

**RED RIVER  
GROUNDWATER  
CONSERVATION  
DISTRICT**

**SHOW CAUSE HEARING AND  
BOARD MEETING**

**BOARD ROOM  
GREATER TEXOMA UTILITY AUTHORITY  
5100 AIRPORT DRIVE  
DENISON, TEXAS 75020**

**THURSDAY  
SEPTEMBER 27, 2018**

**AGENDA**  
**RED RIVER GROUNDWATER CONSERVATION DISTRICT**  
**BOARD OF DIRECTORS BOARD MEETING**  
**GREATER TEXOMA UTILITY AUTHORITY BOARD ROOM**  
**5100 AIRPORT DRIVE**  
**DENISON, TEXAS 75020**  
**THURSDAY, SEPTEMBER 27, 2018**

**Show Cause Hearing**

The Show Cause Hearing will begin at 10:00 a.m.

Notice is hereby given that the Board of Directors of the Red River Groundwater Conservation District ("District") will hold a show cause hearing and may discuss, consider, and take all necessary action regarding the subject matter of the hearing.

**Agenda:**

1. Call to Order, declare hearing open to the public, and take roll.
2. Conduct Show Cause Hearing under District Rule 9.6 on the following for alleged violations of District Rules; discuss, consider, receive testimony, and take appropriate action, including without limitation authorizing the District to initiate a civil lawsuit to enforce compliance with the District Rules, including recovery of civil penalties, costs, and attorney's fees, and all other appropriate legal and equitable relief:
  - A. Buena Vista Turf Farm, LLC, 330 Oaks Trail Ste 100, Garland, TX 75043
3. Adjourn or continue show cause hearing.

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**Board Meeting**

The regular Board Meeting will begin at 10:05 a.m. or upon adjournment of the show-cause hearing, whichever is earlier.

Notice is hereby given that the Board of Directors of the Red River Groundwater Conservation District ("District") may discuss, consider, and take all necessary action, including expenditure of funds, regarding each of the agenda items below:

**Agenda:**

1. Call to order, establish quorum; declare meeting open to the public.
2. Public Comment.

3. Consider and act upon approval of Minutes of July 31, 2018, Board Meeting.
4. Review and approval of monthly invoices.
5. Receive monthly financial information.
6. Consider and act upon 2017 Audit.
7. Consider and act upon Engagement Letter for Audit Services for Fiscal Year Ending December 31, 2018.
8. Discussion and possible action on a Fund Balance Policy.
9. Update and possible action regarding the process for the development of Desired Future Conditions (DFCs).
10. Consider and act upon compliance and enforcement activities for violations of District Rules.
  - a. Buena Vista Turf Farm, LLC
11. General Manager's report: The General Manager will update the Board on operational, educational and other activities of the District.
  - a. Database Update
  - b. Disposal/Injection Well Monitoring Program
12. Receive presentation regarding permanent rules development and review draft of rules.
  - a. Consider and act upon action items for rules development
13. Open forum / discussion of new business for future meeting agendas.
14. Adjourn.

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<sup>1</sup>The Board may vote and/or act upon each of the items listed in this agenda.

<sup>2</sup>At any time during the meeting or work session and in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the Red River Groundwater Conservation District Board may meet in executive session on any of the above agenda items or other lawful items for consultation concerning attorney-client matters (§551.071); deliberation regarding real property (§551.072); deliberation regarding prospective gifts (§551.073); personnel matters (§551.074); and deliberation regarding security devices (§551.076). Any subject discussed in executive session may be subject to action during an open meeting.

<sup>3</sup>Persons with disabilities who plan to attend this meeting, and who may need assistance, are requested to contact Velma Starks at (800) 256-0935 two (2) working days prior to the meeting, so that appropriate arrangements can be made.

<sup>4</sup>For questions regarding this notice, please contact Velma Starks at (800) 256-0935, at [rrgcd@redrivergcd.org](mailto:rrgcd@redrivergcd.org) or at 5100 Airport Drive, Denison, TX 75020.

ATTACHMENT 3

MINUTES OF THE BOARD OF DIRECTORS' BOARD MEETING  
RED RIVER GROUNDWATER CONSERVATION DISTRICT

TUESDAY, JULY 31, 2018

GREATER TEXOMA UTILITY AUTHORITY  
BOARD ROOM  
5100 AIRPORT DRIVE  
DENISON TX 75020

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Members Present: Mark Gibson, Harold Latham, Mark Newhouse, Mark Patterson, David Gattis, Chuck Dodd and Billy Stephens

Members Absent: None

Staff: Drew Satterwhite, Allen Burks, Paul Sigle, Wayne Parkman, Debi Atkins, Theda Anderson, Carolyn Bennett, and Velma Starks

Visitors: James Beach, WSP  
Kristen Fancher, Fancher Legal  
John Faulkner, Faulkner & Son  
William Linn, City of Leonard  
Terry McCalpin, City of Leonard  
Bill Purcell, Citizen of Fannin County  
Terry Schuck, Citizen of Fannin County

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Board Meeting

1. Call to order, establish quorum; declare meeting open to the public.

President Patterson called the meeting to order at 9:00 a.m., established a quorum was present, and declared the meeting open to the public.

2. Public comment

No public comments.

3. Receive presentation regarding permanent rules development.

a. Consider and act upon action items for rules development

James Beach reviewed with the Board evaluation of spacing based on Cooper-Jacob formula 2% impact allowed after 2 days pumping, (same as North Texas GCD); variance requests reviewed by staff and board; and the options of having 1 or 2 formulas for spacing.

Mark Newhouse made the motion for one rule to be adopted for 2% impact/2 days pumping. Chuck Dodd seconded the motion. Motion passed unanimously.

Kristen Fancher reviewed with the Board the language options to be added to existing rules pertaining to flow restriction devices and the need to measure flow at well head. Suggested

language will be provided to the Board for review. The Board discussed production fees and decided to keep the fees based on actual production and reported quarterly. The other items discussed included additional language for fines when a permittee produces over permitted amount, how to amend permitted amount, emergency permit process, and application fees going forward. Kristen Fancher, District Attorney, will put together a rules language package for the board to review.

4. Consider and act upon approval of Minutes of May 17, 2018, Board Meeting.

Board Member David Gattis made a motion to approve the minutes of the May 17, 2018 meeting. The motion was seconded by Board Member Mark Newhouse. The motion passed.

5. Review and approval of monthly invoices.

General Manager Satterwhite reviewed the monthly invoices with the Board of Directors. Board Member Billy Stephens made a motion to approve Resolution 2018-07-31-01. Board Member Mark Gibson seconded the motion. Motion passed unanimously.

6. Receive monthly financial information.

General Manager Satterwhite reviewed the monthly financial information with the Board.

7. Budget and Finance

a. Consider and act upon 2019 Operating Budget

General Manager Drew Satterwhite provided background information for the Board. The Board has established the practice of trying to adopt a budget and rate schedule as early as possible. The District's fiscal year is based on a calendar year from January 1<sup>st</sup> through December 31<sup>st</sup>, while many of the groundwater producers who pay production fees operate on a fiscal year that begins October 1<sup>st</sup> through September 30<sup>th</sup>. For this reason, the Board has attempted to establish production fees as early as possible in the budget planning process.

The Budget Committee (Mark Patterson, Mark Gibson and Mark Newhouse) have reviewed the proposed 2019 budget.

After a discussion, Board Member David Gattis made the motion to accept the 2019 budget. Board Member Mark Newhouse seconded the motion. The motion passed unanimously.

b. Consider and act upon 2019 Groundwater Production Fee and Fee Schedule

After a discussion, Board Member Gattis made a motion to accept the fee schedule with no changes, motion failed due to lack of a second. Board Member Newhouse made a motion to increase the fee by 1 cent per 1,000 gallons, motion failed due to lack of a second. After further discussion, Board Member Gibson made a motion to keep the fee at 7 cents per 1,000 gallons at this time. Board Member Gattis seconded the motion. Motion passed unanimously.

c. Discussion and possible action on District's Fund Balance Policy

The Board decided to table the District's Fund Balance Policy for discussion at a future meeting.

- d. Receive Quarterly Investment Report

General Manager Satterwhite presented the Quarterly Investment Report to the Board.

- 8. Receive Quarterly Report on Management Plan.

General Manager Satterwhite reviewed the Quarterly Report with the Board, reporting that there were 810 registered wells in the District and 131 well inspections were done.

- 9. Update and possible action regarding the process for the development of Desired Future Conditions (DFCs).

General Manager Satterwhite reported no action has occurred regarding the next DFC process. GMA-8 met on June 27, 2018 and the agenda primarily addressed administrative items. RFQs for Administrative and Technical consultant will be sent out. The next DFC deadline is May 2021.

- 10. Consider and act upon compliance and enforcement activities for violations of District Rules.

- a. Texas Rain Holding Co. lawsuit

Kristen Fancher reported that Texas Rain Holding Co. has not responded within the 90 days they were given. The next step is to file for court process action. The Board agreed that the process should continue.

- b. Buena Vista Turf Farm, LLC

General Manager Satterwhite informed the Board that Buena Vista Turf Farm, LLC did not respond. Kristen Fancher stated that the next step is a show cause hearing to be held at September Board meeting.

- 11. General Manager's Report: The General Manager will update the Board on operational, educational and other activities of the District.

- a. Discussion and potential action on a potential sampling program

Paul Sigle presented reports on contaminant limits. The Board suggested letters be sent to well owners in the area identified by staf so that they are aware of possible contaminants and can decide if they want to test their wells.

- b. Discussion and possible action on a potential award program

Paul Sigle presented his research to the Board on what water consumption and loss data is available through the District, TWDB, and TCEQ. The conclusion to the discussion with the Board was that there is not enough information to recommend a program. The general idea of the program ideas were to promote water conservation.

- 12. Open Quorum/discussion of future agenda items.

Kristen Fancher is to put together the language for the rule decisions and present it to the Board at the September 27, 10 a.m. meeting.

14. Adjourn.

President Patterson declared the meeting adjourned at 11:32 a.m.

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\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Secretary-Treasurer



ATTACHMENT 4

RESOLUTION NO. 2018-09-27-01

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE RED RIVER GROUNDWATER CONSERVATION DISTRICT AUTHORIZING PAYMENT OF ACCRUED LIABILITIES FOR THE MONTH OF AUGUST

The following liabilities are hereby presented for payment:

<u>Administrative Services</u>	<u>Amount</u>
GTUA - July	11,943.46
GTUA - August	27,228.41
<u>Advertising</u>	
Herald Democrat - Water conservation tips	146.50
<u>Contract Services</u>	
WSP USA - July	4,476.50
IT Nexus - Sept 2018	600.00
<u>Direct Costs</u>	
Bruce Stidham Tax Assessor - Tags for Ford 150	7.50
NexTraq - July 2018 GPS tracking	39.95
<u>Legal</u>	
Law Offices of Kristen Fancher, PLLC July	4,342.46
Law Offices of Kristen Fancher, PLLC August	4,593.20
<u>Software Maintenance</u>	
Intera - Phase 2 system development through July	4,179.09
<b>GRAND TOTAL:</b>	<b>\$ <u>57,557.07</u></b>

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE RED RIVER GROUNDWATER CONSERVATION DISTRICT THAT the Secretary-Treasurer is hereby authorized to make payments in the amounts listed above.

On motion of \_\_\_\_\_ and seconded by \_\_\_\_\_, the foregoing Resolution was passed and approved on this, the 27th day of September, 2018 by the following vote:

AYE:

NAY:

At a meeting of the Board of Directors of the Red River Groundwater Conservation District.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary/Treasurer

ATTACHMENT 5

**Red River Groundwater Conservation District**

**Balance Sheet**

**For General Fund (00)**

**August 31, 2018**

**Assets**

00-01-10001	Checking Account	142,933.78
00-01-10010	Investments-CD	200,000.00
00-01-10025	Accounts Receivable	40,250.66
00-01-10026	A/R Texas Rain Holding Co	2,600.00
00-01-10031	A/R Buena Vista Turf Farms	600.00
00-01-10101	Allowance for Uncollectible Accounts	(1,530.00)
00-01-10200	PP Expense	3,222.48
	<b>Total</b>	<u>388,076.92</u>
	<b>Total Assets</b>	<u>\$ 388,076.92</u>

**Liabilities and Fund Balance**

00-01-23100	Accounts Payable	26,766.59
00-01-23150	Deposits to be Refunded	9,100.00
	<b>Total</b>	<u>35,866.59</u>
	<b>Total Liabilities</b>	<u>35,866.59</u>
00-01-35100	Fund Balance	73,069.05
00-01-35120	Current Year Excess of Revenue over Expenses	368,341.26
	<b>Total</b>	<u>441,410.31</u>
	Excess of Revenue Over Expenditures	(89,199.98)
	<b>Total Fund Balances</b>	<u>352,210.33</u>
	<b>Total Liabilities and Fund Balances</b>	<u>\$ 388,076.92</u>

**Red River Groundwater Conservation District**

**Statement of Revenue and Expenditures**

9/14/2018 2:57pm

Page 1

*Revised Budget*

*For General Fund (00)*

*For the Fiscal Period 2018-8 Ending August 31, 2018*

Account Number	Current Budget	Current Actual	Annual Budget	YTD Actual	Remaining Budget %
<b>Revenues</b>					
00-01-46002 GW Production Cost	\$ 0.00	\$ 359.89	\$ 325,000.00	\$ 177,756.93	45.31%
00-01-46005 Late Fees	0.00	0.00	0.00	1,144.21	0.00%
00-01-46006 Violation Fees	0.00	0.00	0.00	600.00	0.00%
00-01-46007 Registration Fees	458.33	900.00	5,500.00	5,000.00	9.09%
00-01-46010 Well Drillers Deposit	0.00	0.00	0.00	(100.00)	0.00%
00-01-46100 Interest Income	208.33	0.00	2,500.00	249.64	90.01%
<b>Total General Fund Revenues</b>	<b>\$ 666.66</b>	<b>\$ 1,259.89</b>	<b>\$ 333,000.00</b>	<b>\$ 184,650.78</b>	<b>44.55%</b>
<b>Expenditures</b>					
00-01-77010 Administrative Cost	\$ 9,166.67	\$ 11,587.00	\$ 110,000.00	\$ 67,620.90	38.53%
00-01-77020 Advertising	0.00	146.50	1,000.00	146.50	85.35%
00-01-77027 Auditing	0.00	0.00	4,750.00	4,650.00	2.11%
00-01-77031 Banking Fees	0.00	0.00	100.00	0.00	100.00%
00-01-77032 Contract Services	5,683.33	5,076.50	68,200.00	28,767.70	57.82%
00-01-77035 Field Technician	6,666.67	10,280.50	80,000.00	48,145.50	39.82%
00-01-77040 Direct Cost	333.33	383.67	4,000.00	3,382.96	15.43%
00-01-77045 Field Permitting Specialist	2,500.00	3,182.00	30,000.00	23,228.00	22.57%
00-01-77450 Dues & Subscription	141.67	15.75	1,700.00	373.75	78.01%
00-01-77480 Equipment	0.00	381.11	2,000.00	471.94	76.40%
00-01-77500 Fees- GMA8	0.00	0.00	1,000.00	0.00	100.00%
00-01-77610 Fuel	0.00	94.61	0.00	228.81	0.00%
00-01-77810 Insurance	375.00	644.50	4,500.00	3,122.02	30.62%
00-01-77855 Internet Fees	541.67	0.00	6,500.00	3,182.14	51.04%
00-01-77970 Legal	2,916.67	4,593.20	35,000.00	32,747.49	6.44%
00-01-78010 Meetings and Conferences	250.00	58.76	3,000.00	2,637.67	12.08%
00-01-78030 Office Supplies	0.00	0.00	0.00	13.74	0.00%
00-01-78310 Rent	200.00	0.00	2,400.00	1,400.00	41.67%
00-01-78600 Software Maintenance	166.67	4,930.81	2,000.00	50,713.76	(2435.69%)
00-01-78750 Telephone	175.00	200.12	2,100.00	1,629.97	22.38%
00-01-78770 Transportation-Mileage	416.67	293.17	5,000.00	1,387.91	72.24%
<b>Total General Fund Expenditures</b>	<b>\$ 29,533.35</b>	<b>\$ 41,868.20</b>	<b>\$ 363,250.00</b>	<b>\$ 273,850.76</b>	<b>24.61%</b>
<b>General Fund Excess of Revenues Over Expenditures</b>	<b>\$ (28,866.69)</b>	<b>\$ (40,608.31)</b>	<b>\$ (30,250.00)</b>	<b>\$ (89,199.98)</b>	

ATTACHMENT 6



# RED RIVER GROUNDWATER CONSERVATION DISTRICT AGENDA COMMUNICATION

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**DATE:** September 21, 2018

**SUBJECT:** AGENDA ITEM NO. 6

## CONSIDER AND ACT UPON 2017 AUDIT

### ISSUE

2017 Audit

### BACKGROUND

Earlier this year, the Board engaged the services of McClanahan and Holmes, LLP, to undertake the 2017 audit for the District.

The Audit is now complete and the auditors from McClanahan and Holmes, LLP plan to be in attendance at the September Board Meeting to present the audit.

### CONSIDERATIONS

If there are questions or concerns about the audit, the Board will have the opportunity to further discuss them with the auditor.

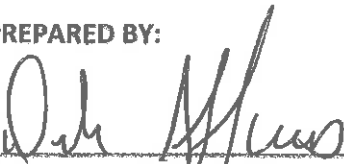
### STAFF RECOMMENDATIONS

The District Staff has reviewed the audit and have no questions or concerns about the information contained in the audit.

### ATTACHMENTS

2017 Audit

**PREPARED BY:**

  
Debi Atkins, Finance Officer

**RECOMMENDED BY:**

  
Drew Satterwhite, P.E., General Manager

**RED RIVER GROUNDWATER  
CONSERVATION DISTRICT**

**Annual Financial Report**

**Year Ended December 31, 2017**



RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Annual Financial Report  
Year Ended December 31, 2017

	<u>Page Number</u>
Independent Auditors' Report	1
Management's Discussion and Analysis	3
Basic Financial Statements:	
Government-Wide Financial Statements:	
Statement of Net Position	7
Statement of Activities	8
Fund Financial Statements:	
Balance Sheet -- Governmental Fund	9
Statement of Revenues, Expenditures, and Changes in Fund Balance -- Governmental Fund	10
Notes to the Basic Financial Statements	11
Required Supplementary Information:	
Budgetary Comparison Schedule	16
Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed In Accordance with <i>Government Auditing Standards</i>	17

**McClanahan and Holmes, LLP**  
CERTIFIED PUBLIC ACCOUNTANTS

STEVEN W. MOHUNDRO, CPA  
GEORGE H. STRUVE, CPA  
ANDREW B. REICH, CPA  
RUSSELL P. WOOD, CPA  
DEBRA J. WILDER, CPA  
TEFFANY A. KAVANAUGH, CPA  
APRIL J. HATFIELD, CPA

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INDEPENDENT AUDITORS' REPORT

Members of the Board  
Red River Groundwater Conservation District  
Denison, Texas

We have audited the accompanying financial statements of the governmental activities and the major fund of the Red River Groundwater Conservation District (the District), as of and for the year ended December 31, 2017, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

*Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

*Auditor's Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant account estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

*Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Red River Groundwater Conservation District as of December 31, 2017, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Members of the Board  
Red River Groundwater Conservation District  
Denison, Texas

*Other Matters*

*Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information on page 16 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

*Other Reporting Required by Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated June 4, 2018, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

*McClanahan and Holmes, LLP*

Certified Public Accountants

Bonham, Texas  
June 4, 2018

**RED RIVER GROUNDWATER CONSERVATION DISTRICT**  
**Management's Discussion and Analysis**  
**Year Ended December 31, 2017**

The Red River Groundwater Conservation District (District) is pleased to present its financial statements. This required supplementary information presents our discussion and analysis of the District's financial performance during the year ended December 31, 2017. Please read this section in conjunction with the basic financial statements which follow this section.

**FINANCIAL HIGHLIGHTS**

- The District's total net position was \$462,465 at December 31, 2017.
- During the year, the District's expenses were \$29,619 more than the \$306,673 generated from groundwater production fees and other revenues.
- The General Fund presents a year end fund balance of \$413,663 at December 31, 2017.

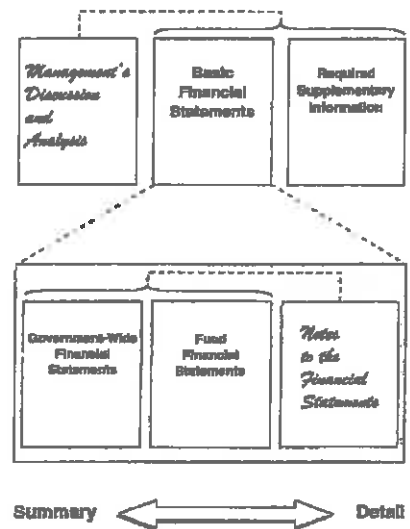
**OVERVIEW OF THE FINANCIAL STATEMENTS**

In addition to this Management's Discussion and Analysis, this report consists of government-wide financial statements, fund financial statements, and the notes to the financial statements. The first two statements are condensed and present a government-wide view of the District's finances. The government-wide statements are designed to be more corporate-like in that all activities are consolidated into a total for the District.

*Basic Financial Statements*

- The Statement of Net Position focuses on resources available for future operations. In simple terms, the statement presents a snapshot of the assets of the District, the liabilities it owes, and the net difference. The net difference is further separated into amounts restricted for specific purposes, if any, and unrestricted amounts. The information presented in this statement is reported on the accrual basis of accounting.
- The Statement of Activities focuses on gross and net costs of the District's programs and the extent to which such programs rely on general revenues. The statement summarizes and simplifies the users analysis to determine the extent to which programs are self-supporting and/or subsidized by general revenues.
- Fund financial statements focus separately on individual funds, including assets liabilities and fuel equity. Separate revenues and expenditures analysis are presented to each major fund.
- The notes to the financial statements provide additional disclosures required by governmental accounting standards and provide information to assist the reader in understanding the District's financial condition.

**Figure A-1, Required Components of the District's Annual Financial Report**



RED RIVER GROUNDWATER CONSERVATION DISTRICT  
 Management's Discussion and Analysis (Continued)  
 Year Ended December 31, 2017

**OVERVIEW OF THE FINANCIAL STATEMENTS (Continued)**

*Other Information*

In addition to the basic financial statements and accompanying notes, this report also presents required supplementary information concerning the District's budgetary comparison schedule. Required supplementary information can be found on page 16 of this report.

