

SECTION 5. DISTRICT MANAGEMENT PLAN AND JOINT PLANNING

RULE 5.1. DISTRICT MANAGEMENT PLAN

The District Management Plan, and any amendments thereto, shall be developed using the District's best available data and forwarded to the Region G Regional Water Planning Group for consideration in their planning process. The District Management Plan must also use the groundwater availability modeling information provided by the Texas Water Development Board in conjunction with any available site-specific information provided by the District and acceptable to the Texas Water Development Board. The District shall use the Rules of the District to implement the Management Plan. The Board will review the plan at least every fifth year and shall adopt amendments as necessary, after notice and hearing. Each district in the management area shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers as adopted during the joint planning process.

RULE 5.2. JOINT PLANNING IN MANAGEMENT AREA

The District shall follow the Joint Planning in Management Area 12, as is required in Chapter 36 of the Texas Water Code and Title 31 of the Texas Administrative Code, Chapter 356.

- ~~(a) — Upon completion and approval of the District's comprehensive Management Plan, as required by §§36.1071 and 36.1072, Texas Water Code, the District shall forward a copy of the new or revised Management Plan to the other groundwater districts in its Texas Water Development Board designated Management Area. The Board shall consider the plans of the other districts individually and shall compare them to other management plans then in force in the Management Area.~~
- ~~(b) — The presiding officer, or the presiding officer's designee, of the District shall meet at least annually to conduct joint planning with the other districts in the Management Area and to review the management plans and accomplishments for the Management Area, and proposals to adopt new or amend existing desired future conditions. In reviewing the management plans, the districts shall consider:
 - ~~(1) — the goals of each management plan and its impact on planning throughout the Management Area;~~
 - ~~(2) — the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the Management Area generally;~~
 - ~~(3) — any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the Management Area; and~~
 - ~~(4) — the degree to which each management plan achieves the desired future conditions established during the joint planning process.~~~~
- ~~(c) — Not later than May 1, 2021, and every five years thereafter, the districts shall consider groundwater availability models and other data or information for the~~

~~management area and shall propose for adoption desired future conditions for the relevant aquifers within the management area. Before voting on the proposed desired future conditions of the aquifers under the districts shall consider:~~

- ~~(1) aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;~~
- ~~(2) the water supply needs and water management strategies included in the state water plan;~~
- ~~(3) hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the Texas Water Development Board, and the average annual recharge, inflows, and discharge;~~
- ~~(4) other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;~~
- ~~(5) the impact on subsidence;~~
- ~~(6) socioeconomic impacts reasonably expected to occur;~~
- ~~(7) the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;~~
- ~~(8) the feasibility of achieving the desired future condition; and~~
- ~~(9) any other information relevant to the specific desired future conditions.~~

~~(d) After considering and documenting the factors described by Subsection (c) and other relevant scientific and hydrogeological data, the districts may establish different desired future conditions for:~~

- ~~(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or~~
- ~~(2) each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.~~

~~(e) The desired future conditions must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area. This subsection does not prohibit the establishment of desired future conditions that provide for the reasonable long-term management of groundwater resources consistent with the management goals under Section 36.1071(a).~~

~~(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 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, the district representatives shall reconvene for a joint planning meeting to review the 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.~~

~~(h) — After a district receives notification from the Texas Water Development Board that the desired future conditions resolution and explanatory report are administratively complete, the district shall adopt the applicable desired future conditions in the resolution and report. Except as provided by this section, a joint meeting under this section must be held in accordance with Chapter 551, Government Code. Each district shall comply with Chapter 552, Government Code. The district representatives may elect one district to be responsible for providing the notice of a joint meeting that this section would otherwise require of each district in the management area. Notice of a~~

~~joint meeting must be provided at least 10 days before the date of the meeting by:~~

- ~~(1) providing notice to the secretary of state;~~
- ~~(2) providing notice to the county clerk of each county located wholly or partly in a district that is located wholly or partly in the management area; and~~
- ~~(3) posting notice at a place readily accessible to the public at the district office of each district located wholly or partly in the management area.~~
- ~~(i) The secretary of state and the county clerk of each county shall post notice of the meeting in the manner provided by Section 551.053, Government Code.~~
- ~~(j) Notice of a joint meeting must include:~~
 - ~~(1) the date, time, and location of the meeting;~~
 - ~~(2) a summary of any action proposed to be taken;~~
 - ~~(3) the name of each district located wholly or partly in the management area; and~~
 - ~~(4) the name, telephone number, and address of one or more persons to whom questions, requests for additional information, or comments may be submitted.~~
- ~~(k) The failure or refusal of one or more districts to post notice for a joint meeting does not invalidate an action taken at the joint meeting.~~

RULE 5.3. — APPEAL OF DESIRED FUTURE CONDITIONS.

