

Item 4 – Consideration of Amendments to District Rules

Beginning in September 2022, District staff was tasked with going through the current District Rules to determine any revisions that would enhance the conservation, protection, and preservation of groundwater resources managed by the District. The Rules Committee met December 8, 2022 following a Regular Board meeting to discuss staff recommendations for rules revisions. The committee decided to move the items to the new Rules Committee to be named in January 2023.

The Rules Committee met on March 13, 2023 to discuss a litany of rules revisions dealing with well spacing, footprint overlap, meter calibration, etc. The Rules Committee held a workshop July 10, 2023 open to all board members and the public to thoroughly discuss suggested rules revisions. Those revisions are attached and show both the current rule and the red-lined version containing proposed new language.

Several of the rule revisions deal directly with bills passed during the 88th Legislative Session. During the July 13, 2023 Regular Board Meeting, the Board reviewed the proposed rule language, made suggestions for revision, approved the proposed rule language for public posting, and set a Rules Hearing date of September 14, 2023.

This agenda item is posted to allow the Board to further discuss the proposed rule revisions and review minor language revisions added by District staff for clarification purposes (Rules 8.5, 8.8 & 8.9).

RULE 8.5. OPERATING PERMIT TERM AND RENEWAL

- (a) Permit Renewal Application Deadline – An application to renew permits must be made within fourteen (14) calendar days prior to the last scheduled Board meeting before the expiration of the permit. If an application to renew a permit is not received during this time, the permit may lapse and the well owner may be subject to penalty if the well is operated without a valid permit. Once the permit has lapsed, the landowner or well owner may have to apply for a new operating permit.
- (b) Duration of Permit – All operating permits and permit renewals are effective for a term of five (5) years from the date a permit is granted, unless granted a one (1) year term under Rule 8.3(j), or otherwise stated on the permit. Except, an operating permit for a well or well site will automatically expire three years from its issuance if the permitted well(s) has not been completed ~~or is not significantly under development~~. A well is completed when it has been drilled and constructed to permitted specifications, had a pumping test performed, and a well report submitted to the District and the state.

(1) Permitted Authorized Production Fee

If the well is not completed within three years from the issuance of the initial permit, permittee may opt to retain its permit for the duration of the initial permit term and avoid immediate permit expiration of the permit by paying fees for the well(s), based on the highest authorized permitted amount, as specified in the District's annually adopted fee schedule. If the well is then not completed by the end of the initial five-year permit term, the permit shall expire.

(2) Permitted Actual Production Fee

Once the well has been completed, water use fees associated with the actual amount of water withdrawn from the well(s) will be applicable, as specified in the District's annually adopted fee schedule.

- (3) A well(s) that has not been completed within its initial permit term as of September 14, 2023, shall be allowed until September 14, 2026, to complete the initially-permitted well(s), and may have the option for the one-time additional extension, listed in (1) above, to pay the Permitted Authorized Production fee. The initial permit shall expire if the well(s) is not drilled-completed by September 14, 2026, or if paying the Permitted Authorized Production Fee extension, in (1) above, the initial permit shall expire if the well(s) is not drilled-completed by September 14, 2028.**

RULE 8.8. OPERATING PERMIT LIMITATIONS (revised)

- (a) Maximum Authorized Withdrawal. It is a violation of these Rules to withdraw any amount of water over the authorized permit limits **or for an unauthorized purpose**.
- (b) Operating Permit Required. It is violation of these Rules to withdraw groundwater from a non- exempt well without an operating permit from the District, except as provided by Rule 8.3 (b)(2).

RULE 8.9. PERMIT AMENDMENTS

- (a) Permit Amendment Increasing Authorized Withdrawal **or Change Permitted Use**. A written, sworn application for a permit amendment to increase the authorized withdrawal **or change the permitted use** must be filed and an amendment granted before any over pumpage occurs.
- (1) Submission of application. An applicant for a permit amendment increasing the authorized withdrawal must demonstrate that the increased amount of withdrawal will be put to a beneficial use, and is consistent with the District's Rules and Certified Management Plan.
- (2) Action on amendment. Applications shall be considered by the Board, provided that the General Manager may rule on the first application for an amendment to an operating permit for an increase in total groundwater production up to, but not exceeding, 20 percent of the initially authorized total production amount without notice, hearing, or further action of the Board. Thereafter, such applications shall be considered by the Board. Once a ruling is made by the General Manager, notice of the ruling shall be served upon the applicant. Any applicant may appeal the General Manager's ruling by filing a written request for hearing within ten (10) business days of the date of service of the General Manager's decision. If a written request for a hearing is filed, or if the applicant seeks an increase greater than 20 percent of the initially authorized total production amount, notice shall be issued and a hearing conducted in the manner prescribed for operating permit issuance.
- (3) **If an existing permit is amended to increase the annual production amount or change the permitted use, then the entire permit must meet the production acreage rule in effect at the time that the administratively complete application is submitted for the permit amendment to increase the annual production.**

SECTION 2. BOARD

RULE 2.2. BOARD STRUCTURE, OFFICERS

The Board consists of the members appointed and qualified as required by the District Act. The Board will elect one of its members to serve as President, to preside over Board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; one to serve as ~~Secretary and/or Secretary~~/Treasurer to preside as President in case of the absence of the president and vice president; one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board and preside as President in case of the absence or disability of the president, vice president, and treasurer; and any other officer or assistant officers as the Board may deem necessary. Members and officers serve until their successors are elected or appointed and sworn in, in accordance with the District Act and these Rules.

RULE 5.2. JOINT PLANNING IN MANAGEMENT AREA (revised)

- (f) The desired future conditions proposed must be approved by a two-thirds vote of all the district representatives for distribution to the districts in the management area. A period of not less than 90 days for public comments begins on the day the proposed desired future conditions are mailed to the districts. During the public comment period and after posting notice as required by Section 36.063, each district shall hold a public hearing on any proposed desired future conditions relevant to that district. During the public comment period, the District shall make available in its office a copy of the proposed desired future conditions and any supporting materials, such as the documentation of factors considered and groundwater availability model run results. After the close of the public comment period, the District shall compile for consideration at the next joint planning meeting a summary of relevant comments received, any suggested revisions to the proposed desired future conditions, and the basis for the revisions; and any supporting materials, including new or revised groundwater availability model run results. This information compiled and submitted to the district representatives must be made available on a generally accessible Internet website maintained on behalf of the management area for not less than 30 days.
- (g) After ~~all the districts have submitted their~~each district has submitted to the district representatives the information required under (f) above and made the information available for the required period time under (f) above~~district summaries,~~ the district representatives shall reconvene for a joint planning meeting to review the ~~reports~~information required under (f) above, consider any district's suggested revisions to the proposed desired future conditions, receive public comment, and finally adopt the desired future conditions for the management area. The desired future conditions must be approved by a resolution by a two-thirds vote of all the district representatives not later than January 5, 2022. Subsequent desired future conditions must be proposed and finally adopted by the district representatives before the end of each successive five-year period after that date. The district representatives shall produce a desired future conditions explanatory report for the management area and submit to the development board and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:
- (1) identify each desired future condition;
 - (2) provide the policy and technical justifications for each desired future condition;
 - (3) include documentation that the factors under Subsection (c) were considered by the districts and a discussion of how the adopted desired future conditions impact each factor;
 - (4) list other desired future condition options considered, if any, and the reasons why those options were not adopted; and
 - (5) discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts during the public comment period or at the joint planning meeting were or were not incorporated into the desired future conditions.