**FINANCIAL ANALYSIS OF THE DISTRICT AS A WHOLE**

Net position may serve over time as a useful indicator of a government's financial position. For the District, the total combined net position was \$462,465 at year end. A comparative condensed summary of the District's statements of net position is presented here:

<b>Red River Groundwater Conservation District's Net Position</b>			<b>Table A-1</b>
	<u>2017</u>	<u>2016</u>	<b>Total Percentage Change <u>2016-2017</u></b>
<b>Assets:</b>			
Cash and Cash Equivalents	\$ 146,152	\$ 196,201	-25.51%
Certificates of Deposit	210,000	210,000	0.00%
Receivables and Other Assets	102,214	87,562	16.73%
Capital Assets,			
Net of Accumulated Depreciation	<u>48,802</u>	<u>22,033</u>	121.50%
<b>Total Assets</b>	<u>507,168</u>	<u>515,796</u>	-1.67%
<b>Liabilities:</b>			
Current Liabilities	<u>44,703</u>	<u>23,712</u>	88.52%
<b>Total Current Liabilities</b>	<u>44,703</u>	<u>23,712</u>	88.52%
<b>Net Position:</b>			
Unrestricted	<u>462,465</u>	<u>492,084</u>	-6.02%
<b>Total Net Position</b>	<u>\$ 462,465</u>	<u>\$ 492,084</u>	-6.02%

At year end, 70.2% of the District's total assets were held in cash and cash equivalents and certificates of deposit, with fees receivable and prepaid expenses representing 20.2%, and fixed assets representing 9.6%.

The District's liabilities consist of accounts payable for items or services received during the year, but not paid out in cash until after year end, as well as deposits to be refunded to drillers.

Unrestricted net position represents amounts available for future spending.

**RED RIVER GROUNDWATER CONSERVATION DISTRICT**  
**Management's Discussion and Analysis (Continued)**  
**Year Ended December 31, 2017**

**CHANGES IN NET POSITION**

The District's total revenues were \$292,967 generated from Groundwater Production Fees assessed upon residents of the District and \$13,706 of other revenues.

The total cost of all services was \$336,292, for third party administration of the program and legal services.

A condensed summary of the District's statements of activities and changes in net position for the years ended December 31, 2017 and 2016 is presented here:

<b>Changes in Red River Groundwater Conservation District's Net Position</b>			<b>Table A-2</b>
	<u>2017</u>	<u>2016</u>	<b>Total Percentage Change 2016-2017</b>
<b>General Revenues:</b>			
Groundwater Production Fees	\$ 292,967	\$ 302,528	-3.16%
Registration and Other Fees	10,706	11,459	-6.57%
Interest Income	<u>3,000</u>	<u>1,880</u>	59.57%
<b>Total Revenues</b>	<u>306,673</u>	<u>315,867</u>	-2.91%
<b>Expenses:</b>			
Administration	300,570	242,129	24.14%
Legal	<u>35,722</u>	<u>25,466</u>	40.27%
<b>Total Expenses</b>	<u>336,292</u>	<u>267,595</u>	25.67%
<b>Increase (Decrease) in Net Position</b>	<u>\$ (29,619)</u>	<u>\$ 48,272</u>	-161.36%

**FINANCIAL ANALYSIS OF THE DISTRICT'S FUNDS**

The governmental funds of the District reported revenues of \$306,673 during the year, with total expenditures of \$363,061.

**BUDGETARY HIGHLIGHTS**

The District's Board of Directors adopted a final operating budget for the 2017 fiscal year, based on anticipated receipts and expenditures (unaudited), prior to year end. The budget encompasses all the activities of the District, which would normally include both revenues and expenditures. Total revenues were \$23,827 below final budgeted amounts. Total expenditures exceeded budgeted amounts by \$31,561.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Management's Discussion and Analysis (Continued)  
Year Ended December 31, 2017

**CAPITAL ASSETS AND DEBT ADMINISTRATION**

**Capital Assets**

Capital Assets amounted to \$55,612, net of accumulated depreciation of \$6,810 as of December 31, 2017. This investment in capital assets includes a vehicle and software development in progress.

A summary of capital asset activity is shown in Note 1.E of the financial statements.

**Debt**

As of December 31, 2017, the District has not entered into any debt agreements. The District has no outstanding long-term debt at year end.

**ECONOMIC FACTORS AND NET YEAR'S BUDGET AND RATES**

The District adopted the next year's budget to provide for the developing nature of the services provided by the District, which will increase over the current year.

**CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT**

This financial report is designed to provide our citizens, taxpayers, investors, and creditors with a general overview of the District's finances and to demonstrate the District's accountability for the money it receives. If you have any questions about this report or need additional financial information, contact Drew Satterwhite, General Manager for the District.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Statement of Net Position  
December 31, 2017

	Governmental Activities
<b>ASSETS</b>	
<b>Current Assets</b>	
Cash and Cash Equivalents	\$ 146,152
Certificates of Deposit	210,000
Accounts Receivable, Net of Allowance for Uncollectibles of \$1,530	98,962
Prepaid Expenses	3,252
Total Current Assets	458,366
<b>Noncurrent Assets</b>	
Capital Assets Not Being Depreciated:	
Software Development in Progress	31,576
Capital Assets, Net of Accumulated Depreciation: Vehicle	17,226
Total Noncurrent Assets	48,802
Total Assets	507,168
<b>LIABILITIES</b>	
<b>Current Liabilities</b>	
Accounts Payable	38,103
Driller Deposits	6,600
Total Current Liabilities	44,703
Total Liabilities	44,703
<b>NET POSITION</b>	
Unrestricted	462,465
Total Net Position	\$ 462,465

The notes to financial statements are an integral part of this statement.



RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Statement of Activities  
Year Ended December 31, 2017

Functions/Programs	Expenses	Program Revenues		Net (Expense) Revenue and Changes in Net Position
		Charges for Services	Operating Grants and Contributions	Governmental Activities
Primary Government				
Governmental Activities:				
Administration	\$ 300,570	\$ -	\$ -	\$ (300,570)
Legal	35,722	-	-	(35,722)
<b>Total Governmental Activities</b>	<u>336,292</u>	<u>-</u>	<u>-</u>	<u>(336,292)</u>
<b>Total Primary Government</b>	<u>\$ 336,292</u>	<u>\$ -</u>	<u>\$ -</u>	<u>(336,292)</u>
General Revenues:				
				292,967
				10,706
				<u>3,000</u>
				<u>306,673</u>
				<b>(29,619)</b>
				<u>492,084</u>
				<u>\$ 462,465</u>

The notes to financial statements are an integral part of this statement.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
 Balance Sheet - Governmental Fund  
 December 31, 2017

	General Fund
<b>ASSETS</b>	
<b>Current Assets</b>	
Cash and Cash Equivalents	\$ 146,152
Certificates of Deposit	210,000
Accounts Receivable, Net	98,962
Prepaid Expenses	3,252
Total Current Assets	458,366
Total Assets	\$ 458,366
 <b>LIABILITIES</b>	
<b>Current Liabilities</b>	
Accounts Payable	\$ 38,103
Driller Deposits	6,600
Total Current Liabilities	44,703
Total Liabilities	44,703
 <b>FUND BALANCE</b>	
Unassigned	413,663
Total Fund Balance	413,663
Total Liabilities and Fund Balance	\$ 458,366
 Amounts reported for governmental activities in the statement of net position are different because:	
Fund Balance - Total Governmental Fund (above)	\$ 413,663
Capital assets used in government activities are not financial resources and therefore are not reported in the funds. The cost of the assets is \$55,612 and the accumulated depreciation is \$6,810.	48,802
Net Position of Governmental Activities	\$ 462,465

The notes to financial statements are an integral part of this statement.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Statement of Revenues, Expenditures, and Changes  
In Fund Balance - Governmental Fund  
Year Ended December 31, 2017

	General Fund
<b>REVENUES</b>	
Groundwater Production Fees	\$ 292,967
Registration and Other Fees	10,706
Interest Income	3,000
Total Revenues	306,673
<b>EXPENDITURES</b>	
Administration	295,763
Legal Fees	35,722
Capital Outlay: Software Development	31,576
Total Expenditures	363,061
Excess (Deficiency) of Revenues over Expenditures	(56,388)
Net Change in Fund Balance	(56,388)
Fund Balance - Beginning (January 1)	470,051
Fund Balance - Ending (December 31)	\$ 413,663
 Amounts reported for governmental activities in the statement of activities are different because:	
Net Change in Fund Balance - Total Governmental Fund (above)	(56,388)
Governmental funds report capital outlays as expenditures. However, in the statement of activities, the cost of these assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which capital outlays (\$31,576) exceeded depreciation expense (\$4,807) in the current year.	26,769
Change in Net Position of Governmental Activities	\$ (29,619)

The notes to financial statements are an integral part of this statement.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Notes to the Basic Financial Statements  
December 31, 2017

I. Summary of Significant Accounting Policies

The basic financial statements of the Red River Groundwater Conservation District (District) have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) applicable to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles.

A. Reporting Entity

The Red River Groundwater Conservation District (District), is a political subdivision of the State of Texas, created under the authority of Article XVI, Section 59, Texas Constitution, and operating pursuant to the provisions of the Texas Water Code, Chapter 36, and Senate Bill 2497, Acts of the 81<sup>st</sup> Texas Legislature, Regular Session, 2010. The District encompasses the Red River counties of Grayson and Fannin. The Board of Directors (Board), a six member group constituting an on-going entity, is the level of government which has governance responsibilities over all activities within the jurisdiction of the District. The Board is not included in any other governmental "reporting entity" as defined in Section 2100, Codification of Governmental Accounting and Reporting Standards, since Board members are appointed, have decision making authority, the power to designate management, the responsibility to significantly influence operations, and primary accountability for fiscal matters.

As required by accounting principles generally accepted in the United States of America, the basic financial statements of the reporting entity include those of the District (primary government) and its component units. There are no component units included in these basic financial statements.

B. Basis of Presentation – Basis of Accounting

*Government-Wide Statements* - The statement of net position and the statement of activities include the financial activities of the overall government, except for fiduciary activities. Eliminations have been made to minimize the double-counting of internal activities. Governmental activities generally are financed through taxes, intergovernmental revenues, and other non-exchange transactions.

The statement of activities presents a comparison between direct expenses and program revenues for each function of the District's governmental activities. Direct expenses are those that are specifically associated with a program or function and therefore, are clearly identifiable to a particular function. The District does not allocate indirect expenses in the statement of activities. Program revenues include (1) fees, and other charges paid by the recipients of goods or services offered by the programs and (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, including taxing entities allocations and investments, are presented as general revenues.

*Fund Financial Statements* – The fund financial statements provide information about the District's funds, with separate statements presented for each fund category. The emphasis of fund financial statements is on major governmental funds, each displayed in a separate column. Any remaining governmental funds are aggregated and reported as non-major funds.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Notes to the Basic Financial Statements (Continued)  
December 31, 2017

I. Summary of Significant Accounting Policies (Continued)

B. Basis of Presentation – Basis of Accounting (continued)

District accounts are organized on the basis of funds, each of which is considered a separate accounting entity. Governmental resources allocated to individual funds are recorded for the purpose of carrying on specific activities in accordance with laws, regulations or other appropriate requirements. The fund types and funds utilized by the District are described below:

Government fund types include the following:

The *General Fund* is used to account for financial resources used for general operating. This is a budgeted fund and any fund balances are considered resources available for current operations. All revenues and expenditures not required to be accounted for in other funds are accounted for in this fund.

C. Measurement Focus – Basis of Accounting

*Government-Wide Statements* – These financial statements are reported using the economic resources measurement focus. The government-wide financial statements are reported using the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place. Non-exchange transactions, in which the District gives (or receives), value without directly receiving (or giving) equal value in exchange, including taxing entity allocations. Revenue from grants, entitlements, and donations are recognized in the fiscal year in which all eligibility requirements have been satisfied.

*Fund Financial Statements* – These financial statements are reported using the current financial resources measurement focus and are accounted for using the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual; i.e., when they become both measurable and available. “Measurable” means the amount of the transaction can be determined and “available” means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The District considers revenues as available if they are collected within 60 days after year end. Expenditures are recorded when the related fund liability is incurred. However, debt service expenditures, as well as expenditures related to compensated absences are recorded only when payment is due.

D. Receivable and Payable Balances

The District believes that sufficient detail of receivable and payable balances is provided in the financial statements to avoid the obscuring of significant components by aggregation. Therefore, no disclosure is provided which disaggregates those balances. The total accounts receivable balance is expected to be collected within one year.

E. Financial Statement Amounts

Cash and Cash Equivalents

Cash and Cash Equivalents are comprised of deposits in financial institutions, including time deposits. A cash equivalent is considered any highly liquid investment with a maturity of three months or less. Restricted assets and temporary investments are not included.

Capital Assets

Capital assets are reported in the government-wide statement of net position. All capital assets are valued at historical cost. The cost of normal repairs and maintenance that do not add to the value of the asset or materially extend asset life are not capitalized.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Notes to the Basic Financial Statements (Continued)  
December 31, 2017

I. Summary of Significant Accounting Policies (Continued)

E. Financial Statement Amounts (continued)

Capital Assets (continued)

Assets capitalized have an original cost of more than \$5,000 and useful life in excess of one year. Depreciation has been provided over the estimated useful life using the straight-line method of depreciation. The estimated useful life of the vehicle is five years. Development in progress is not depreciated. Depreciation expense of \$4,807 was charged to Administration in the Statement of Activities for the year ended December 31, 2017.

	Balance 12/31/16	Additions	Retirements	Balance 12/31/17
Governmental Activities:				
Capital Assets Not Being Depreciated:				
Software Development in Progress	\$ -	\$ 31,576	\$ -	\$ 31,576
	-	31,576	-	31,576
Capital Assets being Depreciated:				
Vehicle	24,036	-	-	24,036
	24,036	-	-	24,036
Less Accumulated Depreciation for:				
Vehicle	2,003	4,807	-	6,810
	2,003	4,807	-	6,810
Governmental Activities Capital Assets, Net	\$ 22,033	\$ 26,769	\$ -	\$ 48,802

Fund Balance

Governmental funds utilize a fund balance presentation for equity. Fund balance is categorized as nonspendable, restricted, committed, assigned, or unassigned.

*Nonspendable fund balance* – represents amounts that cannot be spent because they are either not in spendable form (such as inventory or prepaids) or legally required to remain intact (such as notes receivable or principal or a permanent fund).

*Restricted fund balance* – represents amounts with external constraints placed on the use of these resources (such as debt covenants, grantors, other governments, etc.) or imposed by enabling legislation. Restrictions may be changed or lifted only with the consent of resource providers. The District does not have any restricted fund balances by enabling legislation.

*Committed fund balance* – represents amounts that can only be used for specific purposes imposed by a formal action of the District's highest level of decision-making authority, the Board. Committed resources cannot be used for any other purpose unless the Board removes or changes the specific use by taking the same formal action that imposed the constraint originally.

*Assigned fund balance* – represents amounts the District intends to use for specific purposes as expressed by the Board or an official delegated the authority. The Board has delegated the authority to assign fund balances to the Superintendent.

*Unassigned fund balances* – represents the residual classification for the general fund or deficit balances in other funds.

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Notes to the Basic Financial Statements (Continued)  
December 31, 2017

I. Summary of Significant Accounting Policies (Continued)

E. Financial Statement Amounts (continued)

Fund Balance (continued)

In circumstances where an expenditure is to be made for the purpose for which amounts are available in multiple fund balance classifications, the order in which resources will be expended is as follows: restricted fund balance, followed by committed fund balance, assigned fund balance, and lastly, unassigned fund balance. The District has adopted a policy that sets a minimum fund balance equal to twenty-five percent (25%) of the total general fund expenditures.

The following schedule provides information about the specific fund balance classification by fund:

	<u>General</u>
Unassigned	\$ 413,663
Total	\$ 413,663

II. Stewardship, Compliance, and Accountability

By its nature as a local government unit, the District is subject to various federal, state, and local laws and contractual regulations.

<u>Object Category</u>	<u>Expenditures Exceeding Appropriations</u>
Legal Fees	\$ 722
Capital Outlay	31,576
Total Expenditures Exceeding Appropriations	\$ 32,298

III. Deposits, Securities, and Investments

District funds may be invested in obligations of the United States Government, fully insured or collateralized certificates of deposit from any bank doing business in the State of Texas, and certain Texas Local Government Investment Pools. At December 31, 2017, the District has only invested in certificates of deposit.

The District maintains deposits in First United, Sherman, Texas that at times may exceed the insured amount of \$250,000 provided by the U.S. Federal Deposit Insurance Corporation (FDIC). The District was not exposed to custodial credit risk as its deposits were fully insured with FDIC insurance at year-end.

The District maintains two certificates of deposit at a bank as of December 31, 2017. The District was not exposed to custodial credit risk as its deposits were fully insured with FDIC insurance at year-end.

GASB Statement No. 40 requires a determination as to whether the District was exposed to the following specific investment risks at year end and if so, the reporting of certain related disclosures:

RED RIVER GROUNDWATER CONSERVATION DISTRICT  
Notes to the Basic Financial Statements (Continued)  
December 31, 2017

III. Deposits, Securities, and Investments (Continued)

*Custodial Credit Risk*

Deposits are exposed to custodial credit risk if they are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the District's name.

Investment securities are exposed to custodial risk if the securities are uninsured, are not registered in the name of the government, and are held by either the counterparty or the counterparty's trust department or agent but not in the District's name.

IV. Risk Management

The District is exposed to various risks of loss related to torts: theft of, damage to and destruction of assets; errors and omissions; injuries to employees; and natural disasters. During the year ended December 31, 2017, the District purchased commercial insurance to cover these liabilities. There were no significant reductions in coverage in the last year, and there were no settlements exceeding insurance coverage in the past year.

V. Concentrations

One customer individually comprised approximately 50% of gross accounts receivable at December 31, 2017. This customer individually comprised approximately 34% of revenue for the year ended December 31, 2017. One vendor comprised approximately 52% of expenses for the year ended December 31, 2017.

VI. Commitments

At December 31, 2017, the District had outstanding contract commitments totaling \$51,924 related to the design and development of a software system.



RED RIVER GROUNDWATER CONSERVATION DISTRICT  
 General Fund  
 Budgetary Comparison Schedule  
 Year Ended December 31, 2017

	Budgeted Amounts		Actual	Variance with Final Budget
	Original	Final		
<b>REVENUES</b>				
Groundwater Production Fees	\$ 325,000	\$ 325,000	\$ 292,967	\$ (32,033)
Registration and Other Fees	5,000	5,000	10,706	5,706
Interest Income	500	500	3,000	2,500
<b>Total Revenues</b>	<u>330,500</u>	<u>330,500</u>	<u>306,673</u>	<u>(23,827)</u>
<b>EXPENDITURES</b>				
Administration	296,500	296,500	295,763	737
Legal Fees	35,000	35,000	35,722	(722)
Capital Outlay: Software Development	-	-	31,576	(31,576)
<b>Total Expenditures</b>	<u>331,500</u>	<u>331,500</u>	<u>363,061</u>	<u>(31,561)</u>
<b>Net Change in Fund Balance</b>	<b>(1,000)</b>	<b>(1,000)</b>	<b>(56,388)</b>	<b>(55,388)</b>
<b>Fund Balance - Beginning (January 1)</b>	<u>470,051</u>	<u>470,051</u>	<u>470,051</u>	<u>-</u>
<b>Fund Balance - Ending (December 31)</b>	<u>\$ 469,051</u>	<u>\$ 469,051</u>	<u>\$ 413,663</u>	<u>\$ (55,388)</u>

**McClanahan and Holmes, LLP**  
CERTIFIED PUBLIC ACCOUNTANTS

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Independent Auditors' Report on Internal Control over Financial Reporting  
and on Compliance and Other Matters Based on an Audit of  
Financial Statements Performed in Accordance with  
*Government Auditing Standards*

Members of the Board  
Red River Groundwater Conservation District  
Denison, Texas

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities and the major fund of the Red River Groundwater Conservation District (the District), as of and for the year ended December 31, 2017, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated June 4, 2018.

***Internal Control over Financial Reporting***

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the following deficiencies to be material weaknesses and significant deficiencies in internal control over financial reporting.

Members of the Board  
Red River Groundwater Conservation District  
Denison, Texas

**Financial Accounting and Reporting:**

The District does not prepare the financial statements nor control the period-end financial reporting process, including controls over the selection and application of accounting principles that are in conformity with generally accepted accounting principles; controls over procedures used to analyze transactions comprising general ledger activity; controls over initiating, authorizing, recording, and processing journal entries into the general ledger; and controls over recording recurring and nonrecurring adjustments to the financial statements.

**Segregation of Duties:**

A critical element in any internal control structure is the characteristic known as segregation of duties. Assigning different personnel the responsibility of authorizing transactions, recording transactions, and maintaining custody of assets achieves this internal control structure attribute. Due to the District's small number of personnel, there is limited segregation of duties in substantially all areas of the accounting system. To the extent possible, every effort should be made to utilize a "best practices" approach when considering controls over cash transactions and preparation of accounting records. We encourage the board to closely monitor its financial activities which may help offset the weaknesses associated with limited segregation of duties.

***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

***Purpose of this Report***

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

***McClanahan and Holmes, LLP***  
Certified Public Accountants

Bonham, Texas  
June 4, 2018

ATTACHMENT 7



**RED RIVER GROUNDWATER CONSERVATION  
DISTRICT  
AGENDA COMMUNICATION**

---



**DATE:** September 18, 2018

**SUBJECT:** AGENDA ITEM NO. 7

**CONSIDER AND ACT UPON ENGAGEMENT LETTER FOR AUDIT SERVICES FOR FISCAL YEAR ENDING  
DECEMBER 31, 2018**

**ISSUE**

Consider and act upon confirming execution of engagement letter for audit services fiscal year ending December 31, 2018

**BACKGROUND**

In 2013, the Board instructed the staff to solicit proposals for audit services for a period up to five (5) years. The staff initiated invitations to several firms in North Central Texas. As a result of that solicitation, four proposals were received. The audit committee reviewed the proposals and recommended McClanahan and Holmes, LLP of Bonham, Texas. This recommendation was accepted and confirmed by the Board at the March 2014 meeting. The Board has subsequently proceeded to engage the services of McClanahan and Holmes for each audit since this time.

At the May meeting, the Board directed the Staff to request another 5-year term with McClanahan and Holmes. The Board also requested that the lead auditor be changed.

McClanahan and Holmes provided a proposal letter that indicated their willingness to switch lead auditors. This letter also lays out their proposed fee increases each year at between 2 and 3%. Staff believes this to be in line with what we have seen at other organizations and auditors.

**CONSIDERATIONS**

District staff is of the opinion that McClanahan and Holmes, LLP of Bonham, Texas has provided thorough and quality audits during their tenure with the District. The fees for the 2018 audit services will be \$4,750.

