

AGENDA
RED RIVER GROUNDWATER CONSERVATION DISTRICT
BOARD OF DIRECTORS MEETING
GTUA BOARD ROOM
5100 AIRPORT DRIVE
DENISON, TEXAS 75020
2:00 P.M., MONDAY, JANUARY 31, 2011

Notice is hereby given that a meeting of the Board of Directors of the Red River Groundwater Conservation District will be held on the 31st day of January, 2011, at 2:00 p.m. in the GTUA Board Room, 5100 Airport Drive, Denison TX, 75020, at which time the following items will be discussed:

Agenda:

- I. Call to Order
- II. Introduction of Visitors
- III. Consider and act upon approval of Minutes of November 30, 2010 Meeting
- IV. Consider and discuss legislation and activities concerning Groundwater Management Area 8
- V. Consider and discuss draft Management Plan
- VI. Consider and discuss draft Temporary Rules
- VII. Consider and act upon approval of proposal and contract for the development of geodatabase and web-based application for the District
- VIII. Consider and act upon entering into an agreement related to the development of geodatabase and web-based application with other groundwater conservation districts in Groundwater Management Area 8
- IX. Consider and act upon budget and temporary methods for financing the District
- X. Consider and act upon Administrative Services Agreement with the Greater Texoma Utility Authority
- XI. Citizens to be Heard

XII. Discuss future meeting date and agenda

XIII. Adjourn

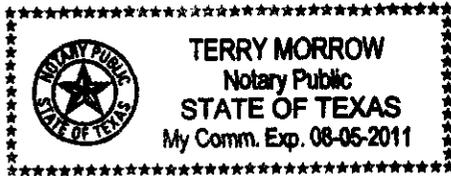
¹The Board may vote and/or act upon each of the items listed in this agenda.

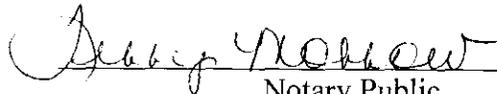
²At any time during the meeting or work session and in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the Red River Groundwater Conservation District Board may meet in executive session on any of the above agenda items or other lawful items 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.

This is to certify that I, Carmen Catterson, posted this agenda on the outdoor bulletin board of the Administrative Offices of the Greater Texoma Utility Authority, on the west side of the building, by 5:00 p.m. on January 27, 2011. I also provided this agenda to the County Clerks in Fannin and Grayson Counties with a request that it be posted.


Carmen Catterson

Sworn and subscribed to before me this 27 day of January 2011.




Notary Public

(S E A L)

PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING, AND WHO MAY NEED ASSISTANCE, ARE REQUESTED TO CONTACT CARMEN CATTERSON AT (903) 786-4433 TWO (2) WORKING DAYS PRIOR TO THE MEETING, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

ATTACHMENT III

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

MONDAY, NOVEMBER 30, 2010

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

Members Present: George "Butch" Henderson, George Olson, Don Wortham, David Gattis, Harold Latham, Don Morrison, John Young

Members Absent: None

Staff: Jerry Chapman, Carolyn Bennett and Carmen Catterson

Visitors: Jonathan Cannon, Herald Democrat
Joey Rickman, City of Honey Grove
Kevin Farley, City of Pottsboro
Missy Rickman, City of Savoy
Howard Trammell, South Grayson WSC
Bill Schindler, Tri-County Sod
Doug O'Connor, Trinity Turf,
Jeff Bice, Two Way SUD
Keith Welch, Welch Farms

I. Call to Order

President Henderson called the meeting to order at 2:00 p.m. The Board Members introduced themselves and the entities they represent.

II. Introduction of Visitors

All visitors and Board members introduced themselves and the entity they represented.

III. Consider and act upon approval of Minutes of September 30, 2010 Meeting.

Board Member Morrison motioned to approve the Minutes of the September 30, 2010 Meeting. The motion was seconded by Board Member Gattis and passed unanimously.

At this time, President Henderson asked Mr. Chapman to provide an update on the Texas Water Conservation Association (TWCA) Groundwater Committee meeting that was held on November 29, 2010. The Committee has been meeting since January to discuss groundwater legislation. Groundwater is a very important resource that includes approximately 60% of the State's water use. This will be an important factor as the State moves forward in the future regarding water and population planning. More than 30 different interest groups are represented on the Committee including water marketers, attorneys, and water providers. The sheet provided to the Board includes 14 issues discussed at the meeting on the 29th. Mr. Chapman briefly overviewed the issues, which include Desired Future Conditions, water permits, Texas Water Code language, attorney fees, mitigation, appellate process, clarification of livestock exemptions, enforcement of oil and gas

reporting, and Groundwater Management Area agenda posting requirements. The Committee recommended some of the items to the Legislature, but some could not reach a consensus.

IV. Receive and discuss Groundwater Availability Model

The Texas Water Development Board (TWDB) provides the Groundwater Availability Model (GAM) upon request by each Groundwater Conservation District. The GAM contains the information for both the Trinity and Woodbine Aquifers. The report shows on page 5 the estimated annual flow into the Trinity Aquifer of 10,535 acre-feet per year. The estimated outflow per year in the Trinity is 7,378 acre-feet. The estimated annual flow between the aquifers is 326 acre-feet per year. The table on page 6 shows an estimated annual precipitation recharge for the Woodbine of 36,390 acre-feet per year. The volume of water being discharged is 9,571 acre-feet. The estimated volume of flow into the aquifer is 1,827 acre-feet and within the aquifer is 2,607 acre-feet. This information will be included in the Groundwater Management Plan.

V. Consider and discuss draft Management Plan

The staff and Board worked together to combine two previous draft management plans. The staff made the recommended changes and included the GAM in the new draft of the plan. After the plan is complete, the staff will submit it to the TWDB for review to make sure it complies with all State statutes. The Board will need to develop rules before the plan can be adopted. The staff reviewed the current draft of the plan with the Board and the Board made a few recommended changes. The staff promised to make the changes and bring the next draft to the following meeting.