SECTION 6. SPACING REQUIREMENTS

RULE 6.1. REQUIRED SPACING

- (a) To minimize as far as practicable the drawdown of the water table and the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, and to prevent waste, the District will enforce spacing requirements on all new wells in the District.

The TDLR well-spacing regulations required by 16 Texas Administrative Code Section 76.100, as amended, apply to all exempt and non-exempt wells in the District, unless a more stringent rule is adopted by the Board herein.

~~District spacing requirements do not apply to: wells drilled in the Brazos River Alluvium formation; domestic and livestock wells that are exempt under Rule 8.1(a); and mining related water wells under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.; and other water well permits issued by the Railroad Commission of Texas.~~

(b) Spacing in Wells, Except in the Brazos River Alluvium

As stated below, there are two types of spacing requirements, both of which apply to all new non-exempt wells and wells registered to provide water for oil and gas drilling, completion, or production in the District, other than those in the Brazos River Alluvium. The first spacing rule is the distance that the well site must be from the perimeter of the real property that is assigned to that well under Rule 7.1. The second spacing rule is the distance that the well site must be from all permitted non-exempt wells and all registered exempt wells.

~~(1) Spacing of new non-exempt wells completed in the Simsboro Formation shall be one half foot per gallon per minute (½ ft / gpm) of average annual production rate or capacity from the perimeter of the property that is legally assigned to that well.~~

(2) Spacing of all new non-exempt wells completed in the District, other than the Brazos River Alluvium ~~and Simsboro~~ aquifers, shall be one foot per gallon per minute (1 ft/gpm) of average annual production rate or capacity from the perimeter of the property that is legally assigned to that well.

A new well may not be drilled within a minimum of 50 feet from the perimeter of the property that is legally assigned to that well.

~~(3) Spacing of new non-exempt wells completed in the Simsboro Formation in the District shall be one foot per gallon per minute (1 ft / gpm) of average annual production rate or capacity from a permitted or registered well in the Simsboro Formation that is in the District.~~

(2) Spacing of all new non-exempt wells completed in the District, other than the Brazos River Alluvium and Simsboro aquifers, shall be two feet per gallon per minute (2 ft / gpm) of average annual production rate or capacity from a permitted or registered well in the same aquifer formation that is in the District or is by applied for to the District by the applicant.

(c) Spacing for New Non-Exempt Wells in the Brazos River Alluvium

The TDLR well-spacing regulations required by 16 Texas Administrative Code Section 76.100, as amended, apply to all non-exempt wells drilled into the Brazos River Alluvium, except that no well may be drilled less than fifty (50) feet from the adjacent property lines.

(d) Spacing for New Exempt Domestic and Livestock Wells

The TDLR well-spacing regulations required by 16 Texas Administrative Code Section 76.100, as amended, apply to all exempt domestic and livestock wells drilled in the District, except that no well may be drilled less than fifty (50) feet from the adjacent property lines.

(e) Spacing for Mining Wells

District spacing requirements do not apply to mining related water wells under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

RULE 6.2. EXCEPTIONS TO SPACING REQUIREMENTS

- ~~(a) If the applicant presents waivers signed by the landowners and/or registration/permit holders that are located within the spacing requirement circumference of the applied for well(s), stating that they have no objection to the proposed location of the well site, a waiver to the spacing requirements may be granted for the new proposed well location.~~

~~A waiver may be submitted to the District by a single permit holder to waive the spacing requirements between the permit holder's own wells within in a single well field. The District may waive the spacing requirements on the well field if the applicant submits adequate evidence showing that the increased cone of depression caused by the well field will not increase the impact on nearby existing wells, or cause an overall reduction in the total amount of groundwater available within the District, any greater than the spacing requirements under rule 6.1(2)(3).~~

- ~~(b) Providing an applicant can show, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the required spacing of Rule 6.1, the issue of spacing requirements will be considered during the permitting process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well(s) to minimize injury to existing wells or the aquifer.~~
- ~~(c) The Board or General Manager, if authorized by the Board, may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.~~
- ~~(d) Well spacing rules do not apply to wells completed in the Brazos River Alluvium.~~
- ~~(e) Well spacing rules do not apply to wells that are exempt under Rule 8.1. However, non-exempt wells are required to observe spacing requirements from exempt wells completed in the same aquifer and that are registered with the District.~~
- (f) Well spacing of new non-exempt wells completed in the District are exempted from complying with Rule 6.1(b)(3),(4) from permitted wells completed in the same aquifer, to the extent that the spacing does not allow the new well owner to produce their Production Based Acreage under Rule 7.1(c).

SECTION 7. PRODUCTION LIMITATIONS

RULE 7.1. MAXIMUM ALLOWABLE PRODUCTION

(c) Production Based Acreage

A permit holder’s groundwater production for a new non-exempt well drilled in all aquifers within the District, except the Brazos River Alluvium, is limited by the number of contiguous acres that are legally assigned to the well site. The contiguous acreage assigned to the well bears a reasonable reflection of the cone of depression impact near the pumped well, as based on the best available science and the required production-based acreage. The assigned contiguous acreage will be a circle based on the amount of groundwater production determined by the following formula:

$$\frac{\left(\begin{array}{l} \text{Average Annual} \\ \text{Production Rate} \\ \text{in Gallons/Minute} \end{array} \times \begin{array}{l} \text{District Spacing} \\ \text{Requirement} \\ \text{Between Wells} \end{array} \right)^2 \times \pi}{43,560} = \begin{array}{l} \text{Total number of} \\ \text{contiguous acres} \\ \text{required to be assigned} \\ \text{to the well site} \end{array}$$

The average annual production capacity or rate is defined as the permitted annual production amount in acre-feet multiplied by 0.62 to equal gallons per minute of production on an average annual basis. The assigned contiguous acreage circle footprints under this formula shall not overlap between wells.

~~More than one well may be assigned to the production acreage at the discretion of the Board as long as the spacing requirements are met.~~ The maximum well pumping capacity denoted in gallons per minute in an operating permit does not mean that the well is authorized by the District to pump that maximum capacity on a year round basis. The authorized amount of water to be produced annually by a permittee is not tied to the pump size. The authorized withdrawal amount of groundwater is stated in each well permit as the rate of production, which authorizes a maximum gpm production, not to exceed a specified number of acre-feet of groundwater production each year.