**STAFF RECOMMENDATIONS**

The staff recommends the Board authorize an engagement letter with McClanahan and Holmes, LLP of Bonham, Texas for the 2018 audit

**ATTACHMENTS**

Engagement Letter  
Proposal Letter

**PREPARED AND SUBMITTED BY:**

Drew Satterwhite, General Manager

**RECOMMENDED BY:**

Debi Atkins, Finance Officer

**McClanahan and Holmes, LLP**  
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FAX 903-583-8453

Bonham, Texas  
September 20, 2018

Members of Management  
Red River Groundwater Conservation District

We are pleased to confirm our understanding of the services we are to provide Red River Groundwater Conservation District for the year ended December 31, 2018. We will audit the financial statements of the governmental activities and the major fund, including the related notes to the financial statements, which collectively comprise the basic financial statements of Red River Groundwater Conservation District as of and for the year ended December 31, 2018. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Red River Groundwater Conservation District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Red River Groundwater Conservation District's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedule

**Audit Objective**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the first paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of Red River Groundwater Conservation District and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of Red River Groundwater Conservation District's financial statements. Our report will be addressed to members of the board of Red River Groundwater Conservation District. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that Red River Groundwater Conservation District is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

#### **Audit Procedures – General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

#### **Audit Procedures – Internal Control**

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements.

Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

#### **Audit Procedures – Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the District's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

#### **Other Services**

We will also assist in preparing the financial statements and related notes of Red River Groundwater Conservation District in conformity with U.S. generally accepted accounting principles based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

#### **Management Responsibilities**

Management is responsible for designing, implementing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.



You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

#### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the District; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of McClanahan and Holmes, LLP and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to an oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of McClanahan and Holmes, LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in approximately April 2019 and to issue our reports no later than June 1, 2019, unless extenuating circumstances occur. April J. Hatfield is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs except that we agree that our gross fee, including expenses will not exceed \$4,750. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoice for these fees will be rendered upon completion of the audit and is payable on presentation. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to the Red River Groundwater Conservation District and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

*McClanahan and Holmes, LLP*  
Certified Public Accountants

**RESPONSE:**

This letter correctly sets forth the understanding of the Red River Groundwater Conservation District.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**McClanahan and Holmes, LLP**  
CERTIFIED PUBLIC ACCOUNTANTS

STEVEN W. MOHUNDRO, CPA  
GEORGE H. STRUVE, CPA  
ANDREW B. REICH, CPA  
RUSSELL P. WOOD, CPA  
DEBRA J. WILDER, CPA  
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903-583-5574  
FAX 903-583-8453

July 31, 2018

Red River Groundwater Conservation District  
5100 Airport Drive  
Denison, TX 75020

McClanahan and Holmes, LLP began doing the audit of Red River Groundwater Conservation District (the "District") beginning with fiscal year ended December 31, 2013, and most recently completed the audit of fiscal year ended December 31, 2017. During the five years of audit services, Andrew B. Reich has served as the audit engagement partner. During these time periods, April J. Hatfield served as the lead auditor, who performed field work and financial statement report preparation.

Should we perform audit services for the next fiscal year, and the four subsequent years, April J. Hatfield would serve as the audit engagement partner, and Kate N. Wallace would serve as the lead auditor.

We trust this expresses our commitment to serve the District in the future. McClanahan and Holmes, LLP is committed to serving clients in this area having done so for more than 60 years. The firm is also a leader in governmental and nonprofit audits in Fannin, Lamar, and Grayson counties. As such, we are strongly committed to this area of auditing, and maintain the staffing with the necessary experience and continuing education requirements necessary to perform these engagements. McClanahan and Holmes, LLP will perform the external audit services for the District with a high degree of professionalism, independence, and quality.

Based on our understanding of the audit work required, we estimate that the fee for time spent on the audit for the District for fiscal year ended December 31, 2018 will be \$4,750, which includes out-of-pocket expenses. For subsequent years, we anticipate a 2% to 3% increase in the fee each year.

Please contact us regarding any questions you might have. For purposes of this potential engagement, our representative and contact information is as follows:

April Hatfield, CPA  
McClanahan and Holmes, LLP  
1400 West Russell  
Bonham, TX 75418  
Telephone: 903-583-5574  
Facsimile: 903-583-9453  
Email: [ahatfield@mchcpa.net](mailto:ahatfield@mchcpa.net)

Sincerely,

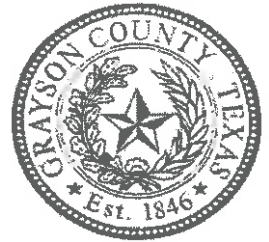
*McClanahan and Holmes, LLP*  
Certified Public Accountants

ATTACHMENT 8



# RED RIVER GROUNDWATER CONSERVATION DISTRICT AGENDA COMMUNICATION

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**DATE:**            **SEPTEMBER 19, 2018**

**SUBJECT:**       **AGENDA ITEM NO. 8**

## CONSIDER AND ACT UPON THE DISTRICT'S FUND BALANCE POLICY

### ISSUE

District fund balance policy adopted on July 25, 2012.

### BACKGROUND

The District Board initially adopted the fund balance policy on July 25, 2012. The Board last reviewed the fund balance policy at the August 2016 meeting.

### OPTIONS/ALTERNATIVES

The Board has the option to review this information and not take action. However, having an updated policy in place may help the District moving forward with budgeting and establishing fees.

### CONSIDERATIONS

If the Board provides direction to the staff in regards to how the fund balance policy should be modified, the staff can prepare a draft policy for adoption at a future meeting.

The staff will provide a list of items that the Board may want to consider for future uses of fund balance.

### STAFF RECOMMENDATIONS


The staff requests direction from the Board on the fund balance policy.

### ATTACHMENTS

District's Current Fund Balance Policy

Fund Balance History

**PREPARED AND SUBMITTED BY:**

  
Drew Satterwhite, P.E., General Manager

**SUBMITTED BY:**

  
Debi Atkins, Finance Officer

## RED RIVER GROUNDWATER CONSERVATION DISTRICT

### GOVERNING POLICY—FUND BALANCE

The Board of Directors of the Red River Groundwater Conservation District (RRGCD) sets guidelines for fund balances. The fund balance addressed in this policy only applies to unrestricted fund balance. The policy establishes the appropriate size of fund balance, replenishing or setting aside resources for fund balance, and the methods for utilizing fund balance. This fund balance policy, as presented to the Board of Directors, was proposed by the staff of the RRGCD to maintain a sound financial position, mitigate current and future risks against revenue shortfalls or unanticipated expenditures and to ensure stable water production fee rates.

#### Classifications of Fund Balance

A fund's equity - commonly referred to as 'fund balance' - is generally the difference between its assets and its liabilities. Fund balance will be displayed in the following classifications depicting the relative strength of the spending constraints placed on the purposes for which resources can be used:

- **Restricted fund balance** – amounts constrained to specific purposes by their providers (such as grantors, bond covenants) through constitutional provisions or by enabling legislation.
- **Committed fund balance** – amounts constrained to specific purposes by the RRGCD itself. This requires a formal action by the Board of Directors. Commitments may be changed or lifted only by the Board of Directors taking the same formal action that imposed the constraint originally.
- **Assigned fund balance** – amounts *intended* to be used by the Board of Directors for specific purposes. Intent can be expressed by the Board of Directors. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.
- **Unassigned fund balance** – amounts available for any purpose. These amounts are only shown in the general fund except in cases of negative fund balances in other governmental funds.

#### Classifying Residual Fund Balance

When both restricted and unrestricted funds are available for expenditure, restricted funds are used first. Within unrestricted funds, assume committed resources are used first, then assigned, then unassigned.

### **Appropriate Size of Fund Balance**

The Board of Directors has set a minimum fund balance equal to twenty-five percent (25%) of the total general fund expenditures. It also permits other reservations of the fund balances as seem prudent in the judgment of the General Manager and the Board of Directors. This policy sets ninety (90) days of expenditures as a minimum amount of fund balance for the General Fund.

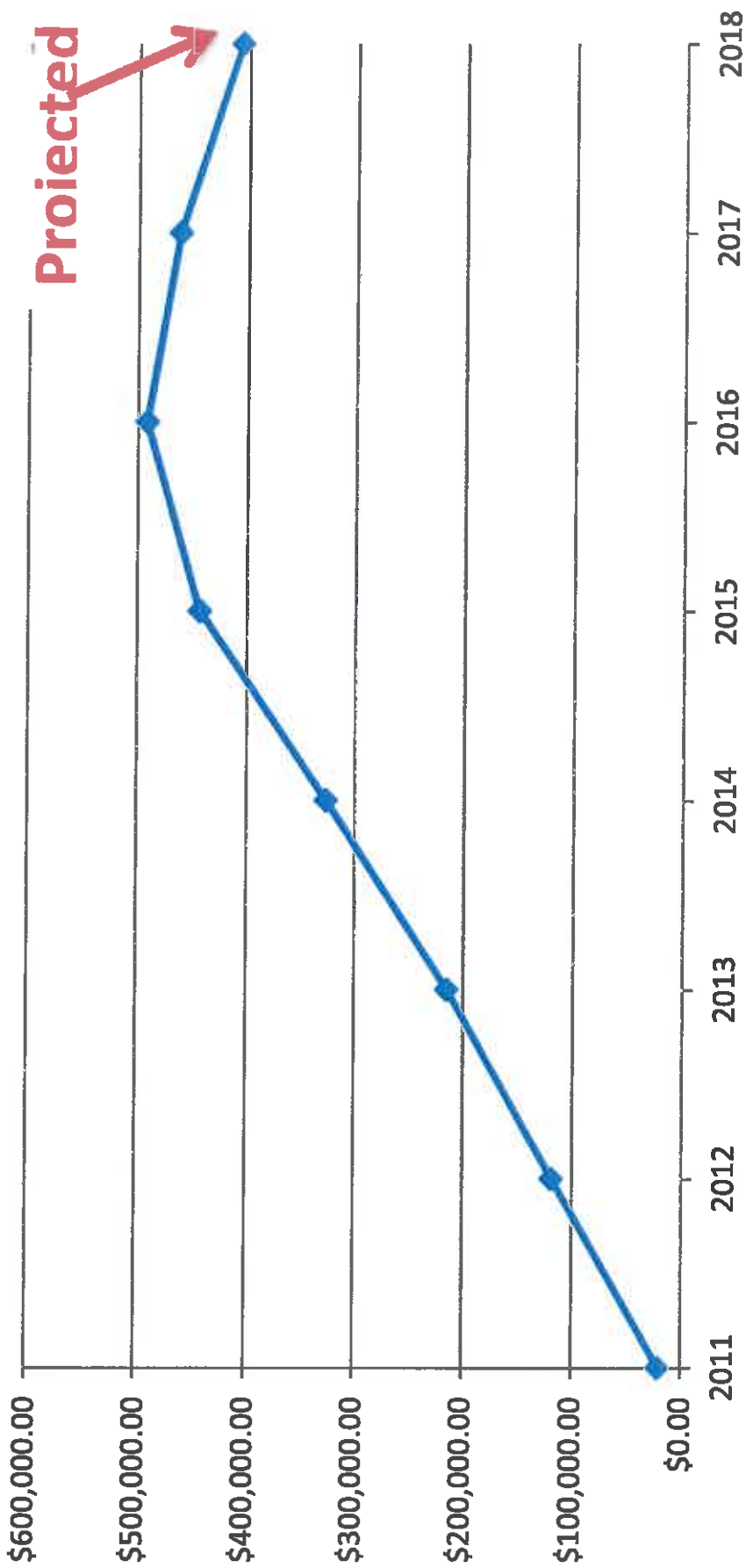
### **Replenishing Fund Balance**

When fund balance falls below the minimum level, the Board of Directors will implement a plan to replenish the fund within one year or as soon as economic and budgetary conditions allow. Fund balance may be replenished by using all or a portion of an operating surplus from itself or another fund. Revenues from a dedicated stream (e.g. 2% of water production fees received over amount budgeted) may also be used to build fund balance. Alternatively, an amount determined in the budget process either using a percent of operating expenditures or a fixed amount may be used.

### **Utilizing Unassigned Fund Balance**

Fund balances may be used to meet capital needs, offset difficult economic times, stabilize fluctuations in cash flow requirements, and provide funding for emergency situations. Fund balance may be used for contingencies until the balance is nearing its minimum level. The RRGCD will also adjust its expenditure level to match any new economic reality that is behind the use of fund balance as a financing bridge. Authorization for utilizing fund balances is made by the Board of Directors during the annual budget process

# Fund Balance Sum





ATTACHMENT 11

# Red River Groundwater Conservation District

## Well Registration Summary As of July 31, 2018

Well Type	Total Registered		Total RRGCD	New Registrations
	Fannin County	Grayson County		
Domestic	134	260	394	6
Agriculture	15	26	41	0
Oil/Gas	0	21	21	0
Surface Impoundments	6	14	20	0
Commercial	6	8	14	1
Golf Course	0	15	15	0
Livestock	12	25	37	0
Irrigation	0	6	6	0
Public Water	57	213	270	1
Monitoring	0	3	1	0
<b>Total</b>	<b>230</b>	<b>591</b>	<b>819</b>	<b>8</b>

# Red River Groundwater Conservation District

## Well Registration Summary As of August 31, 2018

Well Type	Total Registered		Total RRGCD	New Registrations
	Fannin County	Grayson County		
Domestic	138	265	403	9
Agriculture	15	26	41	0
Oil/Gas	0	21	21	0
Surface Impoundments	6	14	20	0
Commercial	6	8	14	0
Golf Course	0	15	15	0
Livestock	12	25	37	0
Irrigation	0	6	6	0
Public Water	57	213	270	0
Monitoring	0	3	1	0
<b>Total</b>	<b>234</b>	<b>596</b>	<b>828</b>	<b>9</b>

ATTACHMENT 12

# Red River Groundwater Conservation District

**~~Temporary~~ Rules for Water Wells  
in Fannin and Grayson Counties, Texas**

As Amended on ~~January 1, 2017~~XXXXXX, 2018

### *Procedural History of Rules Adoption*

*These ~~temporary~~ rules of the Red River Groundwater Conservation District were initially adopted by the Board of Directors on August 29, 2011, at a duly posted public meeting in compliance with the Texas Open Meetings Act and following notice and hearing in accordance with Chapter 36 of the Texas Water Code. The ~~temporary~~ rules were subsequently amended, in accordance with all legal requirements on March 21, 2012, December 12, 2012, May 15, 2014, ~~and on~~ January 1, 2017, and on XXXXXX, 2018.*

**Red River  
Groundwater Conservation District  
Table of Contents**

[TO BE UPDATED AFTER ADOPTION OF  
RULES]

**Page**

\*\*\*\*\*

<b>SECTION 1</b>		
<b>DEFINITION, CONCEPTS, AND GENERAL PROVISIONS</b>		<b>2</b>
Rule 1.1	Definitions of Terms	2
Rule 1.2	Authority of District	8
Rule 1.3	Purpose of Rules	8
Rule 1.4	Use and Effect of Rules	8
Rule 1.5	Purpose of District	8
Rule 1.6	Construction	8
Rule 1.7	Methods of Service Under the Rules	8
Rule 1.8	Severability	9
Rule 1.9	Regulatory Compliance; Other Governmental Entities	9
Rule 1.10	Computing Time	9
Rule 1.11	Time Limits	9
Rule 1.12	Amending of Rules	9
<b>SECTION 2</b>		
<b>APPLICABILITY OF REGULATORY REQUIREMENTS; EXEMPTIONS</b>		<b>10</b>
Rule 2.1	Wells Exempt from Certain Fee Payment, Metering, and Reporting Requirements of These Temporary Rules	10
Rule 2.2	Wells Subject to Fee Payment, Metering, and Reporting Requirements of These Temporary Rules	11
Rule 2.3	Exemption from Certain Fees for Groundwater Used for Certain Emergency Purposes	11
Rule 2.4	Exemption from Production Fees, Metering, and Reporting Requirements for Groundwater Used for Well Development	11
<b>SECTION 3</b>		
<b>REGISTRATIONS, RECORDS, REPORTS, AND LOGS; PERMIT NOT REQUIRED</b>		<b>11</b>
Rule 3.1	Purpose and Policy	11
Rule 3.2	Permit Not Required Under Temporary Rules	12
Rule 3.3	Well Registration	12
Rule 3.4	Time Period for Registration of Existing Non-Exempt and Exempt Wells	13
Rule 3.5	Registration of New Wells or Alterations to Existing Wells Required Prior to Drilling or Alteration	14
Rule 3.6	General Provisions Applicable to Registrations	15
Rule 3.7	Records of Drilling, Pump Installation and Alteration Activity, and Plugging	16
Rule 3.8	Transfer of Well Ownership	17
Rule 3.9	Amendment of Registration	18
Rule 3.10	Water Production Reports	18

SECTION 4		
SPACING AND LOCATION OF WELLS; WELL COMPLETION .....		20
Rule 4.1	Spacing and Location of Existing Wells.....	20
Rule 4.2	Spacing, Location, and Standards of Completion for New Wells .....	20
Rule 4.3	Replacement Wells .....	21
SECTION 5		
REGULATION OF PRODUCTION; WASTE PROHIBITED.....		22
Rule 5.1	Temporary Production Limitations.....	22
Rule 5.2	Regular Production Limitations.....	22
Rule 5.3	Waste Prohibited.....	22
SECTION 6		
TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT.....		22
Rule 6.1	General Provisions.....	22
Rule 6.2	Reporting .....	23
SECTION 7		
FEES AND PAYMENT OF FEES.....		23
Rule 7.1	Water Use Fees .....	23
Rule 7.2	Groundwater Transport Fees.....	24
Rule 7.3	Payments of Water Use and Groundwater Transport Fees .....	24
Rule 7.4	Failure to Make Fee Payments.....	25
Rule 7.5	Failure to Submit Water Production Reports .....	25
Rule 7.6	Returned Check Fee.....	25
Rule 7.7	Well Report Deposit.....	25
Rule 7.8	Well Registration Fees.....	25
Rule 7.9	Enforcement.....	26
Rule 7.10	Meter Sealing Fee.....	26
SECTION 8		
METERING.....		26
Rule 8.1	Water Meter Required.....	26
Rule 8.2	Water Meter Exemption .....	27
Rule 8.3	Accuracy Verification.....	28
Rule 8.4	Removal of Meter for Repairs .....	28
Rule 8.5	Water Meter Readings .....	29
Rule 8.6	Installation of Meters .....	29
Rule 8.7	Enforcement.....	29
SECTION 9		
INSPECTION AND ENFORCEMENT OF RULES .....		30
Rule 9.1	Purpose and Policy .....	30
Rule 9.2	Rules Enforcement.....	30
Rule 9.3	Failure to Report Pumpage and/or Transported Volumes.....	31
Rule 9.4	District Inspections .....	31
Rule 9.5	Notices of Violation.....	31
Rule 9.6	Show Cause Hearing.....	32
SECTION 10		
EFFECTIVE DATE.....		33
Rule 10.1.	Effective Date.....	33
APPENDIX A.		
Enforcement Policy and Civil Penalty Schedule .....		34



APPENDIX B.

List of Commonly Used Acronyms.....XX

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# Red River Groundwater Conservation District

## District Rules

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### PREAMBLE

The Red River Groundwater Conservation District ("District") was created in 2009 by the 81<sup>st</sup> Texas Legislature with a directive to conserve, protect and enhance the groundwater resources of Fannin and Grayson Counties, Texas. The District's boundaries are coextensive with the boundaries of Fannin and Grayson Counties, and all lands and other property within these boundaries will benefit from the works and projects that will be accomplished by the District.

The Mission of the Red River Groundwater Conservation District is to develop rules to provide protection to existing wells, prevent waste, promote conservation, provide a framework that will allow availability and accessibility of groundwater for future generations, protect the quality of the groundwater in the recharge zone of the aquifer, insure that the residents of Fannin and Grayson Counties maintain local control over their groundwater, and operate the District in a fair and equitable manner for all residents of the District.

The District is committed to manage and protect the groundwater resources within its jurisdiction and to work with others to ensure a sustainable, adequate, high quality and cost effective supply of water, now and in the future. The District will strive to develop, promote, and implement water conservation, augmentation, and management strategies to protect water resources for the benefit of the citizens, economy and environment of the District. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through conservation, education, and management. Any action taken by the District shall only be after full considerations and respect has been afforded to the individual property rights of all citizens of the District.

\*\*\*\*\*

## SECTION 1. DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

### **Rule 1.1 Definitions of Terms.**

In the administration of its duties, the District follows the definitions of terms set forth in Chapter 36, Texas Water Code, and other definitions as follows:

(1) “Acre foot” means the standard measurement of groundwater necessary to cover one acre of land one foot deep, or approximately 325,851 U.S. gallons.

(2) “Aggregate Withdrawal” means the total pumpage measurement of the amount of water withdrawn from two or more wells in a well system from the same aquifer.

~~(1)~~(3) “Agriculture use” (or “agricultural use”) means any of the following activities:

1. cultivating the soil to produce crops for human food, animal feed, or planting seed, or for the production of fibers;
2. the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of sod, and the cultivation of plants in containers or non-soil media, by a nursery grower;
3. raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
4. planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
5. wildlife management; and
6. raising or keeping equine animals.

(4) “Air gap” means the unobstructed vertical separation between the free flowing discharge end of the pipe supplying the well and an open or non-pressure receiving vessel.

~~(2)~~(5) “Animal Feeding Operation” (AFO) means: (1) a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and where the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season over any portion of the lot or facility; or (2) any other facility regulated as an AFO or as a Concentrated Animal Feeding Operation by the TCEQ.

~~(3)~~(6) “Aquifer” means a water bearing geologic formation in the District.

(7) “Aquifer Storage and Recovery” means the injection of water into a geologic formation and the subsequent recovery for beneficial use by the project operator, as defined by TCEQ rules.

(8) “Artificial flow restrictors” means the term used to describe the prohibited devices that are capable of altering the measurement of a well’s maximum capacity or flow rate, including, but not limited to, the following types of devices: dole valves, static head reducers, artificial head devices; and fixed energy dissipaters.

~~(4)~~—“As equipped” for purposes of determining the capacity of a well means visible pipes, plumbing, and equipment attached to the wellhead or adjacent plumbing that controls the maximum rate of flow of groundwater and that is permanently affixed to the well or adjacent plumbing by welding, glue or cement, bolts or related hardware, or other reasonably permanent means.

~~(5)~~(9) “Beneficial use” or “beneficial purpose” means use of groundwater for:

1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;
2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or
3. any other purpose that is useful and beneficial to the user that does not constitute waste.

(10) “Best available data” means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are available for peer review by scientists in the field and can be employed to address a specific scientific issue.

(11) “Boundary survey” means a diagram showing the proposed location of a well in relation to distance from property boundaries and existing registered wells, as required by Rule4.3(a).

~~(6)~~(12) “Board” means the Board of Directors of the District.

~~(7)~~(13) “Cap or “capped well” means covering a well with a securely fixed, removable device that will prevent the entrance of surface pollutants into the well. A well that is closed or capped with must have a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds. The cap must be—and constructed in such a way that the covering cannot be easily removed by hand.