VI. Consider and discuss creation and development of Temporary Rules

Last meeting the Board suggested using the North Texas GCD and Northern Trinity GCD temporary rules for the Rules Committee members to compile into one document. Vice President Olson was on the committee, but does not have the time to commit to the project, so he requested Board Member Gattis take his place on the Board. No objections were heard. The Board opted to table the rules until the Committee has an opportunity to develop a comprehensive document.

VII. Consider and act upon temporary methods for financing the District

The Board has discussed possible methods for interim financing in the past. The City of Leonard has set aside a line item in their budget to help fund the District's endeavors. Vice President Olson reported that the City of Sherman has done the same. The Authority has currently expended approximately \$16,000 for the District. The Board agreed to request the Authority provide a more comprehensive list of amounts due and they would provide options for providing funding at the next meeting.

IX. Citizens to be heard

Mr. O'Connor requested the Board's input and thoughts on agricultural exemptions for this area. He stated he would like to see more consideration than is being provided by the North Texas GCD. The Board stated that no decisions have been made at this time, but that they are considering a 25,000 gallons per day limit. President Henderson stated that all circumstances and concerns will be taken into consideration.

President Henderson reminded the Board that all members need to make sure that Carmen has received the bond renewals. The Board requested that Carmen pull the appointment information so that all members are aware of terms and expiration dates. Mr. Chapman requested permission to order an official seal for the District, which the Board agreed.

X. Discuss future meeting date and agenda

The Board agreed to schedule the next meeting for Monday, January 31, 2010 at 2:00 PM, which will return the District to its regular schedule for Board meetings.

XII. Adjourn

Upon motion by Vice President Olson seconded by Board Member Gattis and passed unanimously, the Board adjourned at approximately 3:30 p.m.

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Recording Secretary

Secretary-Treasurer

ATTACHMENT IV



PRESS RELEASE

State Senator Troy Fraser
The Capitol, Room 1E.15
Austin Texas, 78701

FOR IMMEDIATE RELEASE
January 12, 2011

Contact: Janice McCoy
(512) 463-0124

FRASER FILES WATER RIGHTS MEASURE

State Senator Troy Fraser, R-Horseshoe Bay, authored legislation on Wednesday, January 12 which would clarify groundwater ownership. Senate Bill 332 would clearly state that landowners have a vested ownership interest in the groundwater beneath their property.

The legislation has been filed because some entities are challenging the Rule of Capture in court. The Rule of Capture was established in 1904 by the Texas Supreme Court. The court ruled that groundwater was the private property of a landowner and that a landowner could be held liable for harming a neighbor's well by exercising their right to capture the groundwater.

"For over 100 years, landowners have believed that the Rule of Capture gives them a vested private property right in the groundwater beneath their land," said Fraser. "And, that the property right gives the ability to drill a well and produce groundwater for their use."

The legislation is intended to work in conjunction with local groundwater conservation district regulation. Under the legislation, groundwater conservation districts could still require a landowner to get a permit and limit the amount of groundwater that can be produced. However, the legislation would prevent a district from "taking" a landowner's right to capture the water beneath the land.

"Landowners recognize that locally elected groundwater conservation districts play an important role in helping manage water to ensure it is available for future generations," said Fraser. "But there is a big difference between managing how much water is pumped and denying property owners the right to access the water beneath their land."

A vested ownership interest is a property right that a landowner can legally protect. The right to produce groundwater is a property right that is exclusively the landowner's. No one else can come onto private property, drill a well, and start pumping groundwater. If someone were to attempt it, the landowner could legally stop them.

"As Chairman of the Senate Committee on Natural Resources, I believe the issue of groundwater rights needs to be debated by the Legislature," Fraser said. "The management of this important asset is key to developing the State Water Plan and ensuring that water is available for the future."

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Senator Fraser represents a 21-county region in the geographic center of the state. He is the Chairman of the Senate Committee on Natural Resources. He also sits on the following standing Senate Committees: Business and Commerce, Nominations, State Affairs, and International Relations and Trade.

By: FRASER

S.B. No. 332

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the vested ownership interest in groundwater beneath
3 the surface and the right to produce that groundwater.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 36.002, Water Code, is amended to read as
6 follows:

7 Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) A landowner, or
8 the landowner's lessee or assign, has a vested [The] ownership
9 interest [and rights of the owners of the land and their lessees and
10 assigns] in and right to produce groundwater below the surface of
11 the landowner's real property [are hereby recognized], and nothing
12 in this code may [shall] be construed as granting the authority to
13 deprive [depriving] or divest a landowner or the landowner's lessee
14 or assign [divesting the owners or their lessees and assigns] of the
15 ownership interest in the groundwater or the right to produce
16 groundwater [rights], except as those rights and interests may be
17 reasonably limited [or altered] by rules promulgated by a district.

18 (b) A rule promulgated by a district may not discriminate
19 between an owner [owners] of land, or the owner's lessee or assign,
20 whose land [that] is irrigated for production and an owner [owners]
21 of land, or the owner's lessee or assign, [their lessees and
22 assigns] whose land [that] was previously irrigated for production
23 and is now enrolled or participating in a federal conservation
24 program.

1 SECTION 2. Section 36.101, Water Code, is amended by
2 amending Subsection (a) and adding Subsection (a-1) to read as
3 follows:

4 (a) A district may make and enforce rules, including rules
5 limiting groundwater production based on tract size or the spacing
6 of wells, to provide for conserving, preserving, protecting, and
7 recharging of the groundwater or of a groundwater reservoir or its
8 subdivisions in order to control subsidence, prevent degradation of
9 water quality, or prevent waste of groundwater and to carry out the
10 powers and duties provided by this chapter. During the rulemaking
11 process the board shall:

12 (1) consider all groundwater uses and needs;

13 (2) consider the rights and interests under Section
14 36.002; and

15 (3) [~~shall~~] develop rules which are fair and impartial
16 and that do not discriminate between land that is irrigated for
17 production and land that was irrigated for production and enrolled
18 or participating in a federal conservation program.