SECTION 8. REGISTRATION AND PERMITTING (revised)

RULE 8.1. EXCLUSIONS AND EXEMPTIONS

- (c) A groundwater well drilled or operated within the District under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the Railroad Commission and is exempt from regulation by the District.
- (1) Groundwater produced in an amount authorized by a Railroad Commission permit may be used within or exported from the District without a permit from the District.
 - (2) To the extent groundwater is produced in excess of Railroad Commission authorization, the holder of the Railroad Commission permit must apply to the District for the appropriate permit for the excess production and is subject to the applicable regulatory fees.
 - (3) Groundwater produced from a well under the jurisdiction of the Railroad Commission is generally exempt from District fees. However, the District may impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the District under this subsection may not exceed the fee imposed on other groundwater producers in the District.
- (d) A groundwater well drilled for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District.
- (1) The District may cancel a previously granted exemption and may require an operating permit for or restrict production from a well and assess any appropriate fees if the groundwater withdrawals that were exempted under this Subsection and are no longer used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district.
 - (2) An exemption for a well described by (c) may not exceed 180 days. The District may grant an extension of the exemption until the well is complete.

RULE 8.3. PERMITTING OF NON-EXEMPT WELLS (revised)

(h) Meters.

All groundwater production from wells in the District is required to be metered, except for groundwater produced from domestic and livestock wells exempt under Rule 8.1(a) and wells in the Brazos River Alluvium Aquifer. The District maintains the discretion to require meters on wells in the Brazos River Alluvium Aquifer.

(1) The accurate reporting and timely submission of pumpage and/or transported volumes is necessary for the proper management of water resources. Proper flow meter installation is essential to accurate water production data being measured. The permittee shall submit complete, accurate, and timely metered pumpage and transport reports as required by the District.

a. The District may require permittees to calibrate flow meters for all permitted wells at regular intervals. Documentation of the calibration/verification for each flow meter shall be submitted to the District by July 1 of the required year, unless another date is approved by the General Manager.

Flow meters shall be calibrated at the following intervals:

(i) Annual meter testing for wells that permitted for more than 500 ac-ft/yr

(ii) Testing every three years for wells permitted for 100-499 ac-ft/yr

(iii) Testing every five years for wells permitted for less than 100 ac-ft/yr

(iv) All meters on all non-exempt wells must be calibrated during the 2024

1. — calendar year and verification of calibration submitted to the District.

~~a.~~b. When required, each flow meter in permitted wells shall be tested for accuracy as installed in place and submit a certificate of the test results. The certificate shall be in a form acceptable to the District. Meters shall be tested by a third party qualified to measure meter accuracy and approved by the District General Manager. If the test results indicate meter accuracy outside the range of 97% to 103% of the actual flow, then appropriate steps shall be taken by the well owner within 30 calendar days from the date of the test to recalibrate the meter to 100% of actual flow or repair or replace the water flow meter. Each meter shall be tested for accuracy on an annual basis. All testing equipment must be calibrated at the required interval by an independent testing laboratory or company capable of accuracy verification.

RULE 8.4. APPLICATIONS (revised)

- (b) An application shall be in writing and sworn and shall contain:
- (1) the name and mailing address of the applicant and the name and address of the owner of the land, if different from the applicant, on which the well is to be located;
 - (2) if the applicant is not the owner of the property, documentation establishing the applicable authority to construct and operate a well on the owner's property for the proposed use;
 - (3) the applicant must provide evidence that they have the legal authority to produce the groundwater associated with the land surface and the permit application, as required by Rule 7.1(c). The applicant must also provide any documents that transfers that right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface and the permit application, as required by Rule 7.1(c). A permit may be amended or revoked if the groundwater rights or right to produce, related to a permit under Rule 7.1(c), are legally transferred to another person/entity. The applicant shall attest to the information required in this rule by a District-provided affidavit form and submit the affidavit with the permit application. A notarized original of any legal document affecting the legal authority to produce groundwater on real property in Brazos and Robertson counties is required to be filed with the county deed records;
 - (4) for exempt wells, a statement regarding the basis for asserting that the well will be exempt under Rule 8.1;

RULE 8.4. APPLICATIONS

(a) Each original application for a certificate of registration, water well drilling permit, operating permit, transport permit, and permit renewal or amendment requires an application by the applicant. Applications for multiple wells may be combined if submitted by the same applicant. Each well on an application for multiple wells will be assigned an individual operating permit detailing production rate and total maximum annual production. Application forms will be provided by the District and furnished to the applicant by request. The District will hold hearing(s) on a permit application(s) in accordance with Section 14 of the District's rules.

(b) An application shall be in writing and sworn and shall contain:

- (1) the name and mailing address of the applicant and the name and address of the owner of the land, if different from the applicant, on which the well is to be located;
- (2) if the applicant is not the owner of the property, documentation establishing the applicable authority to construct and operate a well on the owner's property for the proposed use;
- (3) the applicant must provide evidence that they have the legal authority to produce the groundwater associated with the land surface and the permit application, as required by Rule 7.1(c). The applicant must also provide any documents that transfers that right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface and the permit application, as required by Rule 7.1(c). A permit may be amended or revoked if the groundwater rights or right to produce, related to a permit under Rule 7.1(c), are legally transferred to another person/entity. The applicant shall attest to the information required in this rule by a District-provided affidavit form and submit the affidavit with the permit application;
- (4) for exempt wells, a statement regarding the basis for asserting that the well will be exempt under Rule 8.1;
- (5) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose and any evidence supporting the authenticity of the intended beneficial use;
- (6) except for exempt wells and operating permits for Existing wells based on historic use, availability of feasible and practicable alternative supplies to the applicant;
- (7) except for exempt wells, wells in the Brazos River Alluvium, and wells not capable of producing more than 400 acre-feet/year:
 - (A) in the case of wells capable of producing over 400 acre-feet/year but less than 800 acre-feet/year: an evaluation of the projected effect of the proposed withdrawal on the aquifer or any other aquifer conditions, or effects on existing permit holders or other groundwater users in the District;

The evaluation report shall include the following:

- (1) The depth interval and water bearing zone proposed to be screened, the anticipated thickness of the water bearing zone, and whether the water

bearing zone is anticipated to be in an unconfined or confined condition.

- (2) A table giving data on each registered or permitted well located within one mile of the well(s) and screening the same aquifer. The well table shall include the name of the well owner, well registration or permit number, casing and screen diameters and depth settings, total well depth, and aquifer screened. A map shall be provided showing the location of the well(s) at a scale no greater than one-inch equals 1,000 feet.
- (3) An estimate of the drawdown that can be caused by pumping the well(s) at the permitted rate for one year and ten years at a distance of up to five miles from the well(s). Water-level drawdown contours shall be shown at ten-foot contour intervals. The estimate can be developed using the Theis equation and aquifer transmissivity and storage coefficients in the most recent TWDB approved version of the Queen City Sparta GAM or TWDB Yegua-Jackson GAM, as applicable. Aquifer hydraulic data available from other sources and in proximity to the well(s) also can be considered in estimating the water-level drawdown effects of pumping.
- (4) A table giving the estimated drawdown at the locations of existing registered and permitted wells contained in the BVGCD database that screen the same aquifer as the well(s) and are located within one mile of the well(s).