~~(8)~~(14) “Closed-loop geothermal well” means a well used for domestic use purposes that recirculates water or other fluids inside a sealed system for heating or cooling purposes, and where no water is produced from the well or used for any other purpose of use.

(15) “Completed well” means a well, the construction of which has been completed, with sealed off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods.

(16) “Contiguous” means property within a continuous perimeter boundary situated within the District. The term also refers to properties that are divided by a publicly owned road or highway or other easements if the properties would otherwise share a common border.

(17) “Desired Future Conditions” means a quantitative description, adopted in accordance with Section 36.108 of the Texas Water Code, of the desired condition of the groundwater resources at one or more specified future times.

(9)(18) “District” means the Red River Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act.

(10)(19) “District Act” means the Act of May 25, 2009, 81<sup>st</sup> Leg., R.S., ch. 884, 2009 Tex. Gen. Laws 2313, codified at Tex. Spec. Dist. Loc. Laws Code Ann. ch. 8859 (“the District Act”), as may be amended from time to time.

(11)(20) “Domestic use” means the use of groundwater by an individual or a household to support essential domestic activity. Such use may include water for drinking, washing, or culinary purposes; use by multiple households that do not qualify as a Public Water System as defined in these Rules, as long as there is no consideration given or received, as set forth herein; residential landscape watering of no more than one (1) acre contiguous to one (1) residence; and may be used for irrigation of lawns, or of a family garden and/or family orchard; recreation limited to the filling of residential swimming pools and hot tubs; or for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold; Domestic use does not include use by or for a public water system; Domestic use does not include irrigation of crops in fields or pastures; Domestic use does not include water used for open-loop residential geothermal systems, but does include water for closed-loop residential geothermal systems.

(12)(21) “Effective Date” means ~~XXXXX, 2018~~ August 29, 2011, which was is the original date of adoption of these Temporary permitting Rules by the District.

(13)(22) “Emergency purposes” means the use of groundwater to fight fires, manage chemical spills, and otherwise address emergency public safety or welfare concerns.

(14)(23) “Exempt well” means a new or an existing well that is exempt under Rule 2.1 from permitting under these Rules, and is not required to have a Historic Use Permit or Production Permit to withdraw groundwater from an aquifer within the District. ~~certain regulatory requirements in these rules.~~

~~(24)~~ “Existing well” means a well that was in existence or for which drilling commenced on or before the Effective Date, prior to April 1, 2012.

~~(25)~~ “Gallons per minute” or “gpm” means the maximum production capacity or flow rate of a well as equipped, which can be measured by the District in accordance with these Rules.  
(15)

~~(16)~~~~(26)~~ “General Manager” as used herein is the appointed chief administrative officer of the District, as set forth in the District’s bylaws, or the District staff or other Board designee acting at the direction of the General Manager or Board to perform the duties of the General Manager.

~~(17)~~~~(27)~~ “Groundwater” means water percolating below the surface of the earth.

~~(28)~~ “Groundwater reservoir” means a specific subsurface water-bearing stratum.

~~(29)~~ “Hearings Examiner” means a person appointed by the Board of Directors to conduct a hearing or other proceedings including but not limited to an administrative law judge employed by the State Office of Administrative Hearings (SOAH).

~~(30)~~ “Historic Use Period” means the period from January 1, 2013 through December 31, 2018, in which water produced from a well or well system was put to beneficial use at any point during the duration of the period.

~~(31)~~ “Historic Use Permit” means a permit required by the District for a non-exempt well or well system that produced water during the Historic Use Period and that has not been abandoned.  
(18)

~~(19)~~~~(32)~~ “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.

~~(20)~~~~(33)~~ “Leachate well” means a well used to remove contamination from soil or groundwater

~~(21)~~~~(34)~~ “Livestock or poultry” means the use of groundwater associated with watering, raising, feeding, or keeping non-commercial livestock and/or poultry, of any variety, for subsistence or labor. The term also includes domesticated horses, cattle, goats, sheep, swine, poultry, and other similar animals involved in farming or ranching operations, on land recorded and taxed in the county as an agricultural land use, in the singular or plural, grass or plant eating, single or cloven hooved mammals raised in an agricultural setting for subsistence, profit or for its labor, or to make produce such as food or fiber, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this state from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families, but does not mean a mammal defined as a game animal in Section 63.001, Parks and Wildlife Code, or as a fur bearing animal in Section 71.001, Parks and Wildlife Code, or any other indigenous mammal regulated by the Texas Department of Parks and Wildlife as an endangered or threatened

~~species.~~ The term ~~“livestock use”~~ does not include the use of water for any animal that is stabled, confined, or fed at a facility that is defined an Animal Feeding Operation.

(35) “Maintenance Purposes” means the use of water to flush mains, fire hydrants or tanks as required by TCEQ.

(36) “Management Plan” means the District Management Plan required under Section 36.1071, Texas Water Code, and as further described in these Rules.

(37) “Maximum Historic Use” means the largest volume of groundwater produced during a calendar year from an aquifer and beneficially used during the Historic Use Period, as demonstrated by production reports submitted to the District.

~~(22)~~(38)

(39) “Meter” or “measurement device” means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced from a well or well system during a measure of time, as specifically set forth under Section 8

~~(23)~~(40) “Modeled Available Groundwater” means 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 for the groundwater resources in the District.

(41) “Modify” or “Modified” means performing work on the physical or mechanical components of the well head assembly or downhole portion of a well.

(42) “Monitoring well” means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.

(43) “New well” means a water well for which ~~an administratively complete drilling application is filed with the District drilling commenced~~ on or after ~~the Effective Date April 1, 2012,~~ or conversion of another type of well or artificial excavation to a water well on or after the Effective Date, including but not limited to a well originally drilled for hydrocarbon production activities —that is to be converted to a water well.

(44) “Non-exempt well” means an existing or a new well that does not qualify for exempt well status under these Rules.

(45) “Notice to Proceed” means the official registration approval form issued by the District for new exempt wells.

~~(24)~~

~~(25)~~(46) “Nursery grower” means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown.

For the purpose of this definition, “grow” means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

~~(26)~~(47) “Penalty” means a reasonable civil penalty set by rule under the express authority delegated to the District through Section 36.102(b) of the Texas Water Code.

~~(27)~~(48) “Person” means an individual, corporation, Limited Liability Company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.

~~(28)~~ “Poultry” means chickens, turkeys, nonmigratory game birds, and other domestic nonmigratory fowl, but does not include any other bird regulated by the Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.

(49) “Pre-Effective Date Exempt Wells” means those existing wells that were exempt from the metering, reporting, and fee payment requirements under the District’s Temporary Rules in effect prior to the Effective Date because they are used solely for domestic use or livestock or poultry use, regardless of well capacity, or that are equipped with a maximum production capacity of 27.7 gpm (40,000 gallons per day) or less, but that were required to be registered under the District’s Temporary Rules.

(50) “Presiding Officer” means the President of the Board, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner appointed by the Board to conduct or preside over any hearing or other District proceeding.

(51) “Production” or “producing” means the act of extracting groundwater from an aquifer by a pump or other method.

(52) “Production Permit” means a permit required by the District for a new, non-exempt well.  
(29)

~~(30)~~(53) “Public Water System” or “PWS” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for “drinking water” in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems



are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

~~(54)~~ "Pump" means any facility, device, equipment, materials, or method used to obtain water from a well.

~~(55)~~ "Purpose of use" means the type of beneficial use of the groundwater produced from a well.  
~~(31)~~

~~(32)~~~~(56)~~ "Registrant" means a person required to submit a registration.

~~(57)~~ "Registration" means a well owner providing certain information about a well to the District, as more particularly described under Section 3.

~~(58)~~ "Replacement well" means a new well drilled to replace an existing registered well that meets the requirements set forth in Rule 4.5.  
~~(33)~~

~~(59)~~ "Rule" or "Rules" or "Temporary Rules" means these ~~Temporary~~ Rules of the District regulating water wells, which shall continue to be effective until amended or repealed.

~~(60)~~ "Spacing Formula" means the total spacing distance required under Rule 4.3 for new wells that have a production capacity of greater than 17.36 gpm (25,000 gallons per day), which is calculated according to the following formula: 876 feet + 2.6 (gpm of proposed well).  
~~(34)~~

~~(35)~~~~(61)~~ "Substantially alter" with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way, modify the depth or diameter of a well bore, increase the size of the pump or pump motor on the well, or performing work on the well that involves reaming, setting casing, or grouting.

~~(62)~~ "TCEQ" means the Texas Commission on Environmental Quality, or its predecessor or successor agency.

~~(63)~~ "Temporary Rules" means the version of the District's Rules in effect prior to the Effective Date.  
~~(36)~~

~~(37)~~~~(64)~~ "Tract" means a contiguous parcel of land under the ownership of a single entity, such as a corporation, partnership or trust, or an individual or individuals holding as joint owners or tenants in common.

~~(38)~~(65) “Transfer” means a change ~~in~~ to a registration or permit as follows, except that the term “transfer” shall have its ordinary meaning as read in context when used in other contexts:

- (a) ownership; or
- (b) the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.

~~(39)~~(66) “Waste” means one or more of the following:

- (a) withdrawal of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer unsuitable for agriculture, gardening, domestic, stock raising, or other beneficial purposes;
- (b) the flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;
- (c) the escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;
- (d) pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
- (e) willfully or negligently causing, suffering, or allowing 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 unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;
- (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) for water produced from an artesian well, “waste” has the meaning assigned by Section 11.205, Texas Water Code;
- (h) operating a deteriorated well; or
- (i) producing groundwater in violation of any District rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.

~~(40)~~(67) “Well” means any artificial excavation located within the boundaries of the District ~~dug or drilled for the purpose of exploring for or withdrawing groundwater that causes groundwater to be withdrawn or removed from the an aquifer within the District.~~

~~(41)~~(68) “Well owner” means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system. A well owner may delegate the responsibility to act on his or her behalf in accordance with these Rules.

~~(42)~~(69) “Well system” means a well or group of wells connected by piping, storage, or that share or are tied to the same distribution system. Examples of a well system include, but are not limited to, a well or group of wells connected to the same ground storage tank, pond, or swimming pool.

~~(43)~~(70) “Withdraw” means the act of extracting or producing groundwater by pumping or other method.

~~(44)~~(71) “Year” means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

### ***Rule 1.2 Authority of District.***

The Red River Groundwater Conservation District is a political subdivision of the State of Texas organized and existing under Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act. The District is a governmental agency and a body politic and corporate. The District was created to serve a public use and benefit.

### ***Rule 1.3 Purpose of Rules.***

These ~~Temporary~~ Rules are adopted under the authority of Sections 36.101 and 36.1071(f), Texas Water Code, and the District Act for the purpose of conserving, preserving, protecting, and recharging groundwater in the District in order to prevent subsidence, prevent degradation of water quality, prevent waste of groundwater, and to carry out the powers and duties of Chapter 36, Texas Water Code, and the District Act.

### ***Rule 1.4 Use and Effect of Rules.***

(a) These rules are used by the District in the exercise of the powers conferred on the District by law and in the accomplishment of the purposes of the law creating the District. 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 will they or any part therein, be construed as a limitation or restriction upon the District to exercise powers, duties and jurisdiction conferred by law. These rules create no rights or privileges in any person or water well, and shall not be construed to bind the Board in any manner in its promulgation of the District Management Plan, amendments to these Temporary Rules, or promulgation of permanent rules.

(b) The accurate and timely reporting to the District of activities governed by these Rules is a critical component to the District's ability to effectively and prudently manage the groundwater resources that it has been charged by law with regulating. The purpose of Section

3 is to require the submission, by the appropriate person or persons, of complete, accurate, and timely registrations, records, reports, and logs as required throughout the District Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or other enforcement action by the District, as specifically set forth under Section 9 in these Rules, [MOVED FROM FORMER RULE 3.1]

### ***Rule 1.5 Purpose of District.***

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution.

### ***Rule 1.6 Construction.***

A reference to a title or chapter without further identification is a reference to a title or chapter of the Texas Water Code. A reference to a section or rule without further identification is a reference to a section or rule in these Rules. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

### ***Rule 1.7 Methods of Service Under the Rules.***

Except as 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 in person, by agent, by courier receipted delivery, by certified or registered mail sent to the recipient's last known address, by fax transfer to the recipient's current fax number or by e-mail and shall be accomplished by 5:00 p.m. on the date which it is due. Service by mail is complete upon deposit in a post office depository box or other official depository of the United States Postal Service. Service by fax transfer is complete upon transfer, except that any transfer completed after 5:00 p.m. shall be deemed complete the following business day. If service or delivery is by mail and the recipient has the right or is required to do some act within a prescribed period of time after service, three days will be added to the prescribed period. If service by other methods has proved unsuccessful, service will be deemed complete upon publication of the notice or document in a newspaper of general circulation in the District.

### ***Rule 1.8 Severability.***

If a provision contained in these ~~Temporary~~ Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability does not affect any other rules or provisions of these ~~Temporary~~ Rules, and these ~~Temporary~~ Rules shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in these rules.

### ***Rule 1.9 Regulatory Compliance; Other Governmental Entities.***

All registrants of the District shall comply with all applicable rules and regulations of the District and of all other governmental entities. If the District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations are applicable.

***Rule 1.10 Computing Time.***

In computing any period of time prescribed or allowed by these Rules, order of the Board, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

***Rule 1.11 Time Limits.***

Applications, requests, or other papers or documents required or allowed to be filed under these Rules or by law must be received for filing by the District within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing. Time periods set forth in these rules shall be measured by calendar days, unless otherwise specified.

***Rule 1.12 Request for Reconsideration.***

To appeal a decision of the District, including any determinations made by the General Manager, concerning any matter not specifically covered under any other section of these rules, a request for reconsideration may be filed with the District within twenty (20) calendar days of the date of the decision. Such request for reconsideration must be in writing and must state clear and concise grounds for the request. The Board will make a decision on the request for reconsideration within sixty (60) calendar days thereafter. The failure of the Board to grant or deny the request for reconsideration within sixty (60) calendar days of the date of filing of the request for reconsideration shall constitute a denial of the request.

***Rule 1.132 Amending of Rules.***

The Board may, following notice and hearing, amend or repeal these rules or adopt new rules from time to time.

**SECTION 2.**

**DISTRICT MANAGEMENT ACTIONS AND  
DUTIES APPLICABILITY OF REGULATORY REQUIREMENTS;  
EXEMPTIONS**

***Rule 2.1 Wells Exempt from Certain Fee Payment, Metering, and Reporting Requirements of These Temporary Rules, District Management Plan.***

Following notice and hearing, the District shall adopt a Management Plan. The District Management Plan shall specify the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table using the best available data. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. Upon adoption of Desired Future Conditions under Section 36.108 Texas Water Code, the District shall update its Management Plan within two years of the date of the adoption of the Desired Future Conditions. The District shall thereafter update its rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Conditions. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once adopted, remains in effect until the subsequent adoption of another Management Plan.

- ~~(a) — The requirements of these Temporary Rules relating to the payment of Water Use Fees and Groundwater Transport Fees under Section 7, the requirement to install and maintain a meter under Section 8, and the requirement to report to the District the amount of water produced from a well under Section 3 do not apply to the following types of wells:~~
- ~~1. — A well used solely for domestic use, livestock use, or poultry use.~~
  - ~~2. — An existing well or new well that does not have the capacity, as equipped, to produce more than 40,000 gallons per day, or more than 27.7 gallons per minute.~~
  - ~~3. — Leachate wells, monitoring wells, and piezometers.~~
- ~~(b) — For purposes of determining whether the exemption set forth under Subsection (a)(2) applies, the capacity of a well that is part of a well system shall be determined by taking the sum of the capacities of each of the individual wells, as equipped, in the system. If the total sum of the capacities is greater than 40,000 gallons per day, or greater than 27.7 gallons per minute, the well system and the individual wells that are part of it are not exempt from the fee payment, metering, and reporting requirements of these rules.~~
- ~~(c) — A well exempted under Subsection (a) will lose its exempt status if the well is subsequently used for a purpose or in a manner that is not exempt under Subsection (a)(2).~~
- ~~(d) — A well exempted under Subsection (a)(2) will lose its exempt status if, while the well was registered as an exempt well, the District determines that the well had the capacity, as equipped, to produce more than 40,000 gallons per day, or more than 27.7 gallons per minute. Such wells are subject to the fee payment, metering, reporting, and other requirements of these Temporary Rules, and may be subject to enforcement under Section 8.~~
- ~~(e) — The owner of an existing well that is exempt under this rule should nonetheless register~~

~~the well with the District, as specifically described under Section 3. All new wells, whether exempt or not under this rule, are required to be registered with the District prior to drilling as set forth under Section 3.~~

**~~Rule 2.2 — Wells Subject to Fee Payment, Metering, and Reporting Requirements of These Temporary Rules.~~**

~~All wells not described as exempt under Rule 2.1 are subject to the Water Use Fee and Groundwater Transport Fee payment (addressed in Section 7 of the Temporary Rules), metering, reporting, registration, and other requirements of these Temporary Rules. Such wells include all wells or well systems with a capacity, as equipped, to produce more than 40,000 gallons per day, or more than 27.7 gallons per minute, that are used in whole or in part for any purpose of use other than solely for domestic use.~~

**~~Rule 2.3 — Exemption from Certain Fees for Groundwater Used for Certain Emergency Purposes.~~**

- ~~(a) Groundwater produced within the boundaries of the District is exempt from the assessment of applicable Water Use Fees and Groundwater Transport Fees otherwise required by Section 7 if the groundwater is used by a fire department or an emergency services district solely for emergency purposes and the use is qualified under Subsection (b).~~
- ~~(b) To qualify for the exemption provided for in Subsection (a), a fire department or emergency services district that uses groundwater produced from within the District, or a person that supplies groundwater produced from within the District to a fire department or emergency services district, shall submit to the District a Water Production Report that complies with Rule 3.10.~~

**~~Rule 2.4 — Exemption from Production Fees, Metering, and Reporting Requirements for Groundwater Used for Well Development.~~**

~~Groundwater produced from a well during its development or rehabilitation, including groundwater used in pump tests, is exempt from the requirements relating to the payment of fees under Section 7, the requirement to install and maintain a meter under Section 8, and the requirement to report to the District the amount of water produced from a well under Section 3. However, use of the well must comply with those requirements before being placed into operation unless otherwise exempt under these rules. [MOVED TO RULE 9.2(c) and (d)]~~

**SECTION 3.**

**WELL REGISTRATIONS AND PERMITTING, RECORDS, REPORTS,  
AND LOGS; PERMIT NOT REQUIRED**

### **Rule 3.1 — Purpose and Policy. [Moved to Rule 1.4]**

~~The accurate and timely reporting to the District of activities governed by these Rules is a critical component to the District's ability to effectively and prudently manage the groundwater resources that it has been charged by law with regulating. The purpose of Section 3 is to require the submission, by the appropriate person or persons, of complete, accurate, and timely registrations, records, reports, and logs as required throughout the District Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or other enforcement action by the District, as specifically set forth under Section 9.~~

### **Rule 3.2 — Permit Not Required Under Temporary Rules.**

~~No permit of any kind is required under these Temporary Rules. Notwithstanding Chapter 36, Water Code, a permit is not required under these Temporary Rules to drill, equip, operate, or complete a well, produce water from a well, or to substantially alter the size or capacity of a well. Permitting requirements will be developed and adopted by the District in the future after it has had a sufficient opportunity to develop a management plan and carefully consider various regulatory approaches and how such approaches may impact landowners and other water users in the District while achieving proper management of the groundwater resources. Permitting rules will be adopted only after ample opportunity has been afforded the public to participate in the development of such rules.~~

### **Rule 3.13 Well Registration Required.**

(a) Except as otherwise provided in this Section 3.1, all water wells must be registered with the District. All new, exempt wells require the issuance of a Notice to Proceed by the District prior to the drilling of the well. Issuance of a Notice to Proceed by the District evidences the District's review and approval of a registration application for a new, exempt well. All new, nonexempt wells require the issuance of a Production Permit by the District under Rule 3.9 prior to the drilling of the nonexempt well.

(b) The following wells are not required to be registered by the District:

1. Pre-Effective Date Exempt Wells in existence or for which drilling commenced prior to April 1, 2012; and
2. Leachate wells, monitoring wells, and piezometers.

Wells that meet the criteria of this subsection are, however, encouraged to be registered in order to receive the benefits of being classified as an existing well under these Rules, including but not limited to a consideration of the registered well in a review of a proposed new well's spacing requirements and during the permitting process for proposed new nonexempt wells. Wells not registered with the District are not considered in a review of a proposed new well's impact on existing wells.



~~(c)~~ Failure of a well owner to timely register or amend the registration of a well under this rule shall subject the well owner to enforcement under these rules. A violation of this rule occurs on the first day that the drilling, alteration, modification, or operation occurs, and continues each day thereafter as a separate violation until cessation of the prohibited conduct, or until the well is registered or the registration is amended, as applicable.

~~(d)~~ Existing wells that are not registered or for which an administratively complete registration application has not been filed with the District prior to the Effective Date will be presumed to be wells not in existence prior to the Effective Date. Those wells that are not deemed as existing wells under these Rules are considered to be new wells that are required to comply with the spacing requirements under Rule 4.2 and, for nonexempt wells, are not eligible for a Historic Use Permit

~~(a)~~ The following wells must be registered with the District:

~~(1)~~ all new wells drilled on or after April 1, 2012, including new wells exempt under Rule 2.1;

~~(2)~~ all existing wells not exempt under Rule 2.1.

~~(b)(a)~~ Test holes must be registered with the District in accordance with the terms of this rule. Test holes are not subject to registration fees charged by the District. A plugging report shall be submitted to the District within 30 days of the date the test hole is plugged in accordance with Rule 3.47(c).

~~(e)~~ Existing exempt wells should be registered to limit the location of future wells that could reduce the capacity of the existing exempt wells.

### **Rule 3.2 Well Registration Application.**

~~(a)~~ An owner or well driller, or any other person legally authorized to act on their behalf, must submit and obtain approval of a registration application and submit a well report deposit with the District before any new well, except leachate wells or monitoring wells, may be drilled, equipped, or completed, or before an existing well may be substantially altered.

~~(d)(b)~~ A person seeking to register a well shall provide the District with the following information in the registration application on a form provided by the District:

(1) the name and mailing address of the registrant and the owner of the property, if different from the registrant, on which the well is or will be located;

(2) if the registrant is other than the owner of the property, documentation establishing the applicable authority to file the application for well registration, to serve as the registrant in lieu of the property owner, and to construct and operate a well for the proposed use;

- (3) a statement of the nature and purpose of the existing or proposed use of water from the well;
- (4) the location or proposed location of the well, identified as a specific point measured by latitudinal and, longitudinal, ~~and elevation~~ coordinates;
- (5) the location or proposed location of the use of water from the well, if used or proposed to be used at a location other than the location of the well;
- (6) the production capacity or proposed production capacity of the well, as equipped, in gallons per day, and the horsepower rating of the pump, as assigned by the pump manufacturer;
- (7) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;
- (8) a statement that the water withdrawn from the well will be put to beneficial use; and
- (9) any other information deemed reasonably necessary by the Board.