19 (a-1) Any rule of a district that discriminates between land
20 that is irrigated for production and land that was irrigated for
21 production and enrolled or participating in a federal conservation
22 program is void.

23 SECTION 3. Section 36.108(c), Water Code, is amended to
24 read as follows:

25 (c) The presiding officer, or the presiding officer's
26 designee, of each district located in whole or in part in the
27 management area shall meet at least annually to conduct joint

1 planning with the other districts in the management area and to
2 review the management plans and accomplishments for the management
3 area. In reviewing the management plans, the districts shall
4 consider:

5 (1) the goals of each management plan and its impact on
6 planning throughout the management area;

7 (2) the effectiveness of the measures established by
8 each management plan for conserving and protecting groundwater,
9 ~~and~~ preventing waste, and protecting the rights and interests
10 under Section 36.002, and the effectiveness of these measures in
11 the management area generally;

12 (3) any other matters that the boards consider
13 relevant to the protection and conservation of groundwater and the
14 prevention of waste in the management area; and

15 (4) the degree to which each management plan achieves
16 the desired future conditions established during the joint planning
17 process.

18 SECTION 4. The changes in law made by this Act apply only to
19 a rule adopted by a groundwater conservation district on or after
20 the effective date of this Act or to a permit issued or application
21 filed pursuant to a rule adopted on or after the effective date of
22 this Act.

23 SECTION 5. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.

ATTACHMENT VI

Red River Groundwater Conservation District

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

As Adopted on _____

Procedural History of Rules Adoption

These temporary rules of the Red River Groundwater Conservation District were initially adopted by the Board of Directors on _____, 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.

Red River

Groundwater Conservation District

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Red River Groundwater Conservation District

District Rules

PREAMBLE

The Red River Groundwater Conservation District ("District") was created in 2009 by the 81st 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 Definition 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) “Agriculture” (or “agricultural”) 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 plants in containers or nonsoil 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.

- (2) “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) “Aquifer” means a water bearing geologic formation in the District.

- (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) "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.
- (6) "Board" means the Board of Directors of the District.
- (7) "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.
- (8) "District Act" means the Act of _____, 81st Leg., R.S., ch. _____, 2009 Tex. Gen. Laws 686, codified at TEX. SPEC. DIST. LOC. LAWS CODE ANN. ch. _____ ("the District Act"), as may be amended from time to time.
- (9) "Domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals. Domestic use does not include 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. Domestic use does not include pumping groundwater into a pond or other surface water impoundment unless the impoundment is fully lined with an impervious artificial liner and has a surface area equal to or smaller than one-third of a surface acre (14,520 square feet).
- (10) "Effective date" means ____, 2011, which was the original date of adoption of these Temporary Rules.
- (11) "Emergency purposes" means the use of groundwater:
1. to fight fires, manage chemical spills, and otherwise address emergency public safety or welfare concerns; or
 2. for training exercises conducted in preparation for responding to fires, chemical spills, and other emergency public safety or welfare concerns.

- (12) “Exempt well” means a new or an existing well that is exempt under Rule 2.1 from certain regulatory requirements in these rules.
- (13) “Existing well” means a well that was in existence or for which drilling commenced prior to _____.
- (14) “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.
- (15) “Groundwater” means water percolating below the surface of the earth.
- (16) “Groundwater reservoir” means a specific subsurface water-bearing stratum.
- (17) “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.
- (18) “Leachate well” means a well used to remove contamination from soil or groundwater
- (19) “Livestock” means, 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 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.
- (20) “Maintenance Purposes” means the use of water to flush mains, fire hydrants or tanks as required by TCEQ.
- (21) “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.
- (22) “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.

- (23) "New well" means a well for which drilling commenced on or after _____.
- (24) "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.
- (25) "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.
- (26) "Person" means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.
- (27) "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.
- (28) "Production" or "producing" means the act of extracting groundwater from an aquifer by a pump or other method.
- (29) "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.

- (30) "Pump" means any facility, device, equipment, materials, or method used to obtain water from a well.
- (31) "Registrant" means a person required to submit a registration.
- (32) "Registration" means a well owner providing certain information about a well to the District, as more particularly described under Section 3.
- (33) "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.
- (34) "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 or to increase the size of the pump on the well.
- (35) "TCEQ" means the Texas Commission on Environmental Quality
- (36) "Transfer" means a change in a registration 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.
- (37) "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, including vanity ponds;
 - (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.

(38) “Well” means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from the aquifer.

(39) “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.

(40) “Well system” means a well or group of wells tied to the same distribution system.

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

(42) “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.

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.

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 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.

APPLICABILITY OF REGULATORY REQUIREMENTS; EXEMPTIONS

Rule 2.1 Wells Exempt from Fee Payment, Metering, and Reporting Requirements of These Temporary Rules.

- (a) The requirements of these Temporary Rules relating to the payment of fees under Section 6, 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. All wells, existing or new, of any size or capacity that are 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 18 gallons per minute and is used in whole or in part for commercial, industrial, municipal, manufacturing, or public water supply use, use for oil or gas or other hydrocarbon exploration or production, or any other purpose of use other than solely for domestic, livestock, or poultry use, except as provided by Subsection (b) of this rule;
 3. Leachate wells and monitoring wells.

- (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 18 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).
- (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 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 a new well that is exempt under this Rule shall nonetheless register the well with the District, as required 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 fee payment, metering, reporting, registration, and other requirements of these Temporary Rules. Such wells include all public water supply wells and all wells or well systems with a capacity, as equipped, to produce more than 18 gallons per minute that are used in whole or in part for any purpose of use other than solely for domestic use, livestock use, or poultry use.