(5) After the well(s) is constructed, the well owner shall provide the District, if available,

- a. A copy of the State of Texas Well Report
 - b. A copy of any geophysical logs run in the pilot hole drilled for the well
 - c. A copy of any pumping test data for the well following construction
 - d. A copy of chemical analyses completed on water samples collected from the well after construction and well
- (5) development

- (B) in the case of wells capable of producing 800 or more acre-feet/year: study shall be conducted by a registered professional engineer or geologist that has expertise in groundwater hydrology evaluating the projected effect of the proposed withdrawal on the aquifer or any other aquifer conditions, or effects on existing permit holders or other groundwater users in the District. Five paper copies and an editable pdf copy of the report shall be submitted with the permit application.

The evaluation report shall include the following:

- (1) A description of the hydrogeologic conditions in proximity to the well(s) that includes:

- a. the surface geology
 - b. the depth interval of the proposed water bearing zone
 - c. the anticipated thickness of the water bearing zone
 - d. a statement of whether the water bearing zone is anticipated to be in unconfined or confined condition
 - e. a description of any hydrologic features or geologic features located within one mile of the proposed well(s) site(s),
- (2) A well table giving data on each registered or permitted well located within one mile of the well(s) and screening the same aquifer. The well table shall include the name of the well owner, well registration or permit number, casing and screen diameter and depth settings, total well depth, and aquifer screened. A map shall be provided showing the location of the well(s) giving the well registration or permit number at a scale no greater than one-inch equals 1,000 feet.
- (3) An estimate of the ~~water-level~~ water-level or artesian head drawdown that can be caused by pumping the well(s) at the permitted rate for one year, ~~and ten years~~ and twenty years at a distance of five miles from the well(s) producing 3,000 or less acre feet per year and ten miles for well(s) producing more than 3,000 acre feet per year. ~~Water-level~~ Drawdown contours shall be shown at ten-foot contour intervals. The drawdown contours should be based on simulations that isolate the effects of the requested amount of pumping. Application is advised to work with District staff regarding proposed volume and modeling methodology. The estimate of pumping effects shall be developed using the most recent TWDB approved version of the Queen City Sparta GAM or TWDB Yegua-Jackson GAM, as applicable. Aquifer hydraulic data available from other sources for wells located in proximity to the well(s) may be considered in estimating the water-level drawdown effects of pumping. Include in the evaluation an estimate of the drawdown at the locations of existing registered and permitted wells contained in the BVGCD database that screen the same aquifer as the well(s) and are located within one mile of the well(s). This estimate shall be developed using an analytical tool approved by the District and the best available science concerning local aquifer properties such as transmissivity and storativity.
- (4) An evaluation regarding the effects production from the applied-for-wells, if permitted, could have on the applicable desired future condition(s) adopted by the District considering:
- a. the modeled available groundwater determined by TWDB;
 - b. the TWDB's estimate of the current and projected amount of groundwater produced under exemptions granted by the District rules;

c. the amount of groundwater authorized under permits previously issued by the District

(5) After the well is constructed, the well owner shall provide the District, if available,

a. A copy of the State of Texas Well Report

b. A pdf copy of any geophysical logs run in the pilot hole drilled for the well

c. A copy of any pumping test data for the well following construction

(5) d. A copy of chemical analyses performed on water samples from the well following construction and well development

(C) the District may adopt a guidance document to specify the required contents of the hydrogeological evaluation or report.

(D) for a single well application, an applicant may request that the District engage its hydrologist to complete the required report specified in this subsection. The District has complete discretion to accept or deny the applicant's request. If the District does agree to have its hydrologist perform the report, then the applicant is required to pay for the District's actual costs of conducting the hydrogeological study. The District's hydrologist will not perform a report for a multiple well application or for multiple single-well applications that are submitted less than 24 months apart.

(E) A permittee that applies for an amendment to an existing permit seeking to increase the allowable production to 800 ac-ft/yr or more, must submit a hydrogeological study under (B), above, with their amendment application.

A permittee that applies for an amendment to increase an existing permit that currently has allowable production of 800 ac-ft/yr or more shall submit a new hydrogeological study under (B), above, if the requested amendment increases the annual production by 20% or more.

(8) the applicant's water conservation plan and, if any subsequent user of the water is a municipality or entity providing retail water services, the water conservation plan of that municipality or entity shall also be provided along with a copy of the contract between the applicant and any subsequent user of the water, indicating that the applicant and that municipality or entity will comply with the District's Conservation Plan.

(9) the location of the well(s) and the estimated rate at which water will be withdrawn and where the water is proposed to be used the District may access the well location and take GPS coordinates and photographs, in compliance with District Rule 15.1;

- (10) a well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the applicable authorities, including the District;
- (11) The identity of the well driller, including the well driller's license number; and,
- (12) Except for wells and wells in the Brazos River Alluvium Aquifer formation, the applicant shall send a certified letter of notification to all landowners and/or registration/permit holders that are located within the spacing-requirement circumference of the applied-for well(s). A copy of the landowner letters and proof that it was sent certified mail shall be submitted with the application.

The applicant shall also publish in a newspaper of general circulation in Brazos and Robertson counties a legal notice of the application. A copy of the publisher's affidavit showing publication of the notice shall also be submitted with the application.

The letter and published notices must include:

- (A) the name of the applicant;
- (B) the address or approximate location of the well or proposed well;
- (C) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
- (D) the contact information of the applicant and the District.

RULE 8.7. OPERATING PERMIT PROVISIONS (revised)

- (9) The issuance of this Permit does not grant to Permittee the right to use any private property, or any public property, for the production or conveyance of water. [This permit language does not prohibit a permit holder from selling groundwater if they have the legal right to do so.] Neither does this permit authorize the invasion of any personal rights nor the violation of any federal, state, or local laws, rules or regulations. Further, the District makes no representations and shall have no responsibility with respect to the availability or quality of water authorized to be produced under this permit.
- (10) Well Assistance Agreement. A permittee may enter into an agreement with the District to mitigate the drawdown of the water table, the reduction of artesian pressure, and/or the interference between wells, if supported by hydrological evidence and approved by the Board. A Well Assistance Agreement may be a permit provision.
- (11) All groundwater production from non-exempt wells in the District is required to be metered and meters shall be calibrated at the time of installation and at regular intervals thereafter. The frequency of calibration is based on the total maximum annual production permitted on each well as follows:
- (i) Annual meter calibration for wells permitted for 500 acre feet or more per year.
 - (ii) Calibration every three (3) years for wells permitted for 100-499 acre feet per year.
 - (iii) Calibration every five (5) years for wells permitted for less than 100 acre feet per year.
- (12) The permittee has provided evidence that they have the legal authority to produce the groundwater associated with the land surface and the permit application. The permittee must also provide any documents that transfers that right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface after the permit has been granted. The permit may be amended or revoked if the groundwater rights or right to produce related to a permit are legally transferred to another person/entity.