~~(e) — The timely filing of an application for registration shall provide the owner of a well described under Subsection (a)(2) with evidence that a well existed before April 1, 2012, for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District, and any other entitlements that existing wells may receive under these Temporary Rules or under permanent rules adopted by the District. A well that is required to be registered under this Rule and that is not exempt under Rule 2.1 shall not be operated after April 1, 2012, without first complying with the metering provisions set forth under Section 8.~~

(c) For purposes of determining applicable well spacing and permitting requirements, the information included in a timely filed, administratively complete application for well registration may be used as evidence that the well existed before the Effective Date.

~~(f)(d)~~ Once a registration is approved as administratively complete by the District under Rule 3.36(b) and the well registration is completed, which for new wells also includes receipt by the District of the well report required by Rule 3.75, the registration shall be perpetual in nature, subject to being amended or transferred and subject to enforcement for violations of these Rules.

### ***Rule 3.4 — Time Period for Registration of Existing Non-Exempt and Exempt Wells.***

~~(a) — The owner of an existing well described under Rule 3.3(a)(2) must register the well with the District between April 1 and June 30, 2012, and must install a meter on the well as set forth under Section 8 of these rules before July 1, 2012. Failure of the owner of such a well to timely register or install a meter on the well under this Rule shall subject the well owner to enforcement under these Rules.~~

~~(b) The owner of an existing well exempt under Rule 2.1 may register the well with the District after April 1, 2012, to provide the owner with evidence that the well existed before the adoption of these Temporary Rules for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District and any other entitlements that existing wells may receive under these Temporary Rules or under permanent rules adopted by the District.~~

***Rule 3.5 — Registration of New Wells or Alterations to Existing Wells  
Required Prior to Drilling or Alteration.***

- ~~(a) An owner or well driller, or any other person legally authorized to act on their behalf, must submit and obtain approval of a registration application and submit a well report deposit with the District before any new well, except leachate wells or monitoring wells, may be drilled, equipped, or completed, or before an existing well may be substantially altered beginning on or after April 1, 2012. [MOVED TO RULE 3.2(a)]~~
- ~~(b) A registrant for a new exempt well has 360 days from the date of approval of its application for well registration to drill and complete the new well, and must file the well report with the District within 60 days of completion. However, such a registrant may apply for an extension not to exceed 12 months at no additional cost.~~
- ~~(c) A registrant for a new non-exempt well may submit an application for well registration to drill and complete the new well for a period of time based on the size and complexity of the well not to exceed two (2) years from the date of approval of the application as administratively complete under Rule 3.6(b). The General Manager may approve, deny, or adjust the time period requested based on the size and complexity of the well as part of the General Manager's review of administrative completeness under Rule 3.6(b). The registrant must then drill and complete the well within the time period set forth in the well registration application. If more time is necessary to drill and complete the well than the time period set forth in the well registration application, the registrant may apply to the District for an extension of one (1) year for a fee of \$100 payable to the District.~~
- ~~(d) If the well report is timely submitted to the District, the District shall return the well report deposit to the owner or well driller. In the event that the well report required under this rule and Rule 3.7 is not filed within the applicable deadlines set forth under Subsection (b) and (c) of this rule, the driller or owner shall forfeit the well report deposit and shall be subject to enforcement by the District for violation of this rule.~~
- ~~(e) No well that is classified as non-exempt under Rule 2.1(a) may be modified, altered, or operated unless the well is first registered with the District or the well registration on file for the well is amended pursuant to Rule 3.9.~~
- ~~(f)(c) Notwithstanding any other rule to the contrary, the owner, driller, pump installer, or any other person authorized by the owner to complete or operate a new well, substantially alter any existing well, or modify, alter, or operate an existing non-exempt well are jointly responsible for ensuring that a well registration required by this section, or well registration~~

amendment required by Rule 3.69, is timely filed with the District and contains only information that is true and accurate. Each will be subject to enforcement action if a registration or registration amendment required by this section is not timely filed by either, or by any other person legally authorized to act on his or her behalf.

### **Rule 3.36 General Provisions Applicable to Registrations.**

- (a) Registration applications may be submitted to the District in person, by mail, by fax, or by internet ~~submission when available by the District~~, using the registration form provided by the District.
- (b) A determination of administrative completeness of a registration application shall be made by the General Manager within ~~five-thirty (30)~~ business days after the date of receipt of an application for registration, which for new wells must include receipt of the well report deposit and well registration fee. If an application is not administratively complete, the District shall request the applicant to complete the application. The application will expire if the applicant does not complete the application within 120 days of the date of the District's request. A ~~registration~~ application will be considered administratively complete and may be approved by the General Manager without notice or hearing if:
  - (1) it substantially complies with the requirements set forth under Rule 3.3(~~be~~), including providing all information required to be included in the application that may be obtained through reasonable diligence; and
  - (2) if it is a registration for a new well:
    - (A) includes the well report deposit and well registration fee; and
    - (B) proposes a well that complies with spacing, location, and well completion requirements of Section 4.

A person may appeal the General Manager's ruling on a registration application by filing a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next regular Board meeting. The General Manager may set the application for consideration by the Board at the next available Board meeting or hearing in lieu of approving or denying an application.

- (c) Upon approval or denial of an application, the General Manager shall inform the registrant in writing ~~by regular mail~~ of the approval or denial, as well as whether the well meets the exemptions provided in Rule ~~3.72.1~~ or whether it is subject to the permitting, metering, fee payment, and reporting requirements of these Rules.
- (d) Except as provided under Subsection (e) of this section, a registrant for a new well has 240 days from the date of approval of the application for well registration to drill and complete the new well. If drilling has not commenced within 240 days from the date of approval of the registration application, the well registration expires. However, a registrant may apply for one extension of an additional 240 days or may resubmit an identical well

registration without the need to pay any additional administrative fee associated with the submittal of well registrations for new wells. Upon the expiration of a well registration, the District may process a resubmission of an expired registration application only upon the passage of thirty (30) calendar days from the date the previous registration application expired.

(e) A registrant for a new well that is required by state law to be approved by TCEQ prior to operation has 365 days from the date of approval of the registration application to drill and complete the new well, with up to two (2) 365-day extension options authorized under the same filing requirements under Subsection (d) if drilling has not commenced prior to the end of the applicable 365-day period. Any extension requested under this Subsection (e) shall be granted only upon the submission of proof that an extension is warranted as determined by the District. Upon the expiration of a well registration, the District may process a resubmission of an expired registration application only upon the passage of thirty (30) calendar days from the date the previous registration application expired.

(f) A registration application for a well may be filed prior to the filing of a Production Permit application for the well as required under Rule 3.9; provided, however, the Production Permit application must be filed, be declared administratively complete, and be acted on by the District Board within a timeframe that allows the well to be drilled according to the deadline set forth in Subsection (d) or (e) of this rule, as applicable.

(g) If the well report is timely submitted to the District, the District shall return the well report deposit to the owner or well driller. In the event that the well report required under this rule and Rule 3.5 are not filed within the deadlines set forth under Subsection (d) of this rule, the driller or owner shall forfeit the well report deposit and may be subject to enforcement by the District for violation of this rule.

(h) All new wells must be drilled within 30 feet (10 yards) of the location specified in the registration application.

~~(d)~~(i) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information supplied in the registration application. A finding that false information has been supplied in the application may be grounds to refuse to approve the registration or to revoke or suspend the registration.

~~(e)~~(j) Submission of a registration application constitutes an acknowledgment by the registrant of receipt of the rules and regulations of the District and agreement that the registrant will comply with all rules and regulations of the District.

~~(f)~~(k) The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36, Texas Water Code.

~~(g)~~ If multiple wells have been aggregated under one registration and one or more wells under the registration will be transferred, the District will require separate registration applications from each new owner for wells over 40,000 gallons per day, or over 27.7

~~gallons per minute, retained or obtained by that person.~~

~~(h)(1)~~ No person shall operate or otherwise produce groundwater from a well required under this section to be registered with the District before:

- (1) timely submitting an accurate application for registration, or accurate application to amend an existing registration as applicable, of the well to the District; and
- (2) obtaining a Notice to Proceed or a Production Permit issued by the District~~approval from the District of the application for registration or amendment application, if such approval is required under these Rules.~~

***Rule 3.47 Records of Drilling, Pump Installation and Alteration Activity, Plugging, and Capping.***

- (a) Each person who drills, deepens, completes, or otherwise alters a well shall make, at the time of drilling, deepening, completing, or otherwise altering the well, a legible and accurate well report recorded on forms prescribed by the District or by the Texas Department of Licensing and Regulation. As part of the well report, an accurate drillers' log shall be kept of the water well in accordance with the rules of the Texas Department of Licensing and Regulation, and a copy of the log must be included with the well report and submitted to the District under the terms of this section.
- (b) The person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within sixty (60) days after the date the well is drilled, deepened, completed or otherwise altered, file the well report described in Subsection (a) with the District. If a registrant fails to timely submit the well report within 60 days as required by this subsection, then the well registration will not be considered complete.
- (c) Not later than the 30th day after the date a well is plugged, a driller, licensed pump installer, or well owner who plugs the well shall submit a plugging report to the District, which shall be substantially similar form to the Texas Department of Licensing and Regulation Form a004WWD (Plugging Report) and shall include all information required therein.
- (d) The District requires wells to be capped under certain conditions to prevent waste, prevent pollution, or prevent further deterioration of well casing. The well must remain capped until such a time as the condition that led to the capping requirement is eliminated or repaired. A well must be capped in accordance with this rule if the well is inactive and the pump equipment is removed from a well with the intention of re-equipping the well at a later date for future use; provided, however that the casing is not in a deteriorated condition that could result in the commingling of water strata and degradation of water quality, in which case the well must be plugged or repaired in accordance with this rule. The cap must be capable of sustaining a weight of at least 400 pounds when installed on the well and must be constructed in such a way that the covering cannot be easily removed by hand. The driller, licensed pump installer, or well owner who caps a well shall submit to the District a well capping notice on a form provided by the District.

### **Rule 3.58 Transfer of Well Ownership.**

(a) Within ninety (90) days after the date of a change in ownership of a well that is required to be registered under these Rules~~exempt under Rule 2.1~~, the new well owner (transferee) shall file with the District a Transfer of Well Ownership form that provide~~notify the District in writing of the effective date of the change in ownership~~, the name, daytime telephone number, and mailing address of the new well owner, along with any other contact or well-related information reasonably requested by the General Manager. ~~The new well owner may, in addition, be required to submit an application for registration of an existing well if a registration does not yet exist for the well. The requirement under this rule to transfer well ownership shall also apply to capped or inactive wells.~~

~~(b) Within 90 days after the date of a change in ownership of a well that is not exempt under District Rule 2.1 from the fee payment, metering, and reporting requirements of these rules, the new well owner (transferee) shall submit to the District, on a form provided by the District staff, a signed and sworn to application for transfer of ownership.~~

~~(e)(b)~~ If a registrant conveys by any lawful and legally enforceable means to another person the real property interests in one or more wells or a well system that is recognized in the registration so that the transferring party (the transferor) is no longer the “well owner” as defined herein, and if an application for change of ownership under Subsection (b) has been approved by the District, the District shall recognize the person to whom such interests were conveyed (the transferee) as the legal holder of the registration, subject to the conditions and limitations of these District Rules.

~~(d)(c)~~ The burden of proof in any proceeding related to a question of well ownership or status as the legal holder of a registration or permit issued by the District and the rights there under shall be on the person claiming such ownership or status.

~~(e)(d)~~ Notwithstanding any provision of this Rule to the contrary, no application made pursuant to Subsection (b) of this Rule shall be granted by the District unless all outstanding fees, penalties, and compliance matters have first been fully and finally paid or otherwise resolved by the transferring party (transferor) for all wells included in the application or existing registration, and each well and registration made the subject of the application is otherwise in good standing with the District.

~~(f)(e)~~ The new owner of a well that is the subject of a transfer described in this rule (transferee) may not operate or otherwise produce groundwater from the well after ninety (90) days from the date of the change in ownership until the new owner has submitted a Transfer of Well Ownership form if required under this rule.

~~(1) submitted written notice to the District of the change in ownership, for wells described in Subsection (a); or~~

~~(2) submitted to the District a completed application for transfer of ownership, for wells described in Subsection (b).~~

~~A new well owner that intends to alter or use the well in a manner that would constitute a substantial change from the information in the existing registration or that would trigger the requirement to register the well under these Rules must also submit and obtain District approval of a registration application or registration amendment application, as applicable, prior to altering or operating the well in the new manner.~~

### **Rule 3.69    *Amendment of Registration.***

A registrant of an exempt well shall file an application to amend an existing registration and obtain approval by the District of the application prior to engaging in any activity that would constitute a substantial change from the information in the existing registration. For purposes of this rule, a substantial change includes a change that would substantially alter the pump or well, a change in the type of use of the water produced, the addition of a new well to be included in an already registered aggregate system, a change in location of a well or proposed well, a change of the location of use of the groundwater, or a change in ownership of a well. A substantial change to a nonexempt well requires a permit amendment application under Rule 3.15. A registration amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the designed production capabilities of the pump.

### **Rule 3.7    *Permit Exclusions and Exemptions.***

(a) The permitting requirements of these Rules do not apply to:

(1) Wells exempt from registration under Rule 3.1(b);

(2) Pre-Effective Date Exempt Wells drilled or for which an administratively complete registration application is on file with the District prior to the Effective Date;

(3) Wells registered and drilled on or after the Effective Date that have a capacity to produce 17.36 gallons per minute or less, as equipped; and

(4) Wells used for certain limited oil and gas operations as specifically exempted from permitting only under Section 36.117(b) of the Texas Water Code.

(b) Wells exempt from the permitting requirements under Subsection (a)(4) shall meter, report and pay production fees based on groundwater produced from the well in accordance with the District Act and these Rules.

### **Rule 3.8    *Historic Use Permits; Permit By Rule.***

(a) The owner of an existing, non-exempt water well or well system that was operational and produced groundwater during the Historic Use Period and was registered or for which an administratively complete registration application is on file with the District as of the Effective Date is eligible for a Historic Use Permit. Wells classified as nonexempt to which a Historic Use Permit may apply include those wells that were subject to the registration,



metering, reporting and fee payment requirements under the District's Temporary Rules. Wells that qualify for a Historic Use Permit may be operated in the same manner as the well was operated prior to the Effective Date until such time as a Historic Use Permit is approved by the District. Any changes to a well eligible for a Historic Use Permit prior to issuance of a Historic Use Permit by the District requires a well registration amendment under Rule 3.6.

- (b) A Historic Use Permit shall be based on the Maximum Historic Use from the well during the Historic Use Period.
- (c) Failure of an owner of a well or well system to have registered and been in compliance with District rules prior to the Effective Date shall preclude the owner from making any future claim or application to the District for historic use under these Rules, and the owner is required to obtain a Production Permit in order to be able to produce groundwater.
- (d) The District shall review the records of those owners with wells that qualify for a Historic Use Permit. After determining the Maximum Historic Use based on District records of production reports and fee payments during the Historic Use Period, the District shall send a letter to each well owner with a well that qualifies for a Historic Use Permit that includes a draft permit for review by the owner. The draft permit shall be signed by the General Manager and shall include the terms set forth in Rule 3.16.
- (e) Wells drilled and completed within eighteen (18) months prior to the end of the Historic Use Period that have not been in operation for a full calendar year during the Historic Use Period are eligible to have the Historic Use Period extended until December 31, 2019, upon submission of a request on a form provided by the District. Such an extension is intended to allow for wells drilled within eighteen (18) months prior to the Effective the opportunity to demonstrate the amount of Maximum Historic Use of the well during a one (1) year period prior to the end of the extended Historic Use Period. The amount of Maximum Historic Use of a well under this Subsection (f) shall be demonstrated by meter reading and submitted on a form provided by the District.
- (f) The General Manager or well owner eligible for a Historic Use Permit may refer or appeal the matter to the Board, as applicable, through a permit hearing held in accordance with Rule 5.3 to determine the amount of beneficial use from the well during the Historic Use Period.

### **Rule 3.9 Production Permit**

The owner of a new, non-exempt well must obtain a Production Permit from the District prior to the drilling, construction, or operation of the well or well system. The owner of a new or existing well that is exempt from the District's permitting requirements, but is subsequently substantially altered in a manner which causes the well to lose its exempt status, must obtain a Production Permit. In addition, the owner of an existing well or well system that has obtained a Historic Use Permit for the well must obtain a Production Permit if any of the following apply:

- (1) The permit holder intends to produce groundwater in excess of the amount

authorized in a Historic Use Permit;

- (2) The well or well system has been substantially altered in a manner that causes the well or well system to be capable of producing more groundwater from the same aquifer; or
- (3) If the purpose of use of the groundwater produced changes to another type of use other than that authorized in the Historic Use Permit.

### **Rule 3.10 Application Requirements for Production Permits.**

- (a) Each original application for Production Permit must contain all of the information as set forth below in this rule. Application forms will be provided on the District's website and can be furnished to the applicant upon request. For well systems, the applicant shall provide the information required in this subsection for each well that is part of the well system. All applications for a permit shall be in writing and sworn to, and shall include the following:
  - (1) name, telephone number, fax number, and mailing address of the applicant and the owner of the land on which the well will be located;
  - (2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;
  - (3) the location of each well, including a location map showing the proposed well location;
  - (4) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
  - (5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;
  - (6) location of the use of the water from the well;
  - (7) the estimated rate at which water will be withdrawn from the well;
  - (8) a declaration that the applicant will comply with the District's Rules and all groundwater use permits and plans promulgated pursuant to the District's Rules;
  - (9) a water conservation plan or a declaration that the applicant will comply with the District's Management Plan;
  - (10) a drought contingency plan, if the applicant is required to prepare a drought contingency plan by other law, or a declaration that the applicant will comply with the District's Drought Contingency Plan;
  - (11) a declaration that the applicant will comply with all District well plugging and

capping guidelines and report closure to the District and the appropriate state agencies;

(12) if the groundwater is to be resold, leased, or otherwise transferred to others, whether inside or outside of the District, provide the location to which the groundwater will be delivered, the purpose for which the groundwater will be used, and a copy of the legal documents establishing the right for the groundwater to be sold, leased, or otherwise transferred, including but not limited to any contract for the sale, lease, or transfer of groundwater;

(13) For wells or well systems with a proposed aggregate production capacity of 200 gpm and above, a Hydrogeological Report that meets all of the requirements of the District's Hydrogeological Report Requirements; and

(14) if groundwater is proposed to be transported out of the District, the applicant shall describe the following issues and provide documents relevant to these issues:

- i. availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
- ii. projected effect of the proposed transport on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
- iii. how the proposed transport is consistent with the approved regional water plan and District Management Plan.

(b) Hydrogeological Reports required under Subsection (a)(13), Rule 3.15, and Rule 4.3 shall be submitted simultaneously with a Production Permit application and shall include all of the required elements of the District's Hydrogeological Report Requirements in order for the Production Permit application to be deemed administratively complete.

### **Rule 3.11 Administrative Completeness of Production Permit Application.**

The District shall promptly consider and act on each administratively complete application for a Production Permit that meets the requirements of Rule 3.10, includes the application fee established by the District under Rule 9.12, and for which the applicant is in compliance with District rules. If an application is not administratively complete, the District may request the applicant to complete the application as required by these Rules. The application will expire if the applicant does not complete the application within 60 (sixty) days of the date of the District's request or upon conclusion of an extension granted by the General Manager of the District.

### **Rule 3.12 Considerations for Granting or Denying a Permit Application.**

(a) Before granting or denying a Production Permit application, the District must consider whether:

- (1) the application contains accurate information, all the information requested and is accompanied by the subscribed administrative fees;

- (2) the water well(s) complies with Chapter 36 of the Texas Water Code, and these Rules, including but not limited to the spacing and production limitations identified in these rules;
- (3) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;
- (4) the proposed use of water is dedicated to a beneficial use;
- (5) the proposed use of water is consistent with the District's Management Plan;
- (6) the applicant agrees to avoid waste and achieve water conservation;
- (7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure; and
- (8) for those hearings conducted by the State Office of Administrative Hearings, the Board shall consider the proposal for decision issued by the State Office of Administrative Hearings.

(b) The District, to the extent possible, shall issue permits up to the point the total volume of exempt and permitted groundwater production will achieve the applicable Desired Future Conditions established for the aquifers in the District. In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve the applicable Desired Future Conditions and shall consider:

- (1) the Modeled Available Groundwater determined by the Executive Administrator of the Texas Water Development Board;
- (2) the Executive Administrator of the Texas Water Development Board's estimate, as may be provided by the District, of the current and projected amount of groundwater produced under the exemptions in District Rule 3.7;
- (3) the amount of groundwater authorized under permits previously issued by the District;
- (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and
- (5) yearly precipitation and production patterns.

### **Rule 3.13 Permit Term.**

Except as otherwise specifically provided in the conditions of an individual permit, all permits are perpetual in nature; provided, however, that the District will conduct inspections and will request information from a permit holder from time-to-time as required to ensure the accuracy and

integrity of the District's information, and to enforce compliance with District Rules, the District Act, and Chapter 36 of the Texas Water Code. Upon receipt of information that necessitates a permit amendment under Rule 3.15, the District shall notify the well owner in writing that a permit amendment is required prior to the initiation of the permit amendment process.

### **Rule 3.14 Aggregation of Withdrawal Among Multiple Wells.**

Multiple wells that are part of a well system that are owned and operated by the same person or entity may be aggregated under a single permit; provided, however, that wells owned by the same person or entity that produce from different aquifers are not aggregated for purposes of authorized production. All aggregated production shall be based on the maximum amount of production authorized from the specific aquifer, or subdivision thereof, from which the well system produces.

### **Rule 3.15 Permit Amendment.**

- (a) Prior to undertaking any action that would exceed the maximum amount of groundwater authorized to be produced under a permit issued by the District, or a change to the location or purpose of use, the capacity of the well, or any other applicable term, condition or restriction of an existing permit, the permit holder must first apply for and obtain a permit amendment. All applications for amendments to any permit issued by the District are subject to the considerations for Production Permits in Rule 3.12, and are subject to the notice and hearing procedures set forth in Rule 5.3. Changes requested to the purpose of use or to increase the amount of annual production under a Historic Use Permit require the issuance of a Production Permit prior to the changes being made.
- (b) Requests to modify or increase an existing well or well system that would result in the existing well(s), in total, being equipped to produce 200 gallons per minute or more require the submission of a Hydrogeological Report under Rule 3.10(a)(13).
- (c) A permit amendment is not required for any well, well pump, or pump motor repair or maintenance if such repair or maintenance does not substantially alter the well, well pump, or pump motor.
- (d) The District may initiate an amendment to a permit as necessary and provided by these Rules. If the District initiates an amendment to a permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or process.