Rule 2.3 Exemption from Production 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 for Groundwater Used for Maintenance Purposes

Groundwater used for the purposes of flushing lines, tanks or fire hydrants as required by TCEQ are exempt from fees if an approved metering device or an alternative measuring method approved by the District is used. These amounts shall be noted on the water production report and subtracted from the total amount pumped.

Rule 2.5 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.

SECTION 3.
REGISTRATIONS, RECORDS, REPORTS, AND LOGS; PERMIT NOT REQUIRED

Rule 3.1 Purpose and Policy

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 3.3 Well Registration.

- (a) The following wells must be registered with the District:
1. all new wells drilled on or after _____, including new wells exempt under Rule 2.1;
 2. all existing wells.
- (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, 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 minute, 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 at all times; and
 9. any other information deemed necessary by the Board.
- (c) 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 _____, 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 _____, without first complying with the metering provisions set forth under Section 7.

- (d) Once a registration is complete, which for new wells also includes receipt by the District of the well report required by Rule 3.7 and for new wells and existing wells not exempt under 2.1 includes receipt of the well registration fee, 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 Registration of Existing Non-Exempt and Exempt Wells Required Between _____ and _____.

- (a) The owner of an existing well described under Rule 3.3(a)(2) must register the well with the District between _____ and _____, and must install a meter on the well as set forth under Section 8 of these rules before _____. 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 must register the well with the District between _____ and _____ 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 with respect to size or capacity, beginning on or after _____.
- (b) A registrant for a new well has _____ 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, a registrant may apply for one extension of an additional _____ 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.

- (c) 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 deadlines set forth under Subsection (b) 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.
- (d) Notwithstanding any other rule to the contrary, the owner and driller of a new well are jointly responsible for ensuring that a well registration required by this section 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 required by this section is not timely filed by either, or by any other person legally authorized to act on the behalf of either.

Rule 3.6 General Provisions Applicable to Registrations.

- (a) Registration applications may be submitted to the District in person, by mail, by fax, or by internet 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 business days after the date of receipt of an application for registration and receipt of the 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 _____ days of the date of the District’s request. An 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(b), including providing all information required to be included in the application that may be obtained through reasonable diligence, and is accompanied by the well registration fee; and
 - (2) if it is a registration for a new well:
 - (A) includes the well log deposit; 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 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 2.1 or whether it is subject to the metering, fee payment, and reporting requirements of these Rules.

- (d) 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) 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) 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 the wells over 50 gallons per minute retained or obtained by that person.
- (h) 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 approval from the District of the application for registration or amendment application, if such approval is required under these Rules.

Rule 3.7 Records of Drilling, Pump Installation and Alteration Activity, and Plugging

- (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.
- (b) The person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within 60 days after the date the well is completed, file the well report described in Subsection (a) with the District.
- (d) 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.

Rule 3.8 Transfer of Well Ownership

- (a) Within ____ days after the date of a change in ownership of a well exempt under Rule 2.1, the new well owner shall 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.
- (b) Within ____ 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.
- (c) 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) The burden of proof in any proceeding related to a question of well ownership or status as the legal holder of a registration issued by the District and the rights there under shall be on the person claiming such ownership or status.
- (e) 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) 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 90 days from the date of the change in ownership until the new owner has:
 - (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 3.9 Amendment of Registration

A registrant 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 size or capacity of a 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 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 3.10 Water Production Reports

- (a) Not later than March 1 and September 1 of each calendar year beginning in 2011, the owner of any non-exempt well within the District must submit, on a form provided by the District, a report 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;
 - (3) the total amount of groundwater produced by each well or well system during the immediately preceding reporting period;
 - (4) the total amount of groundwater produced by each well or well system during each month of the immediately preceding reporting period;
 - (5) the purposes for which the water was used;
 - (6) 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) 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) 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) 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;
- (8) the amount of groundwater produced for which a fee exemption is sought, if any, under Rule 2.4 for flushing lines, tanks, or fire hydrants, and the metering method(s) employed to determine the amount; and
- (9) 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) 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) There shall be two semiannual periods each year. The report due February 1 shall report groundwater produced during the reporting period of the immediately preceding July 1st to December 31st. The report due August 1 shall report groundwater produced during the reporting period of the immediately preceding January 1st to June 30th. 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 June 30th and within 15 days before or after December 31st 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 8.6. 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.

- (d) The first deadline to submit a report to the District under this Rule is:
 - (1) February 1, 2012, for existing wells and for new wells completed before _____; and
 - (2) no later than the first August 1 or February 1 following the date the well was completed for new wells drilled after _____.
- (e) Persons participating in the early fee payment incentive program under Rule 6.3 shall submit reports according to the timelines set forth under Rule 6.3 to the extent that the timelines under Rule 6.3 are in conflict with this rule.

SECTION 4.
SPACING AND LOCATION OF WELLS; WELL COMPLETION

Rule 4.1 Spacing and Location of Existing Wells.

Wells drilled prior to _____ shall be drilled in accordance with state law in effect, if any, on the date such drilling commenced and are exempt from the spacing and location requirements of these rules to the extent that they were drilled lawfully.

Rule 4.2 Spacing and Location of New Wells.

- (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) After authorization to drill a new well has been granted by the District, the well may only be drilled at a location that is within ten (10) feet of the location specified in the registration.
- (c) Replacement wells must be actually drilled and completed so that they are located no more than 50 feet from the well being replaced.
- (d) 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.

- (e) 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.

SECTION 5.
REGULATION OF PRODUCTION; WASTE PROHIBITED

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.

SECTION 6
TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT

Rule 6.1 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 well and submit timely payment of the

Groundwater Transportation Fee to the District under Rule 7.2 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 if the majority of the geographic area of the retail public utility's boundaries or defined service area is within the boundaries of the District and the majority of the groundwater produced is used within the boundaries of the District. If conditions change over time such that the majority of such geographic area or use is not within the boundaries of the District, the groundwater transported for use outside the District shall be assessed the Groundwater Transport Fee.