SECTION 9. FEES AND DEPOSITS (revised)

RULE 9.1. WATER USE FEES

Water use fees authorized under the District Act and Chapter 36, Texas Water Code, shall be paid to the District for water that may be withdrawn from non-exempt wells. The water use fee rate shall be established annually by Board resolution. ~~The rate will be applied to prior years actual or estimated total volume pumped.~~ Following issuance or amendment of an operating permit, the permit holder shall pay the District the assessed water use fee in accordance with Rule 9.3. For agricultural use, the Board may adopt by resolution a schedule setting a fee based upon irrigated acreage and crop grown. The District will review the account of any permittee changing the use of a well from non-exempt to exempt to determine if additional water use fees are due or if a reimbursement of water use fees is warranted. Reimbursements exceeding \$250 must receive Board approval.

SECTION 9. FEES AND DEPOSITS

RULE 9.1. WATER USE FEES

- (c) The District may impose a reasonable fee or surcharge for an export fee using one of the following methods, after a public hearing:
 - (1) a fee negotiated between the District and the transporter; or
 - (2) a rate not to exceed 20 cents for each thousand gallons, in addition to the District's production fee.
 - (A) The maximum allowable rate the District may impose for an export fee or surcharge under (2) above, increases by three percent each calendar year.
 - (B) The District may use funds obtained from an increase in an export fee imposed under (A) above, after January 1, 2024, only for costs related to assessing and addressing impacts associated with groundwater development, including:
 - (i) maintaining operability of wells significantly affected by groundwater development;
 - (ii) developing or distributing alternative water supplies;
 - (iii) conducting aquifer monitoring, data collection, and aquifer science.
- (d) The fees listed in subsection (a)(1)(2), herein reflect the fees allowed by state law. Actual fees are reflected in the district schedule of fees.
- (e) The District is prohibited from using revenues obtained from export fees to prohibit the transfer of groundwater outside of the District, but may use export fees for paying expenses related to enforcement of Chapter 36 of the Texas Water Code or the District Rules.
- (f) The fees may be used to pay the cost of operating the District, including for any purpose consistent with the District's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies or to maintain the operability of wells significantly affected by groundwater development to allow for the highest practicable level of groundwater production while achieving the desired future conditions established under Section 36.108.
- (g) The above-listed fees may be based on:
 - (1) the size of column pipe used by the well; or
 - (2) the actual, authorized, or anticipated amount of water to be withdrawn from the well.

RULE 10.4. HEARING AND PERMIT ISSUANCE (revised)

- (d) In addition to conditions provided by Section 36.1131, Texas Water Code, the operating permit to transport water out of the District shall specify:
- (1) the amount of water that may be transferred out of the District; ~~and~~
 - (2) the period for which the water may be transferred, which shall be:
 - (i) at least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to the terms 30 years if construction of a conveyance system is begun before the expiration of the initial term; or
 - (ii) at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit;-
 - (3) reporting requirements, including but not limited
 - (i) to flow meter installation, testing, and regulation calibration,
 - (ii) submission of production reports to the District,
 - (iii) separate meter requirements for exported water from non-exported permitted water;
 - (4) the installation and reporting of monitoring wells;
 - (5) Well Assistance provisions, if applicable;
 - (6) the required submission of all groundwater conveyance and user agreements related to the export permit;
 - (7) water conservation and drought contingency plans; and
 - ~~1-~~(8) periodic review and permit limitations based on aquifer conditions.
- (e) The District may periodically review the amount of water that may be transferred under an operating permit to transport water out of the District and may limit the amount if additional factors considered, related to the factors in Subsection (b), above.
- (f) After conducting its periodic review, more restrictive permit conditions may only be imposed if the factors in Subsection (c), above, are met.

RULE 14.2. NOTICE AND SCHEDULING OF PERMIT-RELATED HEARINGS (rev.)

- (a) The District shall promptly consider and act on each administratively complete application for a permit. If, within 60 days after the date an administratively complete application is submitted, the application has not been acted on or set for a hearing on a specific date, the applicant may petition the District court of the county where the land is located for a writ of mandamus to compel the District to act on the application or set a date for a hearing on the application, as appropriate.

Applications that are not administratively complete will be sent back to the applicant with a list of needed information. If a hydrological evaluation report is required as part of the application, the permit application cannot be declared administratively complete until the District's hydrologist deems that the submitted hydrological evaluation report is fully responsive to the District's requirements. If the District does not receive an administratively complete application within 60 days of the District sending the incomplete application notice, then the District may consider the application expired. If an incomplete application expires, the applicant will be required to submit a new application and the deadlines under this rule will begin again.

For applications requiring a hearing, the initial hearing shall be held within 35 days after the setting of the date, and the District shall act on the application within 60 days after the date the final hearing on the application is concluded. An administratively complete application requires information set forth in accordance with Sections 36.113, 36.1131, and these Rules.

RULE 14.2. NOTICE AND SCHEDULING OF PERMIT-RELATED HEARINGS (rev.)

- (2) The notice must include:
- (A) the name of the applicant;
 - (B) the address or approximate location of the well or proposed well;
 - (C) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
 - (D) the time, date, and location of the public hearing; and
 - (E) any other information the general manager or board considers relevant and appropriate.
- (3a) For permits applications requesting less than 800 ac-ft-yr of groundwater, not later than the 10th day before the date of a hearing, the general manager or board shall:
- (A) post notice in a place readily accessible to the public at the District office;
 - (B) provide notice to the county clerk of each county in the District; and
 - (C) provide notice by:
 - (i) regular mail to the applicant;
 - (ii) regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (4); and
 - (iii) regular mail to any other person entitled to receive notice under the rules of the District.
- ~~(3b) For permits applications requesting 800 ac-ft-yr or more of groundwater, not later than the 20th day before the date of a hearing, the general manager or board shall:~~
- ~~(A) post notice in a place readily accessible to the public at the District office;~~
 - ~~(B) provide notice to the county clerk of each county in the District; and~~
 - ~~(C) provide notice by:~~
 - ~~(i) regular mail to the applicant;~~
 - ~~(ii) regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (4);~~
 - ~~(iii) regular mail to any other person entitled to receive notice under the rules of the District;~~
 - ~~(iv) regular mail to all adjacent landowners, all other landowners within five (5) miles of the well site, and all existing well owners within ten (10) miles of the well site who have wells in the same aquifer as applicant. The Board shall adopt in its Fees Schedule the additional application fees to be paid by the applicant for the requisite mailed notices; and~~
 - ~~(v) publish notice in *The Bryan-College Station Eagle* and the *Robertson County News*. The Board shall adopt in its Fees Schedule the additional application fees to be paid by the applicant for the requisite published notices.~~

RULE 14.2. NOTICE AND SCHEDULING OF PERMIT-RELATED HEARINGS (rev)

- (d) Hearings may usually be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. ~~All~~ Most permit hearings will be held at the District Office. However, the Board may from time-to-time change or schedule additional dates, times, and places for permit hearings by resolution Board action adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times, and locations set at a regular Board meeting.