### **Rule 3.16 Permits Subject to Conditions and Restrictions.**

- (a) Permits issued by the District may be subject to the conditions and restrictions placed on the rate and amount of withdrawal, the Rules promulgated by the District, and terms and provisions with reference to the equipping of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or to achieve the Desired Future Conditions established for the aquifers in whole or in part within the boundaries of the District. The permittee, by accepting the permit, agrees to abide by any

and all groundwater withdrawal regulations established by the District that are currently in place, as well as any and all regulations established by the District in the future. Acceptance of the permit by the person or entity to whom it is issued constitutes acknowledgment of, and agreement to comply with, all of the terms, provisions, conditions, limitations, and restrictions.

(b) All permits shall include, at a minimum, the following conditions:

1. That the permit holder may not exceed the annual amount of production from a well or well system from the specific aquifer authorized under the permit except, as authorized by the District.
2. The permit is granted subject to the District's rules, orders of the District Board of Directors, special provisions, permit conditions, and laws of the State of Texas, including but not limited to Chapter 36 of the Texas Water Code and the District's enabling legislation codified at Chapter 8859 of the Special District Local Laws Code.
3. Acceptance of the permit and production of groundwater under the authority granted constitutes acknowledgement and agreement that the permittee is required to abide by the precise terms of this permit and comply with the District's rules, orders of the District Board of Directors, special provisions, permit conditions, and laws applicable to the permit.
4. Violation of the terms of the permit shall result in enforcement in accordance with the District's Enforcement Policy and Civil Penalty Schedule, Chapter 36 of the Texas Water Code, and the District's enabling legislation codified at Chapter 8859 of the Special District Local Laws Code.
5. The permit does not confer any rights and/or privileges other than those expressly set forth herein.
6. The well(s) identified in the permit shall be installed, equipped, operated, maintained, plugged, capped, or closed, as may be appropriate in accordance with the District's rules.
7. Production shall not exceed the amount of authorized production set forth in the permit.
8. Produced groundwater shall be put to a beneficial use at all times. Operation of the well(s) under the permit shall be conducted in a manner so as to avoid waste, pollution, or harm to groundwater resources.
9. The well site shall be accessible to District representatives and/or agents for inspection during business hours and during emergencies. The permit holder agrees to cooperate fully in any reasonable monitoring or sampling of the well(s).
10. A permit holder shall provide written notice to the District of any change of ownership, name of any authorized representative, well operator, mailing address

or telephone number in accordance with District rules.

11. The permit holder shall reduce water production as required by District rules and orders of the Board of Directors, including but not limited to proportional adjustments issued based on achievement of the District's Desired Future Conditions, and/or adjustments due to times of drought and in accordance with the District's Drought Contingency Plan, as applicable.
12. The application and all information pursuant to which the permit has been granted is incorporated therein, and the permit has been granted based on the accuracy thereof. A finding that false information has been supplied to the District shall be grounds for immediate revocation of the permit, and shall subject the permit holder to enforcement.
13. The permit contains all matters approved by the District related to the permittee's authority to use groundwater, and all other matters requested by the permit holder not included in the permit are denied.
14. In the event of a conflict between the terms of the permit and the application and information pursuant to which the permit was granted, the terms of the permit shall prevail.
15. Any other information, special conditions or restrictions deemed necessary by the District.

### **Rule 3.17 Emergency Authorization.**

- (a) The General Manager or Board may grant an Emergency Permit authorizing the drilling, equipping, or operation of a well that complies with the spacing requirements of Rule 4.2. An Emergency Permit may be granted without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances.
- (b) An Emergency Permit may only be issued upon a finding that:
  1. No suitable surface water or permitted groundwater is immediately available to the applicant; and
  2. An emergency need for the groundwater exists such that issuance of the permit is necessary to prevent the loss of life or to prevent severe, imminent threats to the public health or safety.
- (c) An Emergency Permit may be issued for a term determined by the Board or General Manager based upon the nature and extent of the emergency, but which shall in no event exceed sixty (60) days. Upon expiration of the term, the permit automatically expires and is cancelled.

### **~~Rule 3.10 Water Production Reports.~~ [MOVED TO RULE 9.1]**

- ~~(a) Beginning in 2013, the owner of any non-exempt well within the District must submit, on~~  
~~As Amended on January 1, 2017, XXXX, 2018~~

~~a form provided by the District, a quarterly report, or an annual report for the system loss report required under Subsection (a)(7) only, containing the following:~~

- ~~(1) the name of the registrant;~~
- ~~(2)(1) the well numbers of each registered well within the District owned or operated by the registrant;~~
- ~~(3)(1) the total amount of groundwater produced by each well or well system during the immediately preceding reporting period;~~
- ~~(4)(1) the total amount of groundwater produced by each well or well system during each month of the immediately preceding reporting period;~~
- ~~(5)(1) the purposes for which the water was used;~~
- ~~(6)(1) for water used at a location other than the property on which the well is located, and that is not used by a fire department or emergency services district for emergency purposes or by a public water system:
  - ~~(A) the location of the use of the water; and~~
  - ~~(B)(A) if the water was sold on a retail or wholesale basis, the name of the person to whom it was sold and the quantity sold to each person.~~~~
- ~~(7)(1) for water used at a location other than the property on which the well is located and that is used by a public water system, a description of identified system losses, including:
  - ~~(A) an estimate of the total quantity, reported in gallons or in percentages of total annual production, of water lost to system loss, if known;~~
  - ~~(B)(A) the sources of system losses reported under Subpart (A); and~~
  - ~~(C)(A) the methods, if any, employed to address the system losses reported under this subsection;~~~~
- ~~(8)(1) additionally, for fire departments, emergency services districts, and any person that provides groundwater produced from within the District to a fire department or emergency services district and that seeks a fee payment exemption under Rule 2.3:
  - ~~(A) the total amount of groundwater produced or used, as applicable, solely for emergency purposes during each month of the reporting period provided under this Rule; and~~
  - ~~(B)(A) the total amount of groundwater produced or used, as applicable, for any~~~~



~~purpose other than emergency purposes during each month of the reporting period provided under this Rule.~~

~~(b)(a) There shall be four quarterly reporting periods each year: January 1 to March 31, April 1 to June 30, July 1 to October 31, and November 1 to December 31. The report for each quarter shall be due no later than 30 days after the last day of the applicable quarterly reporting period. To comply with this rule, the registrant of a well shall read each water meter associated with a well within 15 days before or after March 31, within 15 days before or after June 30, within 15 days before or after September 30, and within 15 days before or after December 31 each year and report the readings to the District on the form described in Subsection (a). Additionally, to comply with this rule, all applicable information required under Subsection (a) must be contained in the water production report filed with the District.~~

~~(c)(a) The report required by Subsection (a) must also include a true and correct copy of the meter log required by District Rule 8.5. Once the District makes on-line submission of water production reports and meter logs available by internet to well owners, all such reports and logs may be submitted via internet.~~

## SECTION 4. SPACING AND LOCATION OF WELLS; WELL COMPLETION

### ***Rule 4.1 Spacing and Location of Existing Wells.***

Wells drilled or for which an administratively complete registration application is filed prior to the Effective Date April 1, 2012, shall be drilled in accordance with state law and District rules in effect, if any, on the date such drilling commenced or the administratively complete registration application was filed, and are exempt from the spacing, location, and completion requirements of these rules to the extent that they were drilled lawfully.

### **Rule 4.2 Spacing Requirements for All New Wells**

(a) Except as authorized under Rule 4.3, all new wells for which a registration application is filed after the Effective Date shall be required to adhere to the spacing requirements of the District. The owner of a well or well system for which significant plans or funding related to the drilling thereof have been developed prior to the Effective Date may submit evidence to the District in order for the District to consider whether the well or well system qualifies under Rule 4.1 for spacing purposes only.

(b) The minimum distance from the property line for all new wells shall be 50 feet for all aquifers within the District. The minimum distance from existing registered wells completed in the same aquifer is based upon the capacity of the proposed new well. Wells equipped so that the maximum production capacity is 17.36 gpm (25,000 gallons per day) or less are required to be located no less than 100 feet from existing registered wells for all aquifers within the District. The Spacing Formula for new wells that are proposed to

be equipped so that the maximum production capacity is more than 17.36 gpm (25,000 gallons per day) requires wells to be located at a distance of not less than the sum of 876 feet plus 2.6 multiplied by the maximum production capacity of the proposed well (in gpm) for all aquifers within the District. The following table summarizes the District's spacing requirements:

<u>Minimum Spacing Requirements for All New Wells in the District</u> <i>Applies to all aquifers</i>		
<u>Maximum Capacity of Well</u>	<u>Spacing from Property Line</u>	<u>Spacing from Existing Wells Completed in the Same Aquifer</u>
<u>17.36 gpm or less</u>	<u>50 feet</u>	<u>100 feet</u>
<u>Greater than 17.36 gpm</u>	<u>50 feet</u>	<u>876 feet + 2.6 (gpm of proposed well)</u>

- (c) A person who drills a well in violation of the applicable spacing requirements of this rule may be required to recomplete or reconstruct the well in accordance with the District's rules, and may be ordered to plug the well deemed to be in violation.
- (d) An administratively complete registration application approved by the District or a spacing exception granted by the District Board pursuant to Rule 4.3 shall reserve a well site for the duration of time before the well is drilled or upon expiration of the deadlines set forth in Rule 3.3(d).

### **Rule 4.3 Exceptions to Spacing Requirements**

- (a) If an exception to the spacing requirements of the District is desired, a person shall submit an application on a form provided by the District. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a boundary survey or sketch, drawn to scale, one inch equaling two-hundred (200) feet. The boundary survey or sketch must show the property lines in the immediate area and show accurately, to scale, all existing wells within the applicable spacing distance under Rule 4.2 of the proposed well site. The application and boundary survey or sketch must be certified by a person acquainted with the facts who shall state that the facts contained in the application are true and correct.
- (b) An exception to the property line and existing well spacing requirements shall be automatically granted upon receipt of an application under Subsection (a) that includes evidence and a sworn statement by the landowner or well owner, as applicable, that the abutting land or existing well to which a spacing exception is requested is owned by the same person as the proposed well.
- (c) An exception may be granted by the Board after written notice has been given by the

applicant by mailing notice by certified mail, return receipt requested, to all existing registered wells located within the minimum required distance from the proposed well site, after a public hearing at which all interested parties may appear and be heard, except as otherwise provided in Subsection (d). Proof of the mailed notice shall be given to the General Manager by the applicant no less than twenty (20) days prior to the date of the public hearing on the spacing exception request.

- (d) If all existing well owners within the applicable spacing distance for which an exception is sought execute a certified waiver in writing, stating that they do not object to the granting of the exception, the District may proceed, upon notice to the applicant only and without hearing, and take action to grant or deny the exception in full or in part.
- (e) Grounds for granting a spacing exception may include evidence that the well proposed in the application will produce groundwater from a different aquifer subdivision other than that from the proposed well.
- (f) If the Board approves a spacing exception for a nonexempt well, the Board may limit the production of the well under Production Permit to prevent or limit injury to existing well owners or the applicable aquifer or subdivision thereof.

***Rule 4.42 Spacing, Location, and Standards of Completion for New All Wells.***

- (a) All wells must be completed in accordance with the well completion standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, and under these Rules. Artificial flow restrictors that can in any way affect the measurement of the capacity of a well as equipped are strictly prohibited.
- (b) In addition to the requirements under Subsection (a), all new wells, re-completed wells, and wells that are re-worked in a manner that involves removal of the pump from the well for any reason shall be equipped in such a manner as to allow the measurement of the water level in the aquifer supplying water to the well. The driller or well owner is responsible for ensuring that the completed well complies with this subsection.

~~(a) All new wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation and a copy of the variance is forwarded to the District by the applicant or registrant, and must be drilled and located in compliance with applicable rules and regulations of other political subdivisions.~~

- (b)(m) After authorization to drill a new well has been granted the Notice to Proceed has been issued by the District, the well may only be drilled at a location that is within 30 feet (10 yards) ten (10) feet of the location specified in the registration.

~~(e) Compliance with the spacing and location requirements of these rules does not necessarily authorize a person to drill a well at a specified location in the District. Agencies or other political subdivisions of the State of Texas that are located in whole or in part within the boundaries of the District may impose additional requirements related to the drilling or completion of water wells.~~

(c) Water well drillers shall indicate the method of completion performed on the well report and shall indicate the water level upon completion of the well.

(d) To prevent the commingling of water between the aquifers which can result in a loss of artesian (or static) head pressure or the degradation of water quality, each well penetrating more than one aquifer or subdivision thereof must be completed in a manner so as to prevent the commingling of groundwater between aquifers or between subdivisions of an aquifer if required by the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. The driller shall indicate the method of completion used to prevent the commingling of water on the well report. The well driller may use any lawful method of completion calculated to prevent the commingling of groundwater.

~~(d) The owner and driller of a well are jointly responsible for ensuring that the well is drilled at a location that strictly complies with the location requirements of Subsection (b). If the board determines that a well is drilled at a location that does not strictly comply with the location requirements of Subsection (b), the Board may, in addition to taking all other appropriate enforcement action, require the well to be permanently closed or authorize the institution of legal action to enjoin any continued drilling activity or the operation of the well.~~

(e) All new wells drilled on or after January 1, 2017, must be equipped with either one of the following water quality control devices for the purpose of preventing the siphoning of external water and contaminants into the well:

- (1) a backflow prevention device installed above ground so that it is readily accessible for maintenance or replacement; or
- (2) an air gap installed at the well discharge location.

(f) Except as otherwise provided in Subsection (g) of this rule, new wells drilled on or after January 1, 2017, shall meet at least one of the following completion standards:

- ~~(f)~~
- (1) the well shall be completed in a manner that exposes fourteen (14) inches or six (6) pipe diameters, whichever is greater, of straight and unobstructed discharge pipe above ground so that the District's flow metering measurement device can measure the flow rate;
  - (2) provide a threaded tee above ground with the same pipe diameter requirements as Subsection (e)(1) and with valves arranged in a manner to divert 100% of the discharge to one side of the tee temporarily so that the District's flow metering device can measure the flow rate; or

- (3) equip the well with a meter that is easily accessible and measures instantaneous flow rate.

(g) The District shall test the flow rate of all new wells through one of the following methods:

(1) At the well head before the well is tied into the system that it will ultimately serve;  
or

(2) Through a bypass installed within fifty (50) feet downstream of the meter.

A "bypass" as the term is used in this rule means an installation downstream of the meter that is of equal size to the discharge pipe so that there is unobstructed flow for purposes of measuring the maximum flow capacity from a well.

~~(g) The requirements of Subsection (f) of this rule do not apply if the well is exempt and used solely for domestic use, livestock use, or poultry use pursuant to Rule 2.1(a)(1).~~

#### **Rule 4.53 Replacement Wells.**

(a) No person may replace an existing well without first having obtained authorization from the District. Authorization for the construction of a replacement well may only be granted following the submission to the District of an application for registration of a replacement well on a form provided by the District. The application for registration of a replacement well shall include a diagram of the property that depicts both the proposed replacement well and the well being replaced, and any other existing structures on the property.

(b) Applications for ~~registration of~~ replacement wells submitted under this rule may be granted by the General Manager without notice or hearing. An applicant may appeal the General Manager's ruling by filing a written request for a hearing before the Board. The Board will hear such an appeal at the next available regular Board meeting or hearing called for that purpose.

(c) A replacement well must be actually drilled and completed so that it ~~meets the spacing requirement set forth in Rule 4.2(b) and is located on the same tract of land as the well being replaced~~ is located within fifty (50) feet of the well being replaced. A replacement well shall be drilled so that it is located farther away from the nearest existing registered well than the well being replaced if possible based on property configuration. The replacement well and pump must not be larger in designed production capacity than the well and pump being replaced, ~~unless the replacement well is exempt under Rule 2.1.~~

(d) The well owner must cease all production from the well being replaced immediately upon commencing production from the replacement well, and must plug the well being replaced within ninety (90) days from the date that the replacement well is completed.

(e) For those applications submitted to replace a well that also include a request to increase the

capacity of the replacement well beyond that of the well being replaced, the spacing requirements of Rule 4.2 shall apply only to the increase in capacity over that of the well being replaced. A Production Permit or permit amendment shall also be required for the increase in capacity over that of the well being replaced if required by Rules 3.9 or 3.15.

(e)

## **SECTION 5.** **HEARINGS OF THE DISTRICT**

### **Rule 5.1   Hearings Generally.**

(a) A public hearing may be held on any matter within the jurisdiction of the Board, or if the Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District. The District conducts four general types of hearings under this Section:

(1) rulemaking or Management Plan hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District;

(2) hearings involving the issuance of Production Permits or permit amendments, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing;

(3) show cause hearings, in which the obligation and authority of the District to impose civil penalties is considered under specific relevant circumstances, as set forth in Rule 11.6; and

(4) hearings on the Desired Future Conditions proposed for the District.

(b) Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for a hearing before a hearing examiner, by a quorum of the Board along with an appointed hearing examiner who officiates during the hearing, or by the State Office of Administrative Hearings if required under Rule 5.4(b).

(c) Any hearing may be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All hearings shall be held at the location set forth in the notice. Any hearing may be continued from time to time and date to date without notice after providing the initial notice.

### **Rule 5.2   Rulemaking Hearings**

(a) Rulemaking hearing notice shall include a brief explanation of the subject matter of the hearing, the time, date, and place of the hearing, location or internet site at which a copy of the proposed rules may be reviewed or copied, if the District has a functioning Internet site, and any other information deemed relevant by the General Manager or the Board.

(b) Not less than 20 calendar days prior to the date of the hearing, the General Manager shall:

- (1) Post notice in a place readily accessible to the public at the district office;
  - (2) Provide notice to the county clerks within the District;
  - (3) Publish notice in one or more newspapers of general circulation in the District;
  - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested rulemaking hearing notice; and
  - (5) Make available a copy of all proposed rules at a place accessible to the public during normal business hours, and post an electronic copy on the District's internet site.
- (c) A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.
- (d) Failure to provide notice under Subsection (c) does not invalidate an action taken by the District at a rulemaking hearing.
- (e) A person participating in a rulemaking hearing shall complete a hearing registration form stating the person's name, address, and whom the person represents, if applicable.
- (f) The District shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.
- (g) 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.

### **Rule 5.3 Permit Hearings.**

- (a) If the General Manager or Board schedules a hearing on an application for a Historic Use Permit, Production Permit, permit amendment or permit revocation, the General Manager shall give notice of the hearing as provided in this section. The General Manager or Board may schedule more than one permit application for consideration at a hearing.
- (b) Any person having an interest in the subject matter of a permit hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of the hearing. 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 Subsection does not invalidate any action taken by the Board.
- (c) Not later than the 10th day before the date of a permit hearing, the General Manager shall:

1. Post notice at a place readily accessible to the public in the District office;
2. Provide to the county clerk of all counties within the District, whereby the county clerks must post the notice on a bulletin board at a place convenient to the public;
3. Provide notice by regular mail to the applicant; and
4. Provide notice by mail, fax, or email to any person who has specifically requested to receive notices of permit hearings.

(d) The notice provided under Subsection (d) must include:

1. the name and address of the applicant;
2. the address or approximate location of the well or proposed well;
3. a brief explanation, including any requested amount of groundwater, the purpose of the proposed use, and any change in use, if applicable;
4. a general explanation of the manner by which a person may contest the permit, or permit amendment;
5. the time, date, and location of the hearing; and
6. any other information the Board or General Manager deems relevant and appropriate to include in the notice.

(e) An administratively complete application shall be set for a hearing within sixty (60) days after the date the application is determined to be administratively complete. A hearing shall be held within thirty-five (35) days after the setting of the date, and the District shall act on the application within sixty (60) days after the date the final hearing on the application is concluded.

#### **Rule 5.4 Contested Permit Hearings**

(a) The General Manager, the applicant, or an affected person may request a contested hearing on an application for a permit or permit amendment. A request for a contested hearing is distinguished from public comment on an application, and shall be filed not later than three (3) calendar days before the scheduled hearing date, and shall include the following information:

(1) The name, address, telephone number and email of the person filing the request. If the request is made by a group or association, the request must identify the primary contact person responsible for receiving all official communications on behalf of the group or association;

(2) The person or entity's personal justiciable interest affected by the application and



proposed withdrawal, including a statement demonstrating how that interest is not common to members of the general public; and

(3) Specifically request a contested hearing.

(b) A request for a contested hearing to be conducted by the State Office of Administrative Hearings pursuant to Section 36.416 of the Texas Water Code shall be made not later than three (3) calendar days before the scheduled hearing date. If timely requested under this section, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application.

### **Rule 5.5 Preliminary Hearing for Contested Application.**

(a) Upon the timely filing of a contested hearing request that meets the requirements of Rule 5.4, the District shall schedule a preliminary hearing on the application. The preliminary hearing may be conducted by a quorum of the Board, a Hearing Examiner, or the State Office of Administrative Hearings.

(b) Parties to a contested hearing shall be designated at the preliminary hearing. Unless the District is required to contract with the State Office of Administrative Hearings to conduct the contested hearing, the District may conduct the preliminary hearing on the same day and immediately before the evidentiary hearing on an application.

(c) If the District determines that no person requesting a contested hearing has standing or that no justiciable issues are presented, the Board may take any action authorized under Rule 5.6(a).

### **Rule 5.6 Action on Uncontested Application.**

(a) The board may take action on any uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The board may issue a written order to:

(1) grant the permit application;

(2) grant the permit application with special conditions; or

(3) deny the permit application.

(b) An applicant may, not later than the 20th day after the date the board issues an order granting the application, request a contested case hearing if the order:

(1) includes special conditions that were not part of the application as finally submitted; or

(2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

**Rule 5.7 Contested Case Hearings Conducted by the State Office of Administrative Hearings.**

- (a) If timely requested by the applicant or other party to a contested case hearing, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application. The Board shall determine whether the hearing held by the State Office of Administrative Hearings will be held in Travis County or at the District office or other regular meeting place of the Board.
- (b) The party requesting that the hearing be conducted by the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall make a deposit with the District in an amount that is sufficient to pay the estimated contract amount before the hearing begins. If the total cost for the contract exceeds the amount deposited by the paying party at the conclusion of the hearing, the party that requested the hearing shall pay the remaining amount due to pay the final price of the contract. If there are unused funds remaining from the deposit at the conclusion of the hearing, the unused funds shall be refunded to the paying party. The District may assess other costs related to hearings conducted under this rule as authorized under Chapter 36, Texas Water Code, or the District Rules.
- (c) The administrative law judge who conducts a contested case hearing shall consider applicable District rules or policies in conducting the hearing. The District shall provide the administrative law judge with a written statement of applicable rules or policies.
- (d) The District Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the board determines:
  - (1) that the administrative law judge did not properly apply or interpret applicable law, District rules, written policies provided under Section 36.416(e) of the Texas Water Code, or prior administrative decisions;
  - (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
  - (3) that a technical error in a finding of fact should be changed.

