exceed thirty (30) days during which time the District may evaluate the application and obtain additional independent information regarding the application criteria. At the end of this thirty (30) day period, the District may hold a public hearing pursuant Section 14 of these Rules. After the public hearing, the District shall act on the application within thirty (30) days.

RULE 16.6 PERMIT CONSIDERATIONS: In reviewing a permit under this Section, the District shall consider:

- (1) The availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;
- (2) The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and
- (3) The approved regional water plan and approved district management plan.

RULE 16.7 PERMIT REQUIREMENTS: In addition to the requirements of Section 36.113 of the Texas Water Code, the permit shall specify the amount of water that may be transferred out of the district and the period for which water may be transferred. The permit must specifically state the location of each permitted well that will be considered on the application. The District may consider limitations on a permit issued under this Section if the conditions in Rule 16.6 warrant the limitation.

RULE 16.8 EFFECTIVE DATE: This Rule applies only to a transfer of water that is initiated or increased after the effective date of this Rule. This rule is effective upon its adoption: February 7, 2000.

RULE 16.9 NOT A PROHIBITION: This Rule shall in no way operate as a prohibition on transfers of groundwater out of the District.

RULE 16.10 AMENDMENT OF PERMIT: An existing transfer permit may be amended by application to the District to include additional wells. The wells to be added to the permit must be on surface acreage or leased water rights acreage touching at a point, touching along a boundary, or separated only by a road or highway to those on the original transfer permit and must meet the District spacing rules. Either existing wells or permit applications for wells to be added to an existing transfer permit that are not on contiguous acreage will require an additional public hearing.

Appendix A

Lone Wolf Groundwater Conservation District

Civil Penalty Schedule