- (e) The District may assess fees to permit applicants for administrative acts of the District relating to a permit application. Fees set by the District may not unreasonably exceed the cost to the District of performing the administrative function for which the fee is charged.

RULE 14.3.5. DETERMINATION OF CONTESTED STATUS OF PERMIT HEARINGS
(revised)

- (a) Written Notice of Intent to Contest. ~~A request for contested case hearing shall be in writing and must be received by the District by 5:00 p.m. the day before the permit hearing. Any person who intends to protest a permit application and request a contested case hearing must provide written notice of the request to the District office at least five (5) calendar days prior to the date of the hearing.~~ If the Board of Directors intends to contest a permit application, the Board of Directors must provide the applicant written notice of that intent at least five (5) calendar days prior to the date of the hearing. ~~If no notice of intent to contest is received five(5) calendar days prior to the hearing, the General Manager as instructed by the Board of Directors, will cancel the hearing and the Board will consider the permit at the next regular Board meeting as an uncontested permit application.~~
- (b) Participation in a Contested Permit Hearing. The Board or Hearing Examiner may limit participation in a hearing on a contested application to persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and affected by a permit or permit amendment application, not including persons who have an interest common to members of the public.

RULE 14.4. GENERAL PERMIT-RELATED HEARING PROCEDURES (revised)

(c-2) Final Decision; Contested Case Hearings.

- (1) In a proceeding for a permit application or amendment in which the District has contracted with the State Office of Administrative Hearings for a contested case hearing, the board has the authority to make a final decision on consideration of a proposal for decision issued by an administrative law judge consistent with.
- (2) A board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the board determines:
 - (A) that the administrative law judge did not properly apply or interpret applicable law, District rules, written policies provided under Section 36.416(e), or prior administrative decisions;
 - (B) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
 - (C) that a technical error in a finding of fact should be changed.
- (3) A final decision issued by the board under this section must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the administrative law judge or include revised findings of fact and conclusions of law consistent with (2) above.
- (4) Notwithstanding any other law, a board shall issue a final decision under this section not later than the 180th day after the date of receipt of the final proposal for decision from the State Office of Administrative Hearings. The deadline may be extended if all parties agree to the extension.
- (5) Notwithstanding any other law, if a motion for rehearing is filed and granted by a board under Rule 14.4(o), the board shall make a final decision on the application not later than the 90th day after the date of the decision by the board that was subject to the motion for rehearing.
- (6) A board is considered to have adopted a final proposal for decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposal for decision if the board has not issued a final decision by:
 - (i) adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or
 - (ii) issuing revised findings of fact and conclusions of law as provided by (2) above.
- (7) A proposal for decision adopted under (6) above is final, immediately appealable, and not subject to a request for rehearing.

RULE 14.4. GENERAL PERMIT-RELATED HEARING PROCEDURES (revised)

(l) Continuance.

The presiding officer may continue a hearing from time to time and from place to place without providing notice under Section 14.2(b). If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties. A continuance may not exceed the time limit for the issuance of a final decision under (c-2) above.

(n) Board Action.

The board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. The board shall ensure a decision on a permit or permit amendment application is timely rendered in accordance with the provisions set forth in Chapter 36 of the Texas Water Code. In deciding whether or not to issue a drilling permit, operating permit, and/or transport permit, and in setting the terms of the permit, the Board will consider the Water Code Ch. 36, the District Act, the District's Rules Certified Management Plan, whether the application is accompanied by prescribed fees, and all other relevant factors.

(o) Requests for Rehearing and or Finding and Conclusions.

(1) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may administratively appeal a decision of the board on a permit or permit amendment application by making a request in writing to the board. A party seeking to appeal a decision by the board must request by requesting written findings of fact and conclusions of law not later than the 20th day after the date of the board's decision unless the board issued findings of fact and conclusions of law as part of the final decision.

(2) On receipt of a timely written request under (1) above, the board shall make written findings of fact and conclusions of law regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings of fact and conclusions of law to the person who requested them, and to each designated party, not later than the 35th day after the date the board receives the request. A party a contested case hearing may request a rehearing not later than the 20th day after the date the board issues the findings of fact and conclusions of law.

(3) A request for rehearing must be filed in the District office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing.

(4) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(5) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

(6) The board shall consolidate requests for rehearing filed by multiple parties to the contested case hearing, but only one rehearing may be considered per matter.

RULE 14.6. RULEMAKING HEARINGS PROCEDURES (revised)

- (i) Petition to Change Rules.

 - (a) A person with a real property interest in groundwater may petition the District where the property that gives rise to the real property interest is located to adopt a rule or modify a rule adopted under this chapter.
 - (b) Petitions must be submitted in writing to the District office and must comply with the following requirements:

 - (1) each rule requested must be submitted by separate petition;
 - (2) each petition must be signed and state the name and address of each person signing the petition;
 - (3) each petition must include:

 - (A) a brief description of the petitioner's real property interest in groundwater in the District;
 - (B) a brief explanation of the proposed rule;
 - (C) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and
 - (D) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.
 - (c) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this section and shall provide notice to the petitioner of the reason for the rejection.
 - (d) Not later than the 90th day after the date the District receives the petition, the District shall:

 - (1) deny the petition and provide an explanation for the denial; or
 - (2) engage in rulemaking consistent with the granted petition.
 - (e) Nothing in this section may be construed to create a private cause of action for a decision to accept or deny a petition filed under this section.