Rule 6.2 Reporting

An entity or person transporting groundwater for use outside of the District and subject to the requirement to pay the Groundwater Transport Fee shall file period 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 3.10. 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 entity or person; (2) the well registration numbers of each well from which the entity or 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 7. **FEES AND PAYMENT OF FEES**

Rule 7.1 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 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.
- (c) 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.

Rule 7.2 Groundwater Transport Fees

The District shall impose a fee to the District's Water Use Fee 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). The procedures, requirements, and penalties related to payment of the Water Use Fee shall apply to payment of the Groundwater Transportation Fee.

Rule 7.3 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 semi-annually. Fees for water produced or transported between January 1st and June 30th each year are due to the District by August 1st of the same calendar year; fees for water produced or transported between July 1st and December 31st each year are due to the District by February 1st of the following calendar year. Fee payments shall be submitted in conjunction with the Water Production Reports, monthly logs, and groundwater transport reports if applicable.
- (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) 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 January 1 to June 30, 2012, which shall be due to the District no later than September 1, 2012.

Rule 7.4 Failure to Make Fee Payments

- (a) Payments not received within 30 days following the date that Water Use Fees or Groundwater Transportation Fees are due and owing to the District pursuant to Rule 7.3(a) will be subject to a late payment fee of the greater of the following:

- (1) \$25.00; or
 - (2) Ten percent (10%) of the total amount of water use fees due and owing to the District.
- (b) Persons and entities failing to remit all Water Use Fees or Groundwater Transportation Fees due and owing to the District within 60 days of the date such fees are due pursuant to Rule 7.3(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 7.5 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 7.6 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 of all relevant well logs are timely submitted to the District in accordance with these Rules. In the event the District does not timely receive all relevant well logs, or if rights granted within the registration are not timely used, the deposit shall become the property of the District.

Rule 7.7 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.

SECTION 8.
METERING

Rule 8.1 Water Meter Required.

- (a) Except as provided in Rule 8.2, the owner of a well located in the District and not exempt under Rule 2.1 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 8.2, 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 prior to producing groundwater from the well after _____.

- (b) A mechanically driven, 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 _____, 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.
- (c) 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 7.4. 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.
- (d) 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.
- (e) The owner of a well is responsible for the purchase, installation, operation, maintenance, and repair of the meter associated with the well.
- (f) Bypasses are prohibited unless they are also metered. This subsection shall not apply to any unmetered bypasses in existence on _____ but shall apply to bypasses installed after that date.

Rule 8.2 Water Meter Exemption.

Wells exempt under Rule 2.1 shall be exempt from the requirement to obtain a water meter under Rule 8.1.

Rule 8.3 Metering Aggregate Withdrawal.

Where wells are part of an aggregate system, one or more water meters may be used for the aggregate well system if the water meter or meters are installed so as to measure the groundwater production from all wells included in the system. The provisions of Rule 8.1 apply to meters measuring aggregate pumpage. A maximum of 50 gallons per minute shall be allowed for a well that is part of a an aggregate system.

Rule 8.4 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 8.5 Removal of Meter for Repairs.

A water meter may be removed for repairs and the well remain operational provided that the District is notified prior to removal and the repairs are completed in a timely manner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation. 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 8.6 Water Meter Readings.

The registrant of a well not exempt under Rule 2.1 must read each water meter associated with the well and record 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 3.10, along with fee payments as set forth under Section 7. The registrant of a well shall read each water meter associated with a well within 15 days before or after June 30th and within 15 days before or after December 31st each year, as applicable to the respective immediately preceding semi-annual reporting period, and 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 7.3.

Rule 8.7 Installation of Meters.

A meter required to be installed under these Rules shall be installed before producing water from the well on or after _____.

Rule 8.8 Enforcement.

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.

SECTION 9.
INSPECTION AND ENFORCEMENT OF RULES

Rule 9.1 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 9.2 Rules Enforcement.

- (a) If it appears that a person or entity 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.
- (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) 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.
- (d) 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 9.3 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:

- (a) the assessment of any fees or penalties adopted under Rule 9.2 for meter reading and inspection as a result of District inspections to obtain current and accurate pumpage volumes; and
- (b) additional enforcement measures provided by these Rules or by order of the Board.

Rule 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 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 9.6 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 serves, on each person to be made the subject of the hearing, written notice not less than 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 10.
EFFECTIVE DATE

Rule 10.1. Effective Date.

These Rules take effect on _____, which was the date of their original adoption. An amendment to these Rules takes effect on the date of its original adoption. 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 set forth in these Rules.

APPENDIX 1. 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 2.1.
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.

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 a well where mandated by rules, including drilling, equipping, completing, altering, or operating a well without a compliant and approved registration.
2. Failure to timely meter a well when required.
3. Failure to submit accurate Water Production Report within the required period.
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.

CIVIL PENALTY SCHEDULE FOR MAJOR VIOLATIONS

First Violation:	\$250.00
Second Violation:	\$500.00
Third Violation:	Civil Suit for injunction and damages

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.

* 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: **\$250 + total costs of remediation**

Failure to properly cement annular space: **\$500 + total costs of remediation**

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 recomplete or reconstruct the well in accordance with the District's rules, or may be ordered to plug the well.

IV. 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.

ATTACHMENT VII

NTGCD

Scope of Services

Project Overview

The North Texas Groundwater Conservation District (NTGCD) requires a GIS database and a web-based application with GIS capabilities for managing information from well-owners within the NTGCD boundary. This project is the first phase in a multi-phased approach to meeting that need. In this project, CDM will collect existing GIS well data from government entities and compile that information to design and create a GIS database. Well data will be obtained via an online web application whereby well owners can choose the location of their well and submit registration information. The location information and details about the well will be available for online viewing. Future phases are to include self-reporting well usage, payment processing, broader functionality and information available with the application and continued GIS maintenance and analysis.