**Rule 5.8 Procedures for Permit Hearings Conducted by the District**

- (a) Authority of Presiding Officer: The Presiding Officer may conduct the hearing or other proceeding in the manner the Presiding Officer deems most appropriate for the particular hearing. The Presiding Officer has the authority to:
  - (1) set hearing dates, other than the hearing date set by the General Manager or Board under Rule 10.3;
  - (2) convene the hearing at the time and place specified in the notice for public hearing;

- (3) designate the parties to a hearing;
  - (4) admit evidence that is relevant to an issue at the hearing, exclude evidence that is irrelevant, immaterial, or unduly repetitious, and rule on motions and on the admissibility of evidence;
  - (5) establish the order for presentation of evidence;
  - (6) administer oaths to all persons presenting testimony;
  - (7) examine witnesses;
  - (8) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any person participating in the proceeding;
  - (9) Conduct public hearings in an orderly manner in accordance with these rules;
  - (10) recess any hearing from time to time and place to place; and
  - (11) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.
- (b) Hearing Registration Forms: Each person attending and participating in a permit hearing of the District must submit on a form provided by the District the following information: the person's name; the person's address; who the person represents if other than himself; whether the person wishes to provide public comment or testify; and any other information relevant to the hearing.
- (c) Public Comment: Documents that are filed with the Board that comment on an application, but that do not request a hearing will be treated as public comment. The Presiding Officer may allow any person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested application.
- (d) Any interested person may appear at a hearing in person or may appear by representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation as determined by the Board. Any partner may appear on behalf of a partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear on behalf of the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.
- (e) After the Presiding Officer calls a hearing to order, the Presiding Officer shall announce the subject matter of the hearing and the order and procedure for presentation.
- (f) The Presiding Officer may prescribe reasonable time limits for the presentation of evidence and oral argument.

- (g) If the Board has not acted on the application, in the discretion of the Presiding Officer, any person who testifies at a hearing may supplement that testimony by filing additional written material with the Presiding Officer within ten (10) days after the date of conclusion of the hearing. A person who files additional written material with the Presiding Officer must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested hearing. A person who receives additional written material under this Subsection may file a response to the material with the Presiding Officer not later than the 10th day after the date the material was received. Cumulative, repetitive, and unduly burdensome evidence filed under this Subsection will not be considered by the Board.
- (h) Every person, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must 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 first 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 deems necessary.
- (i) Written testimony: When a proceeding will be expedited and the interest of the persons participating in the hearing will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. On the motion of a party to the hearing, the Presiding Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- (a) No person will be allowed to appear in any hearing or other proceeding whose appearance, 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. A record of a hearing in the form of an audio or video recording or a court reporter transcription shall be prepared and kept by the Presiding Officer in a contested hearing. The Presiding Officer shall have the hearing transcribed by a court reporter upon a request by a party to a contested hearing. The Presiding Officer may assess court reporter transcription costs against the party requesting the transcription or among the parties to the hearing. The Presiding Officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this rule, unless the parties have agreed that the costs assessed against such party will be paid by another party.

### **Rule 5.9 Board Action.**

The Board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. For hearings conducted by the State Office of Administrative Hearings, the Board shall make the final decision on the application within 60 days after the issuance of the proposal for decision by the State Office of Administrative Hearings. In a

hearing in which the District has contracted with the State Office of Administrative Hearings to conduct the contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by the State Office of Administrative Hearings administrative law judge consistent with Section 2001.058, Texas Government Code.

**Rule 5.10 Request for Rehearing or Findings and Conclusions.**

- (a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may appeal a decision of the Board by requesting written findings of fact and conclusions of law within twenty (20) calendar days of the date of the Board's decision. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law regarding a decision of the Board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to the party who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request.
- (b) A party who receives a certified copy of the findings and conclusions from the board may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions. In a contested case, a party must first make a request for written findings and conclusions under District Rule 5.10 before any party to the contested case may submit a request for rehearing under this rule.
- (c) A request for rehearing must be filed with the District in writing and must state clear and concise grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing. With respect to any decision or action of the Board in a contested case, such a request for rehearing is mandatory before any appeal to District Court may be brought. Any appeal to District Court shall be limited to the issues and grounds raised in the motion for rehearing.

**Rule 5.11 Final Decision.**

- (a) A decision by the Board on a permit or permit amendment application is final:

  - (1) If a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
  - (2) If a request for rehearing is filed on time, on the date:

    - (A) the Board denies the request for rehearing either expressly or by operation of law; or
    - (B) the Board renders a written decision after rehearing.
- (b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file suit against the district under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.

- (c) An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

**SECTION 6**  
**PRODUCTION LIMITATIONS; DROUGHT BUFFER;**  
**MANAGEMENT ZONE AND PROPORTIONAL REDUCTION**  
**AUTHORITY**

**Rule 6.1 Production Limits for Permits.**

The District shall designate the maximum quantity of groundwater authorized to be produced on an annual basis under each Historic Use Permit and Production Permit issued by the District pursuant to the conditions of the District Act, Chapter 36 of the Texas Water Code, the Desired Future Conditions established by Groundwater Management Area 8, as adopted by the District, in which the District is located for the aquifers located in whole or in part within the boundaries of the District, and these Rules. Except as otherwise provided in these Rules, the quantity withdrawn under a Historic Use Permit or Production Permit shall not exceed the maximum amount of groundwater designated in the permit issued by the District.

**Rule 6.2 Temporary Drought Buffer.**

- (a) The District shall adopt a Drought Contingency Plan that establishes voluntary conservation strategies applicable to various drought stages declared by the District. The drought stages set forth in the Drought Contingency Plan shall be based upon those recognized by the Texas Water Development Board, as follows:

1. Abnormally dry conditions;
2. Drought – Moderate;
3. Drought – Severe;
4. Drought – Extreme; and
5. Drought - Exceptional

- (b) The declaration of each drought stage under the Drought Contingency Plan shall occur based on the most recent Texas Water Development Board Monthly Drought Report as specified for the counties within the District. In the event one or more of the counties within the District are at least partially included in a Drought-Extreme or Drought-Exceptional status, the District's Drought Buffer shall apply to some or all of the permits issued by the District as determined according to the District's Drought Contingency Plan. Issuance of a Drought Buffer declaration by the District according to the Drought Contingency Plan shall result in the affected permits' production limits set forth under Rules 7.1 and 7.2 being adjusted upward by fifteen percent (15%) of the maximum quantity of groundwater authorized under the permit. The Drought Buffer shall remain

in place until District suspends the Drought Buffer under this rule based upon improvement of the drought status according to the Texas Water Development Monthly Drought Report.

### **Rule 6.3 Authority to Establish Management Zones.**

- (a) Using the best hydrogeologic and other relevant scientific data readily available, the Board by resolution may create specific management zones within the District based on geographically or hydrogeologically defined areas, aquifers, or aquifer subdivisions, in whole or in part, within which the District may:
- (1) assess water availability;
  - (2) establish more restrictive spacing requirements;
  - (3) authorize total production and make proportional adjustments to permitted withdrawals; and
  - (4) otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Act, Chapter 36, Texas Water Code, and that aids in the attainment of all applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.
- (b) In creating management zones, the Board shall attempt to establish zone boundaries that will promote fairness and efficiency by the District in its management of groundwater, while considering hydrogeologic conditions and the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

### **Rule 6.4 Proportional Adjustment.**

- (a) The Board, by resolution, may establish proportional adjustment reductions to alter the amount of production allowed from an aquifer within the District if reductions are required under these rules, and/or if reductions are required within one or more Management Zones, if necessary to avoid impairment of and to achieve the applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.
- (b) When establishing proportional adjustment restrictions, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use for each aquifer. If the proportional adjustment restrictions are to be imposed for a particular aquifer in a particular Management Zone, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use for each aquifer within that particular Management Zone.
- (c) After first setting aside an amount of groundwater for exempt use for each aquifer, the Board shall allocate groundwater next to Historic Use Permits according to the permitted amount in each or a proportion thereof, and then to Production Permits according to the permitted amount in each or a proportion thereof.

- (d) When establishing proportional adjustment restrictions that contemplate the reduction of authorized production, the Board may choose to proportionately reduce existing permits on a pro rata basis according to the order stated herein to allow for new production.

### **Rule 6.5 Issuance of New Production Permits.**

In a management zone where the Board has already established proportional adjustment regulations, new Production Permits may be issued by the District for production in the management zone only if the management zone contains groundwater available for permitting after the District has made any and all proportional adjustments to existing permits in a manner that is consistent with the achievement of the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

## **SECTION 75.** **REGULATION OF PRODUCTION; WASTE** **PROHIBITED AQUIFER STORAGE AND RECOVERY WELLS**

### **Rule 7.1 Registration Required.**

A project operator of an Aquifer Storage and Recovery project shall register the injection and recovery wells associated with the project with the District, and shall provide the District with all reports required to be submitted to TCEQ under Sections 27.155-.156 of the Texas Water Code.

### **Rule 7.2 No Permit Required; No Water Use Fee Imposed on Authorized Recovery.**

Except as provided by Rule 7.3, no permit is required for the drilling, equipping, or operation of an Aquifer Storage and Recovery injection or recovery well authorized by TCEQ. Similarly, no water use fee or transport fee will be imposed on the volume of groundwater authorized by TCEQ to be recovered under an Aquifer Storage and Recovery project. The District may, however, assess a well registration fee or other similar administrative fee for an Aquifer Storage and Recovery well.

### **Rule 7.3 Exceeding Authorized Recovery Volume.**

- (a) If an Aquifer Storage and Recovery project recovers an amount of groundwater that exceeds the volume authorized by the TCEQ to be recovered under the project, the project operator shall immediately report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the reports required by Rule 7.1.
- (b) The recovery wells associated with an Aquifer Storage and Recovery project are subject to the District's spacing, permitting, metering, production and fee payment requirements if the amount of groundwater recovered from the wells exceeds the authorized volume to be recovered under the project. The District's spacing, permitting, metering, production and



fee payment requirements only apply to the volume of groundwater recovered that exceeds the recovery volume authorized by the TCEQ.

### **Rule 7.4 Desired Future Conditions Planning.**

The District may consider hydrogeologic conditions related to the injection and recovery of water as part of an Aquifer Storage and Recovery project in the planning related to, and monitoring of the achievement of, a Desired Future Condition for the aquifer in which the injection and recovery wells associated with the project are located.

### **Rule 5.1 Temporary Production Limitations.**

The maximum quantity of water that a person may withdraw from a well that is not exempt under Rule 2.1(a) is the amount of water the person produces and timely:

- (1) submits payment to the District for in accordance with the fee rate adopted by the District under Section 7; and
- (2) reports pumpage volumes to the District under Rule 3.10.

### **Rule 5.2 Regular Production Limitations.**

In order to accomplish the purposes of Chapter 36, Texas Water Code, and the District Act, and to achieve the goals of the District Management Plan, the District may, after notice and hearing, establish groundwater production limitations for all wells when it adopts permanent rules for the District.

### **Rule 5.3 Waste Prohibited.**

No person shall engage in any conduct subject to the District's regulatory jurisdiction that constitutes waste, as that term is defined herein. A retail public utility that owns and operates a water pipeline from which groundwater escapes is not engaged in conduct subject to the District's regulatory jurisdiction so long as the retail public utility is pursuing in good faith a maintenance plan to discover and repair leaks and to identify and replace deteriorated waterlines consistent with the accepted standards of retail public water utilities located within the District.

## **SECTION 86.**

### **TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT**

#### **Rule 86.1 General Provisions.**

- (a) A person who produces or wishes to produce water from a well not exempt under Rule 2.1(a) that is located or is to be located within the District and transport such water for use outside of the district must register the wellreport and submit timely payment of the any applicable Groundwater Transport Fee to the District under Rule 7.29.3 for any water

transported out of the District. The District may require the person to install any meters necessary to report the total amount of groundwater transported outside of the District for reporting purposes and for purposes of calculating the Groundwater Transport Fee.

- (b) The District may not, in a manner inconsistent with rules and fees applied to production and use occurring wholly within the boundaries of the District, regulate production of groundwater or assess fees against the transport of water produced in an area of a retail public utility that is located inside the district boundaries and transported for use to an area that is within the same retail public utility but that is located outside the district boundaries.

### **Rule 86.2 Reporting.**

A person transporting groundwater for use outside of the District and subject to the requirement to pay the Groundwater Transport Fee shall file periodic-quarterly reports with the District describing the amount of water transported and used outside the District. The report shall be filed with the District in the same manner, for the same reporting periods, and by the same deadlines set forth for Water Production Reports under Rule 93.10. The report for groundwater transported shall be on the appropriate form provided by the District and shall state the following:

- (1) the name of the person;
- (2) the well registration numbers of each well from which the person has produced groundwater transported for use outside the District;
- (3) the total amount of groundwater produced from each well or well system during the immediately preceding reporting period;
- (4) the total amount of groundwater transported outside of the District from each well, well system or surface impoundment containing produced groundwater during each month of the immediately preceding reporting period;
- (5) the purposes for which the water was transported; and
- (6) any other information requested by the District.

## **SECTION 97. WATER PRODUCTION REPORTING AND WATER USE FEES AND PAYMENT OF FEES**

### **Rule 93.10 Water Production Reports.**

- (a) Beginning in 2013, the owner of any non-exempt well within the District must submit, through regular mail, facsimile, electronic mail, hand delivery, or the District's online reporting system, on a form provided by the District, a quarterly report, and, if applicable, or an annual report for showing the system loss, as report required under Subsection (a)(7)

only, containing the following:

- (1) the name of the registrant;
- (2) the well numbers of each registered well within the District owned or operated by the registrant;

~~the total amount of groundwater produced by each well or well system during the immediately preceding reporting period;~~

- (3) the total amount of groundwater produced by each well or well system during each month of the immediately preceding reporting period;

- (4) the purposes for which the water was used;

~~for water used at a location other than the property on which the well is located, and that is not used by a fire department or emergency services district for emergency purposes or by a public water system;~~

~~the location of the use of the water; and~~

~~if the water was sold on a retail or wholesale basis, the name of the person to whom it was sold and the quantity sold to each person.~~

- (5) for water used at a location other than the property on which the well is located and that is used by a public water system, a description of identified system losses shall be provided in addition to the quarterly production reports, and such system loss reports shall include the following information; including:

- (A) an estimate of the total quantity, reported in gallons or in percentages of total annual production, of water lost to system loss, if known;

- (B) the sources of system losses reported under Subpart (A); and

- (C) the methods, if any, employed to address the system losses reported under this subsection;

- (6) additionally, for fire departments, emergency services districts, and any person that provides groundwater produced from within the District to a fire department or emergency services district and that seeks any fee payment exemption requested under Rule 9.2(c)2.3, which shall include:

- (A) the total amount of groundwater produced or used, as applicable, solely for emergency-the fee exempted purposes during each month of the reporting period provided under this Rule; and

- (B) the total amount of groundwater produced or used, as applicable, for any

purpose other than emergency the fee exempted purposes during each month of the reporting period provided under this Rule.

- (b) There shall be four quarterly reporting periods each year: January 1 to March 31, April 1 to June 30, July 1 to October 31, and November 1 to December 31. The report for each quarter shall be due no later than 30 days after the last day of the applicable quarterly reporting period. To comply with this rule, each water meter required to be installed under these Rules shall be read and recorded on a meter log within ten (10) days before or after the last day of each month, which shall be reported to the District on a quarterly basis. the registrant of a well shall read each water meter associated with a well within 15 days before or after March 31, within 15 days before or after June 30, within 15 days before or after September 30, and within 15 days before or after December 31 each year and report the readings to the District on the form described in Subsection (a). Additionally, to comply with this rule, all applicable information required under Subsection (a) must be contained in the water production report filed with the District.
- (c) The report required by Subsection (a) must also include a true and correct copy of the meter log required by District Rule 108.5. Once the District makes on-line submission of water production reports and meter logs available by internet to well owners, all such reports and logs may be submitted via internet.

### **Rule 97.21 Water Use Fees.**

- (a) A water use fee rate schedule shall be established by Board resolution annually at least 60 days before the end of the calendar year. The Board may adopt a different water use fee rate for water used for agricultural purposes than for water used for non-agricultural purposes. The rate shall be applied to the groundwater pumpage in the ensuing calendar year for each nonexempt well not exempt under Rule 2.1. The District will review the account of any person changing the use of a well from non-exempt to exempt or vice versa to determine if additional water use fees are due or if a refund of water use fees is warranted.
- ~~(b) Wells exempt under Rule 2.1 shall be exempt from payment of water use fees. However, if exempt well status is withdrawn, the District may assess fees and penalties in accordance with the District Rules.~~
- (b) No later than 30 days prior to the end of the calendar year, beginning with calendar year 2012, the District shall send by regular mail or e-mail to the owner or operator of each registered well that is required to pay the Water Use Fee a reminder statement setting forth the water use fee rate applicable to the water produced in the ensuing year, setting forth deadlines for submission of fee payments and production reports of meter readings, and other information deemed appropriate by the District. The initial Water Use Fee for production during the period from July 1, 2012, to December 31, 2012, will be established by the Board no later than January 1, 2012.
- (c) The following types of uses are exempt from the fee payment and metering requirements of these Rules:

1. Groundwater produced within the boundaries of the District if the groundwater is used by a fire department or an emergency services district solely for emergency purposes; and
2. Groundwater produced from a well during its development or rehabilitation, including groundwater used in pump tests, is exempt from the requirements relating to the payment of fees under Section 7, the requirement to install and maintain a meter under Section 8, and the requirement to report to the District the amount of water produced from a well under Section 3. However, use of the well must comply with those requirements before being placed into operation unless otherwise exempt under these rules.

(e)(d) To qualify for the metering and fee payment exemption provided for in Subsection (c), the entity responsible for using the water or the person responsible for supplying the water for the authorized purposes, shall submit to the District a Water Production Report that complies with Rule 9.1 that provides the amount of use for the purpose described in Subsection (c)(1) or (2). For wells used for the purposes described under Subsection (c)(1) or (2) that are metered, the Water Production Report shall state the metered usage. For wells exempt from the metering requirements of these Rules, the Water Production Report submitted under this rule shall provide an estimated amount of use based on acceptable estimation methods, including but not limited to electricity usage or calculation of usage based on run time at the known flow measurement rate.

### ***Rule 97.32 Groundwater Transport Fees.***

The District ~~shall~~may impose a Groundwater Transport Fee in accordance with the authority set forth in Section 36.122(e) of the Texas Water Code. of 1.5 times the District's Water Use Fee rate for in-District use for groundwater produced in the District that is transported for use outside of the District, except as provided by Rule 6.1(b) and this rule. The procedures, requirements, and penalties related to payment of the Water Use Fee shall apply to payment of the Groundwater Transport Fee. Groundwater Transport Fees shall not be imposed on a water supplier that withdraws groundwater from a well located in the District and that distributes the water to any part of the territory within the water supplier's certificate of convenience and necessity (CCN) issued by the Texas Commission on Environmental Quality, or its predecessor or successor agency, that is outside the boundaries of the District. Groundwater Transport Fees shall also not be imposed on a person that produces groundwater from a well located in the District, but who uses the water outside the boundaries of the District, only if the property where the well is located and the water is used is contiguous and owned by the same person.

### ***Rule 97.43 Payments of Water Use and Groundwater Transport Fees.***

- (a) All fees for groundwater production or transport in a calendar year must be paid to the District based on quarterly production. All water production reports, monthly logs, and groundwater transport reports will be due no later than 30 days from the end of the applicable quarterly reporting period in accordance with Rule 93.10(b). ~~The District will generate and mail all invoices for fee payment not later than the 45th day after the end of~~

~~the quarterly reporting period.~~ All payments that are due to the District must be paid no later than ~~6075~~ days from the end of the applicable quarterly reporting period.

(b) Any well that is subject to fee payment under this Rule and that provides water for both agricultural and non-agricultural purposes shall pay the water use fee rate applicable to non-agricultural purposes for all water produced from the well, unless the applicant can demonstrate through convincing evidence to the satisfaction of the District that a system is or will be in place so as to assure an accurate accounting of water for each purpose of use.

~~(c) Notwithstanding anything to the contrary in these rules, the initial Water Use Fees and Groundwater Transport Fees to be submitted under Rules 7.1 and 7.2 shall be for groundwater produced or transported during the period of July 1 to December 31, 2012, which shall be due to the District no later than January 31, 2013. This subsection shall expire without need for further action by the Board on December 31, 2013.~~

**Rule 9.5 Summary of Applicable Meter Reading, Reporting and Water Use Fee Payment Deadlines.**

The following chart summarizes Rules 9.1, 9.2, and 10.5 regarding the deadlines for meter readings, production reporting and water use fee payments that must occur on a quarterly basis:

<u>Applicable Quarterly Reporting Period</u>	<u>Water Meter Reading Must Occur and Be Recorded on Monthly Meter Log Between</u>	<u>Water Production Report Deadlines (Date by Which Report of Monthly Usage Must be Submitted to District)</u>	<u>Water Use Payment Deadlines</u>
<u>Quarter 1: January 1 to March 31</u>	<u>January 21 to February 10</u> <u>February 18 to March 11</u> <u>(additional day added into end of timeframe to account for leap years)</u> <u>March 21 to April 10</u>	<u>April 30</u>	<u>May 30</u>
<u>Quarter 2: April 1 to June 30</u>	<u>April 20 to May 10</u> <u>May 20 to June 10</u> <u>June 20 to July 10</u>	<u>July 30</u>	<u>August 30</u>
<u>Quarter 3: July 1 to September 30</u>	<u>July 21 to August 10</u> <u>August 21 to September 10</u> <u>September 20 to October 10</u>	<u>October 30</u>	<u>November 29</u>

<a href="#">Quarter 4: October 1 to December 31</a>	<a href="#">October 21 to November 10</a> <a href="#">November 20 to December 10</a> <a href="#">December 21 to January 10</a>	<a href="#">January 30</a>	<a href="#">March 1*</a>  <a href="#">*deadline automatically extended by one day during leap years for consistency</a>
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**Rule ~~97.64~~ Failure to Make Fee Payments.**

- (a) Payments not received ~~within 30 days following the date that Water Use Fees or Groundwater Transport Fees are due and owing to the District~~ pursuant to [the deadline established under Rule 97.43\(a\)](#) will be subject to a late payment fee of fifteen percent (15%) of the total amount of water use fees due and owing to the District.
- (b) Persons failing to remit all Water Use Fees or Groundwater Transport Fees due and owing to the District within 60 days of the date such fees are due pursuant to Rule [97.34\(a\)](#) shall be subject to a civil penalty not to exceed three times the amount of the outstanding fees due and owing, in addition to the late fee penalty prescribed in Subsection (a) of this Rule, and may be subject to additional enforcement measures provided for by these Rules or by order of the Board.