SECTION 16. WELL ASSISTANCE PROGRAM

Water Well Assistance Agreement

Introduction

This Agreement is designed to facilitate early, proactive, and voluntary mitigation measures to support community relations. Well mitigation associated with the Project will be conducted by the District in phases after certain events occur in the development of the Project that trigger funding (the Well Assistance Program). The first phase (pre-mitigation) will begin shortly after the Pending Production Permits are issued and will involve investigation and planning. The District will work to identify Potentially Eligible Wells (as defined in Section 1.0 below) and conduct diagnostics and evaluations to determine—on the basis of hydrologic modeling, Project proximity, and well data collection—which Potentially Eligible Wells the District believes are reasonably likely to be eligible for mitigation under the Well Assistance Program. The District, in its discretion, may deem mitigation to be warranted if it preserves the ability of well owner to continue to access groundwater through its existing well system, commensurate with the well’s production capacity (estimated from information in the well’s driller log filed with the District or from District-conducted diagnostics), given both the existing well conditions and the estimated Simsboro Aquifer responses to the Project (AP Wells, which are Assistance Program Wells). The second phase (mitigation) will involve mitigating AP Wells. The mitigation phase will begin once there is either a firm timeline for Permittee exporting at least 10,000 acre-feet per year or once Permittee actually produces over 15,000 acre-feet in a calendar year from the Simsboro Aquifer for on-site use or in aggregate for on-site and export uses. The District will apply its technical expertise to create appropriate prioritizations for the Well Assistance Program, based on the details of Project development, including how production and export volumes may change over time. A substantial portion of mitigation under the Well Assistance Program is expected to occur in the two years before the Project pumping to export at least 10,000 acre-feet/year begins. The mitigation phase will also involve responding to well owner concerns, consistent with the procedures set out herein.

The Well Assistance Program will take into consideration wells that are identified as having pre-existing construction deficiencies. Program dollars will not be utilized to correct such deficiencies or water quality issues. In general, mitigation options will be limited to lowering a pump, replacing pumping equipment, drilling a new well, or providing a connection to an existing public water supply. It is anticipated that nearly all mitigation cases will be unique and will depend on the construction and condition of the AP Well and pumping equipment and proximity to the Project.

Objectives of the Well Assistance Program

The primary objectives of the Well Assistance Program are:

- to assist existing owners/operators of AP Wells;
- to mitigate AP Wells in a manner that will address the ability of well owners to continue to access groundwater through, or in a manner comparable to, their existing well system, considering anticipated Simsboro Aquifer responses to the Project, while minimizing, to the

extent reasonable, any subsequent mitigation of the same well in the future (**Mitigation Standard**);

- to conduct well mitigation activities in a consistent manner that is fair to proximate well owners and builds consensus and support in the community;
- to respond to concerns/complaints of well owners through the sound technical evaluations and approaches in the mitigation procedures outline below in a timely manner; and
- to protect the Simsboro Aquifer as a resource by conducting mitigation of wells consistent with current state regulatory standards.

Mitigation Procedures

The following procedures will outline the general work flow, support services, and the outside services the District believes will be required to address mitigation of AP Wells pursuant to this Agreement. The District shall implement the Well Assistance Program consistent with these procedures.

Section 1.0 Mitigation Criteria

To be eligible for the Well Assistance Program, and subject to further evaluation by the District for potential mitigation, the well must meet the following criteria (**Potentially Eligible Well**):

- A. The well must currently screen sands of the Simsboro Aquifer.
- B. The well must be registered/permitted with the District. If the well is not currently registered/permitted with the District, a landowner could immediately file the necessary registration paperwork and then the well would be eligible for mitigation.
- C. The well must be active or have been active prior to October 20, 2022 with operational equipment capable of pumping Simsboro water to the land surface; or well owner must have submitted to the District an administratively complete application for an exempt or a nonexempt well prior to October 20, 2022. The District staff will determine if the well has been active.
- D. The well must be located in the District.
- E. The legal well and property owner(s) must provide the District with written consent for mitigation activities.

Baseline water levels of the Potentially Eligible Wells and/or AP Wells, as determined by the District, shall be measured by the District periodically and recorded in the District's Well Assistance Database.

2.0 Phase 1 Well Investigation

2.1 The District staff will conduct an initial well investigation, either by desktop review or in the field, as appropriate, to determine if a well is a Potentially Eligible Well and, if so, is an AP Well. District staff will collect the following information in an initial well investigation:

- A. Basic data:
 - 1) Legal Well Owner's Name
 - 2) Contact Information (Address, phone number, cell phone number)
 - 3) Primary Well Use

- 4) Secondary Well Use (if any)
 - 5) Well ID (State and/or Water District)
 - 6) Latitude and Longitude
 - 7) Casing Diameter, Screen Diameter, Casing Depth Setting and Screen Depth Setting
 - 8) Year Drilled
 - 9) Pressurized Storage Tank Volume
 - 10) Number of facilities provided water by well
 - 11) Contractor that constructed the well
 - 12) Any known well deficiencies (producing sand, producing colored or turbid water, screen issues, casing issues, etc.)
- B. Distance from the nearest Project well.
 - C. Digital photographs of the wellhead and associated appurtenances. If possible, these photos will also document any unusual conditions associated with the well or well site.
 - D. Latitude and Longitude coordinates of the wellhead, via the use of Global Position System (GPS) equipment.
 - E. Copies of any owner-provided well information such as drilling reports, geophysical logs, invoices, etc.
 - F. The well owner's preferred route for the contractors to take in order to get to the well site to minimize the potential of damage to underground pipes, septic systems, overhead electrical lines, and/or telephone lines.
 - G. Thorough documentation (digital photography) of the condition of the well owner's property, the area surrounding the well site, and the route that service equipment will utilize to service the well prior to entering the property with the well service contractor or any equipment.

2.2 The goal of the initial well investigation is to gather as much information as possible regarding the well and the conditions of the system to aid in determining if the well is a Potentially Eligible Well and, if so, is an AP Well, and to support future diagnostic or mitigation efforts. After the initial well investigation, the District staff will enter the data collected during the initial investigation into the well mitigation database. The District staff will create and enter the data into a hard-copy file and will try to correlate the well information with the state and district databases. The District staff may enter into a landowner/well owner agreement to periodically monitor the water level in Potentially Eligible Well or an AP Well.

2.3 Once the District determines that a Potentially Eligible Well is an AP Well, District staff will identify to the well owner and/or landowner the location of the well and communicate with the well owner regarding the District's data and evaluations, recommendations, and potential mitigation options. The District staff will work with the well owner and/or landowner, after the initial well investigation, to schedule an agreed upon time to have an authorized contractor perform any additional water well diagnostics needed before mitigation.