Scope of Services

Task 1 - Needs Assessment

CDM will conduct a brief needs assessment to determine future requirements for GIS data management and application development. This needs assessment will consist of a meeting/interview with board members or board designated representatives. As well, CDM will also conduct research as to online procedures followed by other established Texas Groundwater Conservation Districts (these may be determined by the NTGCD Board-not to exceed five districts).

Deliverable: Memorandum containing a summary of findings and recommendations for proceeding with future project phases.

Assumptions: None.

Schedule: To be completed within two weeks of notice to proceed.

Task 2 - GIS

CDM will create a database design and obtain existing Well data and associated information from the following sources:

- TWDB
- TCEQ
- USGS
- Railroad commission
- TDLR
- Water Well Drillers of Texas

Additionally, parcel GIS data will be gathered from Cook, Denton and Collin Counties.

Deliverable: Geodatabase with well locations and existing well attribute information. Parcel layers from County Appraisal districts.

Assumptions: GIS data layers will be input as-is with minimal analysis. It is likely the source data is not current or spatially accurate.

Schedule: To be completed within 4 weeks of notice to proceed

Task 3 - WebGIS Development – Phase I

CDM will develop an externally-facing public website utilizing Esri's ArcGIS Server and Flex technology to assist the District in collecting, compiling, and managing well locations and supporting information. The website will allow users to self-register their well or wells and allow them to view and edit the information submitted. The website will be hosted on CDM's server for the first year. The website will contain the following functionality:

- Website will launch via link from NTGCD home page
- Website will support public access via Username and Password
 - User creates Login (email address) and password on Login Creation Screen
- Website will support collection of information for Residential and Commercial Wells (all wells within district)
 - Information collected will include current data collected on the Texas Department of Licensing and Regulation Well Report and additional information for 'location description text'
- Add New Well (Map Interface with Base Map Layers and Data Entry Form)
 - User clicks on map to initialize the input forms for data collection
 - User inputs data fields including Text Description and X,Y location from Well Driller's Report

- Data Validation and Mandatory fields will be enforced
 - Map Selection Tool and Edit Mode to update existing information
 - Well Locations and Data will be required to be 'approved' by an Administrator
 - For multiple wells for a single owner, repetitive information will be pre-populated on the data input screen.
- PDF version of the Data Entry form will be made available for users with no internet access.
- Administrative Console for Reviewing, Editing, Approving and Reporting data.

CDM will provide 2 days of onsite training on the use of the system for administrators.

Deliverables:

- Public facing website for the purpose of collecting well information in the North Texas Groundwater Conservation District
- Training for board members and other designated representatives of NTGCD

Assumptions: CDM will host the final GIS application. Application will not be responsible for editing information collected in GIS Task (above). Expected user load of no more than 20 concurrent users.

Schedule:

The application will be delivered in three phases – Prototype, Beta, and Final Release. NTGCD will have the opportunity to review the website and provide comments at the Prototype and Beta releases.

The Prototype will be delivered 4 weeks after notice to proceed.

The Beta release will be delivered 6 weeks after notice to proceed.

The Final Release will be delivered 8 weeks after notice to proceed.

WebGIS Development – Phase II (Post April, 2011 – Not Budgeted)

CDM will develop additional functionality to the externally-facing public website allowing users to report their monthly water usage and pay their bill online. Phase II will add the following functionality upon agreement between NTGCD and CDM:

- User console for reporting monthly water usage
- System will calculate the amount owed by the user
- User console or interface to online payment system (to be determined).
- Additional functionality added to the Administrative console to track non-payment, late payment, or missing reporting.
- Reporting Module to allow pre-determined or custom data reporting.

GIS Maintenance (Post April, 2011 – Not budgeted)

CDM will provide ongoing maintenance support for the GIS based on time and materials. Maintenance tasks will include (but not limited to):

- Quality control of registrant data entry
- Analysis and reporting comparing data from existing sources with owner data entry

Web GIS Hosting (Post 2011 – Not Budgeted)

CDM will provide a WebGIS hosting service to NTGCD for the Well Tracking website including 4 quarterly updates of GIS data.

Fees for Consulting Services

CDM shall be paid a lump sum fee of \$69,268 for Tasks 1, 2, and 3 outlined in this document (including ODCs). Fees shall be billed monthly based on the percentage complete per task. Fees per task are summarized as follows:

NTGCD Only:

Task 1 – \$3,222

Task 2 – \$14,088

Task 3 – \$51,258

Other Direct Costs - \$700

NTGCD and Second Entity: (Cost Per Entity) Assuming all requirements are exactly the same as NTGCD.

Task 1 – \$3,222

Task 2 – \$13,488

Task 3 - \$33,810

Other Direct Costs - \$700

NTGCD and Second and Third Entity: (Cost Per Entity) Assuming all requirements are exactly the same as NTGCD.

Task 1 – \$3,222

Task 2 – \$13,288

Task 3 - \$27,994

Other Direct Costs - \$700

ATTACHMENT X

**ADMINISTRATIVE SERVICES AGREEMENT
 BETWEEN THE GREATER TEXOMA UTILITY AUTHORITY AND
 THE RED RIVER GROUNDWATER CONSERVATION DISTRICT**

STATE OF TEXAS	§	STATE OF TEXAS
	§	
GREATER TEXOMA UTILITY AUTHORITY	§	RED RIVER GROUNDWATER CONSERVATION DISTRICT
	§	

This Agreement, made and entered into by and between the Greater Texoma Utility Authority, hereinafter referred to as (“Authority”) and the Red River Groundwater Conservation District in Fannin and Grayson Counties, Texas, hereinafter referred to as (“District”).