**Rule ~~97.75~~ Failure to Submit Water Production Reports**

- (a) Water Production Reports not received ~~within by the deadline of not later than thirty (30) days~~ after the last day of the applicable quarterly reporting period pursuant to Rule [93.10\(b\)](#) will be subject to a late fee of fifty dollars (\$50.00) per billing account.
- (b) Persons failing to submit Water Production Reports within [sixty \(60\) days](#) after the last day of the applicable quarterly reporting period pursuant to Rule [93.10\(b\)](#) shall be subject to a civil penalty as set forth in the District's Enforcement Policy and Civil Penalty Schedule in Appendix A.

**Rule 9.8 Penalty for Production in Excess of Maximum Amount Authorized by Permit or Rule.**

- (a) Except as specifically authorized under Rule 6.2, no person may withdraw, or cause to be withdrawn, groundwater within the District's boundaries in an amount that exceeds the maximum amount specifically authorized by these Rules or in any permit issued by the District. Persons withdrawing, or causing to be withdrawn, groundwater in an amount that exceeds the specific amount authorized for withdrawal in the applicable District permit shall be subject to an automatic penalty of three (3) times the applicable water use fee rate for the first occurrence. Such excess production penalty shall accrue in addition to, and shall be due at the same time as, the final quarterly production payment due to the District under Rule 9.2 for production from the previous calendar year.
- (b) Any production in violation of Subsection (a) of this section that occurs within three (3) calendar years of a first occurrence of excess production shall result in an automatic penalty of ten (10) times the applicable water use fee rate, and shall result in initiation of an automatic

permit amendment by the District.

**Rule 97.96 Returned Check Fee.**

The Board, by resolution may establish a fee for checks returned to the District for insufficient funds, accounts closed, signature missing, or any other reason causing a check to be returned by the District's depository.

**Rule 97.107 Well Report Deposit.**

The Board, by resolution, may establish a well report deposit to be held by the District as part of the well registration procedures. The District shall return the deposit to the depositor if all relevant well reports are timely submitted to the District in accordance with these Rules. In the event the District does not timely receive all relevant well reports, or if rights granted within the registration are not timely used, the deposit shall become the property of the District.

**Rule 97.811- Well Registration and Permit Fees.**

The owner of any new well shall submit payment to the District of a ~~\$100~~ non-refundable well registration fee established by the Board per well, which is due by the same deadline established under these rules for registration of the well. The owner of a non-exempt well that requires a permit shall also be required to pay the permit application fee established by the Board. ~~The well registration~~ A fee required under this rule and established by the Board must be received by the District in order for the District to find a registration application administratively complete. The purpose of ~~the well registrations~~ such fees is to cover the administrative costs to the District associated with registering and permitting the well, where applicable, and administering the rules of the District related to the well. ~~The amount of the well registration fee has been determined by the District to be less than the actual administrative costs to the District of registering the well and administering the rules of the District with respect to the well, even in light of anticipated revenues to be received from other revenue sources.~~

**Rule 97.129 Enforcement.**

After a well is determined to be in violation of these rules for failure to make payment of water use fees on or before the 60th day following the date such fees are due ~~pursuant to Rule 7.3~~, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

**Rule 97.130 Meter Sealing Fee.**

The Board, by resolution, may establish a fee to recover all or part of its costs for removing and reapplying a District seal and verifying relevant well and meter information in situations where a well owner or operator submits a request to move a meter from one well to another.

**SECTION**



## 108. METERING

### **Rule 108.1 Water Meter Required.**

- (a) ~~Except as provided in Rule 8.2, (T~~The owner of a well located in the District and not exempt under Rule ~~2.13.7(a)~~ shall equip the well with a flow measurement device meeting the specifications of these Rules and shall operate the meter on the well to measure the flow rate and cumulative amount of groundwater withdrawn from the well. ~~All meters that are existing at the time of the Effective Date of these rules, and at a minimum have the ability to measure the cumulative amount of groundwater withdrawn from the well, shall be considered existing and will not have to be replaced with meters that can also measure the flow rate, provided that the meter meets all other requirements herein.~~ Except as provided in Rule 108.2, the owner of a new or existing well not ~~exempt under Rule 2.1~~ that is located in the District shall install a meter on the well in compliance with the requirements herein prior to producing groundwater from the well ~~on or after July 1, 2012.~~
- (b) All meters installed on new, non-exempt wells must be sealed in place by the District with a District seal upon completion of the well. For purposes of this Section 10, "completion" shall mean construction of the well and installation of the pump. Except as provided by Rule 810.4, the meter must remain with the well except in cases where the well is modified or the meter no longer meets the accuracy standards set forth under this rule and Rule 108.3. In the event a well owner wants to move a meter from one well to another, the well owner must submit a request to the District to remove its meter seal ~~and must pay to the District the meter sealing fee established under Rule 7.10.~~ The District shall remove the seal within five (5) business days of receiving a request from the well owner. The District may seal the well from which the meter was removed to prevent its operation without a meter, in addition to sealing the meter on the new well. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation.
- (c) A mechanically driven, magnetic, or ultrasonic totalizing water meter is the only type of meter that may be installed on a well registered with the District unless an approval for another type of reliable meter or alternative measuring method is applied for and granted by the District. The totalizer must not be resettable by the registrant and must be capable of a maximum reading greater than the maximum expected annual pumpage. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters as those standards existed on the date of adoption of these Rules. ~~Meters must be able to measure instantaneous flow rate of the groundwater produced from the well, except as follows: a meter that was installed on an existing well before the effective date that is not capable of measuring the instantaneous flow rate will not have to be replaced, provided that the meter has the ability to measure the cumulative amount of groundwater withdrawn from the well and meets all other requirements herein.~~

- (d) All meters must be installed within fifty (50) 25-feet of the wellhead. The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter installation, or the meter's accuracy must be verified by the registrant in accordance with Rule 8.3. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and two pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.
- (e) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall be calibrated to ensure an accuracy reading range of 95% to 105% of actual flow.
- (f) The owner of a well is responsible for the purchase, installation, operation, maintenance, and repair of the meter associated with the well.
- (g) Bypasses are prohibited unless they are also metered. ~~This subsection shall not apply to any unmetered bypasses in existence on the effective date but shall apply to bypasses installed after that date. A person commits a major violation of these rules by using a bypass to avoid recording groundwater production on a well meter, which may also be subject to criminal prosecution by a local prosecuting authority.~~

**Rule 108.2 Water Meter Exemption.**

Wells exempt from permitting under Rule 2.13.7(a) shall be exempt from the requirement to obtain a water meter under Rule 108.1.

**Rule 108.3 Accuracy Verification.**

- (a) Meter Accuracy to be Tested: The General Manager may require the registrant, at the registrant's expense, to test the accuracy of a water meter and submit a certificate of the test results. The certificate shall be on a form provided by the District. The General Manager may further require that such test be performed by a third party qualified to perform such tests. The third party must be approved by the General Manager prior to the test. Except as otherwise provided herein, certification tests will be required no more than once every three years for the same meter. If the test results indicate that the water meter is registering an accuracy reading outside the range of 95% to 105% of the actual flow, then appropriate steps shall be taken by the registrant to repair or replace the water meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the District's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the registrant shall reimburse the District for the cost of those tests and investigations within 90 calendar days from the date of the tests or investigations, and the registrant

shall take appropriate steps to bring the meter or meters into compliance with these Rules within 90 calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement of accuracy is impaired, the District may require the registrant, at the registrant's expense, to take appropriate steps to remedy the problem and to retest the water meter within 90 calendar days from the date the problem is discovered and reported to the registrant.

- (b) Meter Testing and Calibration Equipment: Only equipment capable of accuracy results of plus or minus two percent of actual flow may be used to calibrate or test meters.
- (c) Calibration of Testing Equipment: All approved testing equipment must be calibrated every two years by an independent testing laboratory or company capable of accuracy verification. A copy of the accuracy verification must be presented to the District before any further tests may be performed using that equipment.

#### **Rule 108.4 Removal of Meter for Repairs.**

A water meter may be removed for repairs and the well may remain operational. A water meter may also be removed if necessary to modify the well. A water meter may be removed by the owner according to this Section 10 and must provide notice to the District within three (3) business days of is notified prior to the removal. , and If the well is to remain operational, the repairs must be completed in a timely manner; provided, however, that a well shall not be operated without a meter for more than fourteen (14) days from the date of removal. If the meter on the well has already been sealed by the District, the District shall remove the seal within five (5) business days of receiving a request from the well owner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation, and the owner must either make the previous meter available for inspection by District staff or have a photo available evidencing the last reading prior to removal of the meter. The record of pumpage must include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.

#### **Rule 108.5 Water Meter Readings.**

~~The registrant of a well not exempt under Rule 2.1 Each meter must be read each water meter associated with the well and the actual amount of pumpage recorded the meter readings and the actual amount of pumpage~~ in a log at least monthly. The logs containing the recordings shall be available for inspection by the District at reasonable business hours. Copies of the logs must be included with the Water Production Report required by District Rule 93.10, along with fee payments as set forth under Section 79. The registrant of a well shall read each water meter associated with a well within 105 days before or after the last day of each month March 31, within 15 days before or after June 30, within 15 days before or after September 30, and within 15 days before or after December 31 each year, as applicable to the respective immediately preceding quarterly reporting period, and shall report the readings to the District on a form provided by the District along with copies of the monthly logs and payment of all Water Use Fees by the deadlines set forth for fee payment under Rule 97.3.

#### **Rule 8.6 Installation of Meters.**

A meter required to be installed under these Rules shall be installed before producing water from the well ~~on or after July 1, 2012.~~

### **Rule 108.7 Enforcement.**

(a) It is a major violation of these Rules to fail to meter a well and report meter readings in accordance with this Section. After a well is determined to be in violation of these rules for failure to meter or maintain and report meter readings, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

~~(b) — After July 1, 2012, the District shall send owners of new or existing wells not exempt under Rule 2.1 who have failed to comply with the metering requirements set forth in this section a certified letter notifying the well owner of the non-compliance. Within 30 days of the date the certified letter was mailed from the District, the well owner must provide information to the District demonstrating that the well owner has taken steps to comply with the District's registration, metering, and fee payment rules, including past due fee payments under Rules 7.1 through 7.4. If the well owner fails to respond to the District and demonstrate progress towards compliance within 30 days of the date the District mailed the notification letter days, the well owner will receive a major violation according to the terms of the District's Enforcement Policy and Civil Penalty Schedule, Appendix A.~~

## **SECTION 9.11 INSPECTION AND ENFORCEMENT OF RULES**

### **Rule 119.1 Purpose and Policy.**

The District's ability to effectively and efficiently manage the limited groundwater resources within its boundaries depends entirely upon the adherence to the rules promulgated by the Board to carry out the District's purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, to protect against subsidence, degradation of water quality, and to prevent waste of those resources. Without the ability to enforce these rules in a fair, effective manner, it would not be possible to accomplish the District's express groundwater management purposes. The enforcement rules and procedures that follow are consistent with the responsibilities delegated to it by the Texas Legislature through the District Act, and through Chapter 36 of the Texas Water Code.

### **Rule 119.2 Rules Enforcement.**

~~(a) —~~ If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules, the Board may institute and conduct a suit in a court of competent jurisdiction in the name of the District for injunctive relief, recovery of a civil

penalty in an amount set by District Rule per violation, both injunctive relief and a civil penalty, or any other appropriate remedy. ~~Each day of a continuing violation constitutes a separate violation. A violation of any of the prohibitions in these Rules occurs on the first day that the prohibited action begins and continues each day thereafter as a separate violation.~~

~~(a)~~

~~(a)(b)~~ Unless otherwise provided in these rules, the penalty for a violation of any District rule shall be either:

- (1) \$10,000.00 per violation; or
- (2) A lesser amount, based on the severity of the violation, as set forth in an Enforcement Policy that may include a Civil Penalty Schedule, which is attached to these Rules as Appendix A and adopted as a Rule of the District for all purposes.

~~(c)~~ In determining the amount of a civil penalty, the Board of Directors shall consider the following factors:

- (1) compliance history;
- (2) efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;
- (3) the penalty amount necessary to ensure future compliance and deter future noncompliance;
- (4) any enforcement costs related to the violation; and
- (5) any other matters deemed necessary by the Board.

~~(b)(d)~~ A penalty under this section is in addition to any other penalty provided by law and may be enforced by filing a complaint in a court of competent jurisdiction in the county in which the District's principal office or meeting place is located.

~~(e)(e)~~ If the District prevails in a suit to enforce its Rules, the District may seek, in the same action, 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.

### **Rule 119.3 Failure to Report Pumpage and/or Transported Volumes.**

The accurate reporting and timely submission of pumpage and/or transported volumes is necessary for the proper management of water resources in the District. Failure of a well owner required by these ~~Temporary~~ Rules to submit complete, accurate, and timely pumpage and transportation reports may result in:

- (1) the assessment of any fees or penalties adopted under Rule [911.2](#) for meter reading and inspection as a result of District inspections to obtain current and accurate pumpage volumes; and
- (2) additional enforcement measures provided by these Rules or by order of the Board.

#### **Rule [11-9.4](#) District Inspections.**

No person shall unreasonably interfere with the District's efforts to conduct inspections or otherwise comply with the requirements, obligations, and authority provided in Section 36.123 of the Texas Water Code.

#### **Rule [11-9.5](#) Notices of Violation.**

Whenever the District determines that any person has violated or is violating any provision of the District's Rules, including the terms of any rule or order issued by the District, it may use any of the following means of notifying the person or persons of the violation:

- (a) **Informal Notice:** The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation by telephone by speaking or attempting to speak to the appropriate person to explain the violation and the steps necessary to satisfactorily remedy the violation. The information received by the District through this informal notice concerning the violation will be documented, along with the date and time of the call, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first providing notice under this subsection.
- (b) **Notice of Violation:** The District may inform the person of the violation through a written notice of violation issued pursuant to this rule. Each notice of violation issued hereunder shall explain the basis of the violation, identify the rule or order that has been violated or is being violated, and list specific required actions that must be satisfactorily completed—which may include the payment of applicable civil penalties—to address each violation raised in the notice. Notices of violation issued hereunder shall be tendered by a delivery method that complies with District Rule 1.7. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (c) **Compliance Meeting:** The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first conducting a meeting under this subsection.

### **Rule 119.6 Show Cause Hearing.**

- (a) Upon recommendation of the General Manager to the Board or upon the Board's own motion, the Board may order any person that it believes has violated or is violating any provision of the District's Rules a District order to appear before the Board at a public meeting called for such purpose and show cause why an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be pursued by the District against the person or persons made the subject of the show cause hearing.
- (b) No show cause hearing under Subsection (a) of this Rule may be held unless the District first mails each person to be made the subject of the hearing, written notice not less than twenty (20) days prior to the date of the hearing. Such notice shall include the following:
  - (1) the time and place for the hearing;
  - (2) the basis of each asserted violation; and
  - (3) the rule or order that the District believes has been violated or is being violated; and
  - (4) a request that the person cited duly appear and show cause why enforcement action should not be pursued.
- (c) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person so cited fails to appear and show cause why an enforcement action should not be pursued.
- (d) Nothing in this rule shall limit the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time regardless of whether the District holds a hearing under this rule.

## **SECTION 129. EFFECTIVE DATE**

### **Rule 10.1. Effective Date.**

These District's Temporary Rules ~~take~~took effect on August 29, 2011, which was the date of their original adoption. Pursuant to the District Act and Chapter 36 of the Texas Water Code, the District adopted permanent rules on XXXX, 2018, the Effective Date of these Rules. An amendment to these Rules takes effect on the date of its original adoption, or upon a specific effective date for the amendment as approved by the Board of Directors. It is the District's intention that the rules and amendments thereto be applied retroactively to activities involving the production and use of groundwater resources located in the District, as specifically authorized by state law and as set forth in these Rules.

**APPENDIX A.**  
**Enforcement Policy and Civil Penalty Schedule.**

Red River Groundwater Conservation District  
**ENFORCEMENT POLICY AND CIVIL PENALTY SCHEDULE**

**General Guidelines**

When the General Manager discovers a violation of the District Rules that either (1) constitutes a Major Violation, or (2) constitutes a Minor Violation that the General Manager is unable to resolve within 60 days of discovering the Minor Violation, the General Manager shall bring the Major Violation or the unresolved Minor Violation and the pertinent facts surrounding it to the attention of the Board. Violations related to water well construction and completion requirements shall also be brought to the attention of the Board.

The General Manager shall recommend to the Board of Directors an appropriate settlement offer to settle the violation in lieu of litigation based upon the Civil Penalty Schedule set forth below. The Board may instruct the General Manager to tender an offer to settle the violation or to institute a civil suit in the appropriate court to seek civil penalties, injunctive relief, and costs of court and expert witnesses, damages, and attorneys' fees.

**I. Minor Violations**

The following acts each constitute a minor violation:

1. Failure to timely file a registration on a new well that qualifies for an exemption under Rule 32.1.
2. Failure to conduct a meter reading within the required period.
3. Failure to timely notify District regarding change of ownership.
4. Failure to timely file a Well Report.
5. Failure to timely submit required documentation reflecting alterations or increased production.
6. Operating a meter that is not accurately calibrated.
7. Drilling an exempt or non-exempt well with an expired well registration.

**CIVIL PENALTY SCHEDULE FOR MINOR VIOLATIONS**

**First Violation:**

**\$100.00**



**Second Violation: \$200.00**

**Third Violation: Major Violation**

A second violation shall be any minor violation within 3 years of the first minor violation. A third violation shall be any minor violation following the second minor violation within 5 years of the first minor violation. Each day of a continuing violation constitutes a separate violation.

## II. Major Violations

The following acts each constitute a major violation:

1. Failure to register or permit a well or amend the registration of a well not exempt under Rule 2.1 where mandated by rules, including drilling, equipping, completing, altering, or operating a well without an compliant and approved registration, as evidenced through a Notice to Proceed or permit issued by the District.
2. Failure to timely meter a well when required.
3. Failure to submit accurate Water Production Report within 60 days of the date the fees are due.
4. Failure to submit accurate Groundwater Transport Report within the required period.
5. Drilling a well in a different location than authorized or in violation of spacing requirements.\*
6. Failure to close or cap an open or uncovered well.
7. Failure to submit Water Use Fees within 60 days of the date the fees are due.\*\*
8. Failure to timely submit Groundwater Transport Fees within 60 days of the date the fees are due.\*\*
9. Committing waste.
10. Tampering with or disabling a required meter or tampering with a District seal.
11. Use of an artificial flow restrictor on a well as defined in these Rules.  
~~10.~~

### **CIVIL PENALTY SCHEDULE FOR MAJOR VIOLATIONS**

**First Violation: \$500.00**

**Second Violation: \$1,000.00**

**Third Violation: Civil Suit for injunction, damages, and escalated penalties**

A second violation shall be any major violation within 3 years of the first major violation of the same level. A third violation shall be any major violation following the second major violation within 5 years of the first major violation. Each day of a continuing violation constitutes a separate violation. Multiple violations by the same person or entity shall result in escalated fines assessed in order to deter such continued noncompliance.

\* In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who drill a well in violation of applicable spacing requirements may be required to plug the well.

\*\* In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who do not submit all Water Use Fees and Groundwater Transport Fees due and owing within 60 days of the date the fees are due pursuant to Rule 7.3(a) will be assessed a civil penalty equal to three times the total amount of outstanding Water Use Fees that are due and owing.

### **III. Water Well Construction and Completion Requirements**

Failure to use approved construction materials: \$500.00 and total costs of remediation, with costs of remediation of well to be borne by the well owner.

Failure to properly cement annular space: \$1,000.00 and total costs of remediation, with costs of remediation to be borne by well owner.

In addition to the civil penalties provided for in this schedule, persons who drill a well in violation of applicable spacing or completion requirements may be required to re-drill, re-complete or re-construct the well in accordance with the District's rules, or may be ordered to plug the well.

### **IV. Production in Excess of Maximum Amount Authorized in Permit**

In accordance with Rule 9.8, an automatic penalty of three (3) times the applicable water use fee rate for a calendar year shall be applied in addition to the standard water use fee rate owed for those persons that produce groundwater in excess of the maximum amount authorized in a District-issued permit. A second occurrence of production in excess of the maximum amount authorized within three (3) calendar years of the first occurrence shall result in an automatic penalty of ten (10) times the applicable water use fee rate shall be applied in addition to the standard water use fee rate owed for the production.

### **IV.V. Other Violations of District Rules Not Specifically Listed Herein**

Any violation of a District Rule not specifically set forth herein shall be presented to the Board of Directors for a determination of whether the violation is Minor or Major, based upon the severity of the violation and the particular facts and issues involved, whereupon the procedures and the appropriate civil penalty amount set forth herein for Minor and Major Violations shall apply to the violation.

## APPENDIX B. List of Commonly Used Acronyms

The following acronyms are commonly used in the District Rules, District Management Plan, and/or the daily operations of the District:

<u>AFO</u>	<u>Animal Feeding Operation</u>
<u>ASR</u>	<u>Aquifer Storage and Recovery</u>
<u>BOD</u>	<u>District Board of Directors</u>
<u>CCN</u>	<u>Certificate of Convenience and Necessity</u>
<u>DCP</u>	<u>Drought Contingency Plan</u>
<u>DFC</u>	<u>Desired Future Condition</u>
<u>GAM</u>	<u>Groundwater Availability Model</u>
<u>GCD</u>	<u>Groundwater Conservation District</u>
<u>GMA</u>	<u>Groundwater Management Area</u>
<u>GPM</u>	<u>Gallons per minute</u>
<u>HUP</u>	<u>Historic Use Permit</u>
<u>MAG</u>	<u>Modeled Available Groundwater</u>
<u>MP</u>	<u>District Management Plan</u>
<u>NTP</u>	<u>Notice to Proceed</u>
<u>PGMA</u>	<u>Priority Groundwater Management Area</u>
<u>PIA</u>	<u>Public Information Act</u>
<u>PFD</u>	<u>Proposal for Decision</u>
<u>PP</u>	<u>Production Permit</u>
<u>PWS</u>	<u>Public Water System</u>
<u>RRC</u>	<u>Railroad Commission of Texas</u>
<u>RRGCD</u>	<u>Red River Groundwater Conservation District</u>
<u>SOAH</u>	<u>State Office of Administrative Hearings</u>
<u>TCEQ</u>	<u>Texas Commission on Environmental Quality</u>
<u>TOMA</u>	<u>Texas Open Meetings Act</u>
<u>TWDB</u>	<u>Texas Water Development Board</u>

ADJOURN