3.0 Phase 1 Water Well Diagnostics

- 3.1 Well diagnostics are an important step in the mitigation process. At times, well owners may not have sufficient well information or records (for instance, records documenting the method of construction) to allow the District to perform well mitigation without a diagnostics phase. Even if the well owner provides documentation (e.g., driller's log or construction and equipping invoices), diagnostics may still be needed prior to mitigation because water levels and well conditions change over the life of a well. The information gathered during the diagnostics phase will be the basis for mitigation decisions.
- 3.2 The District will make good faith efforts to diagnose and return Potentially Eligible and/or AP Wells to service as quickly as possible and will coordinate with the well owner to bring domestic wells back to service so as to minimize the disruption of well use.
- 3.3 Prior to the actual diagnostics being performed, the District staff member will ensure that the District has:
 - A. Received a signed copy of a diagnostic form signed by the legal owner of the well and property on which the well is located, if required.
 - B. Processed a work estimate for diagnostics and provided it to the District's contractor.
 - C. Scheduled the appropriate contractor based on work required for the well.
 - D. Met with the well service contractor and the well owner or designee, prior to entering the property, to determine if there are any safety hazards along the access route between the entrance to the property and the well site prior to heavy equipment entering the property. In addition, the well owner and landowner will be asked to identify the location of any underground water, septic tank and lateral line drain field, telephone, cable, electrical lines (underground or overhead) or other utilities that could be inadvertently damaged while mitigating the well. All discussions will be documented completely. Depending on the location, underground electrical, water, or cable utilities may need to be marked if they will interfere with access to the well.
- 3.4 The actual diagnostics will involve an appropriate licensed drilling/well service contractor performing the following steps, as needed, with a District staff member present:
 - A. Inspect and test control box / pump electrical.
 - B. Measure the static water level in the well from the land surface.
 - C. Run the pump and measure the water level drawdown from the land surface.
 - D. Measure the pumping rate in gallons per minute (GPM).
 - E. Remove the pump column and pump, if needed, in order to determine where the pump is set and the condition of the pump and pump assembly equipment.
 - F. Take digital photos of the equipment to document condition.
 - G. Televis the well, if needed, in order to determine the location of the screened intervals and if there are any unusual conditions or deficiencies associated with the well.
 - H. Provide an opinion on whether the well is within TCEQ and Texas Department of Licensing and Regulation (TDLR) well construction standards. If the well does not appear to meet standards, then the District staff member will inform the landowner of what was observed that does not meet state requirements.

- 3.5 In some cases, enough information may be obtained during the diagnostics phase to make a sound mitigation decision at that time. If time allows and if authorized by the well owner, the District staff member will authorize the contractor to make the adjustments in order to complete mitigation based on the Mitigation Standard and return the well to service.
- 3.6 If a mitigation determination cannot be made during the diagnostics phase, and the owner needs the use of the well, the contractor will re-install the equipment and ensure the well is functioning properly.
- 3.7 After the completion of the diagnostics phase, the contractor will provide the District with a detailed diagnostic report. Copies will be retained in the hard copy file, as well as entered into the District's Well Assistance Database. Copies of the diagnostic report and any televising video will also be provided to the well owner.
- 3.8 After the diagnostics phase, the District staff will evaluate the following well diagnostic information and determine the appropriate mitigation actions under the Mitigation Standard:
- A. Static Water Level
 - B. Water Level Drawdown While Pumping at a Measured Rate
 - C. Gallons Per Minute Flow Rate – Pump Capacity
 - D. Pump Setting
 - E. Total Well Depth
 - F. Televised Inspection of Well
 - G. Overall System Evaluation, Identification of State Standard Deficiencies
 - H. Electrical Equipment Evaluation

4.0 Phase 1 Diagnostics Evaluation

4.1 Diagnostics evaluation will involve verifying that the well is a Potentially Eligible Well and an AP Well, and if so, determining what form of mitigation, if any, is appropriate under the Mitigation Standard. Based on the characteristics of the Potentially Eligible Well, the evaluation may be performed by District staff or by the District hydrogeologist.

4.2 District staff will review the well diagnostics report described in Section 3.7 and compare this information to the District's hydrologic monitoring program and groundwater flow modeling.

5.0 Phase 2 Well Mitigation

5.1 Based on all of the information gathered during the initial or subsequent investigation(s) in the diagnostics phase, the District staff will determine the mitigation actions appropriate for each AP Well. Some Potentially Eligible Wells will require no action and will not be considered AP Wells. Mitigation options may include:

- A. No Mitigation- If the Potentially Eligible Well and the pump are deep enough to accommodate the anticipated drawdown and an adequate pumping rate can be maintained for that location, no mitigation will be performed.

- B. Lowering of Pump - If the well is deep enough, and the pump can be lowered to a level that will accommodate the anticipated drawdown for that location, then the pump will be lowered.
 - 1) Prior to lowering of the pump, if it is determined that the current pump and/or motor will not be sufficient to maintain the prior output at the proposed drawdown level, then the District will replace the pump and/or motor, to restore to the rate of production measured and recorded during the diagnostics phase.
- C. Drilling of New Well - If the well is not deep enough and will not accommodate the lowering of the pump to accommodate the anticipated drawdown for that location, then the District will have a replacement well drilled and equipped. In most locations, the District will plug the existing well(s) unless the District views it prudent to utilize the existing well as a water level monitoring well. The contractor performing the work will be required to obtain necessary permits and/or approvals from the local governing entities.
- D. Cost Effective Alternative Water Supply – if a physical connection to an existing water supply line is cost-effective and appropriate to the uses, putting the connection in place can be considered for possible mitigation action, in the District’s discretion, with the well owner’s authorization.

5.3 In all cases, the District will communicate proposed mitigation actions to the well owner prior to any work being performed and the well owner will be required to enter into an agreement with the District to allow the District to mitigate the well, which may include a waiver of liability. The District shall not pay any ongoing operational costs for the AP Wells.

5.4 The District may elect to repair/replace other AP Well components that have the potential to fail or cause future problems if the District determines such repair or replacement is necessary to the successful implementation of a particular AP Well mitigation. This might include the installation of a one-inch diameter water level measuring port or repairing/replacing the following components:

- A. Inferior electrical cable;
- B. Electrical equipment system deficiencies;
- C. Deteriorated pump column/drop pipe; or
- D. Associated appurtenances

5.5 All well mitigation activities shall be conducted in accordance with State and local requirements and regulations and adhere to the guidelines outlined in District-provided well mitigation contracts. These contracts and guidelines will be developed to ensure that proper well construction methods are utilized. The District staff will coordinate all mitigation activities.

5.6 Warranty. Under the mitigation contracts, the individual contractors will be responsible for the warranty of their work regarding defective workmanship or materials, or both, and the contractor’s warranty will be provided to, or assigned to, the well owner after the District’s evaluation of the work. Contractor provided bonds will be required for certain mitigation projects, all as deemed appropriate by the District. The District will ensure in its mitigation contracts that

if within 3 days after the receipt of a notice in writing to the Contractor or his agent of defective workmanship or materials, the Contractor shall neglect to make or to undertake with due diligence the necessary repairs, District staff will have the authority to engage another contractor to make such repairs at the Contractor's expense.

6.0 Well Owner Complaint Response

If a well owner in the District experiences a water well outage and contacts the District, the District will evaluate if the well is a Potentially Eligible Well and, if so, if it is an AP Well consistent with the procedures in this Well Assistance Program. The District will make good faith efforts to do so in a timely manner. If determined by the District to be necessary, the District will arrange for water for in-home domestic uses to be provided in a 1,000 gallon bulk tank to well owners temporarily until the District completes its evaluation. If the District determines that the well is an AP Well, the District intends to continue to arrange for the temporary water supply until the AP Well can be restored to full operation.