WITNESSETH:

WHEREAS, the District is experiencing a need for administrative services in order to achieve the objectives provided in its enabling legislation and Chapter 36 of the Texas Water Code; and

WHEREAS, the Authority has staff experienced in water related activities; and

WHEREAS, the District has determined that it is in the best interest of the District to engage the Authority to assist in providing administrative assistance in establishing the District’s programs and activities; and

WHEREAS, the District has determined that the proposal dated October 19, 2010, from the Authority, as said proposal is modified and supplemented herein, is in the best interest of the District and that the Authority is qualified and capable of providing such services;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and of the terms and conditions hereinafter set forth, the parties agree as follows:

1. The Proposal. The term "Proposal" as used herein refers to the Proposal made and submitted by the Authority to the District dated January 31, 2011, as amended, modified, or supplemented herein. (attached hereto as “Exhibit A”)

The Proposal is a general guideline for the commencement of administrative activities and related services. Said Proposal is amended and superseded by specific terms of this Agreement, which may be amended in writing from time to time upon agreement of the Authority and the District.

2. Administrative Services. The Authority shall perform administrative services for the District at the direction of the District Board, and the District Board President to the extent that the

Board President's direction does not conflict with any District or Authority rule, policy, or order of the District or Authority Board. Such directions from the District Board and Board President regarding the performance of administrative services shall supplement any specific services delineated in this Agreement or the attached Proposal. Administrative services shall include, but not be limited to recording and communication services, database collection and well registration services, as well as assistance in developing personnel policies, operating procedures, refining of temporary rules and developing a management plan. Administrative services shall also include performance of the duties of the "General Manager" as set forth in the District's Temporary District Rules, Bylaws, rules and orders, subject to the directions and orders of the District Board and Board President. The Authority shall not retain outside professional services to be reimbursed by the District without prior authorization from the District. The District Board shall retain ultimate authority in decision-making under the District's Rules.

3. Charges and Payment.

(A) The District acknowledges the changes which have been incurred with the Authority in the amount of \$ _____, and agrees to pay these charges as a part of this Agreement.

(B) Monthly payments shall be made by the District to the Authority for actual costs incurred including hourly wages and benefits of the Authority employees, extra travel costs to and from the District, and other direct costs, including fees for professional services. The Authority shall invoice the District for any such services performed hereunder during the preceding thirty (30) day period, said invoice to be presented by the 25th day of the following month. Said invoice shall be itemized in such a manner that the District may determine the reasonableness of the charges submitted. The District shall pay the full amount of invoices received from the Authority by the tenth day of the month following receipt of any such invoice unless notice of protest or disagreement is given to the Authority within seven (7) business days after receipt of said invoice. Failure of the Authority and the District to agree upon payment of such invoice within thirty (30) days of protest shall be grounds for termination under Paragraph 4 unless the parties can otherwise agree in writing to a schedule of payment.

4. Terms of Agreement. The Term of this Agreement shall be for a 12-month period commencing as of the effective date of this Agreement, which shall be the later date that the District or the Authority executes this Agreement. This Agreement may be renewed upon expiration of the 12-month term of this Agreement by written agreement between the parties. Either the District or the Authority may terminate this agreement for any reason at any time upon ninety (90) days written notice of termination to the other party. Should the Authority or the District elect to terminate this Agreement, the District shall remain responsible for its share of any costs for which it is obligated that remain existing and unpaid as of the effective date of termination.

5. Indemnity. Neither the District nor the Authority shall be liable to the other for loss, either direct or consequential. All such claims for any and all loss, however caused, are hereby

waived. Said absence of liability shall exist whether or not the damage, destruction, injury, or loss of life is caused by the negligence of either party or of any of their respective agents, servants, or employees. It is contemplated that each party shall look to its respective insurance carriers for reimbursement of any such loss. Neither party shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless it is specifically covered therein as an additional insured. Nothing contained in this Agreement is intended by either party to create a partnership or joint venture, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any party as an agent of any other party, for any purpose whatsoever. It is understood and agreed that by execution of this Agreement, no governmental powers or immunities are waived or surrendered by either the District or the Authority.

6. Independent Contractor. The Authority is, and shall perform this agreement as, an independent contractor, and as such, shall have and maintain complete control over all of its employees, subcontractors, agents, and operations. Neither the Authority nor anyone employed by it shall be, represent, act, purport to act or be deemed to be the agent, representative, subcontractor, employee, officer or servant of the District. No employee or agent of the District shall be, represent, act, or purport to act or be deemed to be the agent, representative, subcontractor, employee, officer, or servant of the Authority.

7. Surety Bond. Any officer, employee, or agent of the Authority who collects, pays, or handles any funds of the District shall furnish good and sufficient bond payable to the District in an amount determined by the District Board to safeguard the District. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the District. The bond shall be signed or endorsed by a surety company authorized to do business in Texas. The District Board hereby determines that the initial amount of each bond shall be set at \$50,000.00, and may alter the amount pursuant to a minute order or resolution adopted at a properly noticed meeting. The District Board shall provide the Authority with notice of any such alternative amount. The District shall reimburse the Authority for its out-of-pocket costs incurred in connection with the purchase of bonds payable to the District. Any such out-of-pocket costs exceeding \$2500.00 per year shall require prior approval of the District Board. The Authority shall limit the collection, payment, or handling of District funds only to the officers, employees, and agents of the Authority who have been bonded in accordance with this paragraph.

8. No Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties hereto, and all duties and responsibilities undertaken pursuant to this Agreement shall be for the sole and exclusive benefit of the parties hereto, and not for the benefit of any other party. There are no third party beneficiaries to this Agreement.

9. Assignment. This Agreement shall not be assignable except at the written consent of the Authority and the District hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the Authority and the District thereto.

10. Notices. All notices given under this agreement shall be deemed properly served if delivered in writing personally, or sent by certified mail to George "Butch" Henderson, President, Red River Groundwater Conservation District, 5100 Airport Drive, Denison, TX 75020-8448, and to the Authority addressed to the General Manager, Greater Texoma Utility Authority, 5100 Airport Drive, Denison, TX 75020-8448. Date of service of notice served by mail shall be the date on which such notice is deposited in a post office of the United States Postal Service. Either party may change their respective addresses for notice by providing notice of such address change in the aforesaid manner with specific reference to this Agreement.

11. Authority Financial Obligations. Nothing in this agreement shall be construed to require the Authority to expend funds from any source other than the revenues received hereunder. All costs required by valid rules, regulations, laws, or orders passed or promulgated by the United States of America, the State of Texas, and regulatory or judicial branches thereof having lawful jurisdiction shall be the responsibility of the District.

12. Entire Agreement. This agreement embodies the entire understanding between the Authority and the District hereto relative to the subject matter hereof and shall not be modified, changed or altered in any respect except in writing signed by the Authority and the District.

13. Governing Law and Severability. This agreement shall be governed by the laws of the State of Texas and the venue in Grayson County, Texas. The provisions of this agreement shall be deemed to be severable and the invalidity of or inability to enforce other provisions hereof. In the event of a conflict between the terms of this Agreement and any exhibit attached hereto, the terms and conditions of this Agreement shall take precedence.

14. Interpretation. Although drawn by the Authority, this contract shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their legally authorized representatives to be affixed hereto, having been duly approved by the respective governing bodies and effective on the last date of execution as set forth below.

GREATER TEXOMA UTILITY AUTHORITY
5100 AIRPORT DRIVE
DENISON TX 75020-8448

RED RIVER GCD
5100 AIRPORT DRIVE
DENISON TX 75020-8448

BY: _____
President

BY: _____
President

DATE: _____

DATE: _____

ATTEST:

Secretary-Treasurer

ATTEST:

Secretary

Scope of Services

- I. Recording and Communication Services
 - Act as point of contact for well owners by answering questions regarding rules
 - Provide all postings for meetings and submit to county clerks
 - Provide notice postings in timely manner
 - Mail notices and rules as needed
 - Prepare agenda after consultation with President
 - Prepare and e-mail draft minutes to Board of Directors
 - Complete minutes after review by Board of Directors
 - Maintain website as needed
 - Establish and maintain paper and electronic filing system
 - Provide written communications to well owners, TWDB and others as needed
 - Draft correspondence for signature by designated persons

- II. Database Collection on Registered and Non-Registered Wells in the District
 - Research TCEQ records to determine number of and extent of existing well data
 - Research records from Texas Well Driller's Association and TWDB
 - Establish database with information from TCEQ, Texas Well Driller's Log and TWDB (paper and digital)
 - Develop mapping program, which will depict wells in each RRGCD county
 - * Recommend utilizing ArcView GIS software for this process
 - Work with well owners to register wells and collect well registration fees

- III. Development of Personnel and Other Policies
 - Prepare and present drafts of personnel policies for review by appropriate committee and Board of Directors
 - Prepare and present drafts of operating procedures for future staff to follow
 - Assist Board of Directors in training personnel for District at appropriate time

- IV. Assistance for Rule Development
 - Assist Board of Directors in refining temporary rules
 - Assist Board of Directors in the development of a Management Plan

- V. Accounting
 - Provide accounting services including keeping financial records, issuing invoices, paying invoices, etc.

Approach to Provision of Services

- Staff is able to work diplomatically with well owners and others
- Use 800 number on all letterhead and other communication for calls to make contact easier for well owners
- Well-acquainted with TWDB staff
- Utilize assistance from Texas Association of Groundwater District members
- Coordinate District activities with GMA 8 activities
- Develop records and procedures in a manner that will make for easy transition when desired
- Much of the work can be accomplished by internet
- The RRGCD is not required to complete all of its goals the first year
- The RRGCD should not feel as if it is the first GCD to address an issue – usually a TAG member can advise of their experience on the same problem.
- All District expenses will become an added cost to the water producers and ultimately water customers
- The first five years budgets will require a debt repayment line item

Estimated Cost of Services

The Authority is a public agency. The Board's approach to provision of services has always been to seek reimbursement for the costs of providing the services requested. These costs include:

- The salary and employer personnel costs (social security, worker's compensation insurance, retirement, and accounting, etc.)
- Mileage for travel required at the rate set annually by IRS
- Any direct expenses required to provide the services requested (telephone charges, copies, postage, and similar expenses directly associated with the project)
- Billing Rates:
 - Secretary/Mapping Technician - \$35 per hour
 - Project Coordinator - \$43 per hour
 - Administration - \$80 per hour
 - Accounting - \$100 per month

Contracting for services is not unusual. The Northern Trinity Groundwater Conservation District currently has an agreement with the Benbrook Water Authority and the North Texas Groundwater Conservation District has contracted for services with GTUA.

Estimated
RRGCD Draft Budget
12-Month Period

I.	Recording and Communication Services	
•	Secretary/Mapping Technician – 20-25%	500 hours x \$35/hr = \$17,500
•	Administration – 3%	60 hours x \$80/hr = \$4,800
II.	Data Collection on Regulated and Non Regulated Wells	
•	Secretary/Mapping Technician – 15-20%	300 hours x \$35/hr = 10,500
•	Project Coordinator – 25%	520 hours x \$43/hr = 22,360
	* Field well site visits not included	
III.	Development of Personnel and Other Policies	
•	Administration – 3%	60 hours x \$80/hr = \$4,800
IV.	Assistance in Rule Development	
•	Administration – 6%	135 hours x \$80/hr = \$10,800
V.	Accounting and Finance	\$110 per month x 12 = \$1,320 \$120 per quarter x 4 = \$480

Direct Costs

Telephone	\$600
Supplies – Files	\$500
Copies (10¢ each)	*
Mapping Software	\$1,500
Mileage (50¢ per mile)	
Field Records	\$1,200

ESTIMATED TOTAL COST: \$76,360