- ~~(a) In this section:~~
 - ~~(1) "Affected person" has the meaning assigned by Section 36.1082.~~
 - ~~(2) "Development board" means the Texas Water Development Board.~~
 - ~~(3) "Office" means the State Office of Administrative Hearings.~~
- ~~(b) Not later than the 120th day after the date on which a district adopts a desired future condition under Section 36.108(d-4), an affected person may file a petition with the district requiring that the district contract with the office to conduct a hearing appealing the reasonableness of the desired future condition. The petition must provide evidence that the districts did not establish a reasonable desired future condition of the groundwater resources in the management area.~~
- ~~(c) Not later than the 10th day after receiving a petition described by Subsection (b), the district shall submit a copy of the petition to the development board. On receipt of the petition, the development board shall conduct:~~
 - ~~(1) an administrative review to determine whether the desired future condition established by the district meets the criteria in Section 36.108(d); and~~
 - ~~(2) a study containing scientific and technical analysis of the desired future condition, including consideration of:~~
 - ~~(A) the hydrogeology of the aquifer;~~
 - ~~(B) the explanatory report provided to the development board under Section~~

~~36.108(d-3);~~

~~(C) the factors described under Section 36.108(d); and~~

~~(D) any relevant:~~

~~(i) groundwater availability models;~~

~~(ii) published studies;~~

~~(iii) estimates of total recoverable storage capacity;~~

~~(iv) average annual amounts of recharge, inflows, and discharge of groundwater; or~~

~~(v) information provided in the petition or available to the development board.~~

~~(d) The development board must complete and deliver to the office a study described by Subsection (c)(2) not later than the 120th day after the date the development board receives a copy of the petition.~~

~~(e) For the purposes of a hearing conducted under Subsection (b):~~

~~(1) the office shall consider the study described by Subsection (c)(2) and the desired future conditions explanatory report submitted to the development board under Section 36.108(d-3) to be part of the administrative record; and~~

~~(2) the development board shall make available relevant staff as expert witnesses if requested by the office or a party to the hearing.~~

~~(f) Not later than the 60th day after receiving a petition under Subsection (b), the district shall:~~

~~(1) contract with the office to conduct the contested case hearing requested under Subsection (b); and~~

~~(2) submit to the office a copy of any petitions related to the hearing requested under Subsection (b) and received by the district.~~

~~(g) A hearing under Subsection (b) must be held:~~

~~(1) at a location described by Section 36.403(e); and~~

~~(2) in accordance with Chapter 2001, Government Code, and the rules of the office.~~

~~(h) During the period between the filing of the petition and the delivery of the study described by Subsection (d)(2), the district may seek the assistance of the Center for Public Policy Dispute Resolution, the development board, or another alternative dispute resolution system to mediate the issues raised in the petition. If the district and the petitioner cannot resolve the issues raised in the petition, the office will proceed with a hearing as described by this section.~~

~~(i) The District may adopt rules for notice and hearings conducted under this section that are consistent with the procedural rules of the office. In accordance with rules adopted by the district and the office, the district shall provide:~~

- ~~(1) general notice of the hearing; and~~
- ~~(2) individual notice of the hearing to:
 - ~~(A) the petitioner;~~
 - ~~(B) any person who has requested notice;~~
 - ~~(C) each nonparty district and regional water planning group located in the same management area as a district named in the petition;~~
 - ~~(D) the development board; and~~
 - ~~(E) the commission.~~~~
- ~~(j) Before a hearing conducted under this section, the office shall hold a prehearing conference to determine preliminary matters, including:
 - ~~(1) whether the petition should be dismissed for failure to state a claim on which relief can be granted;~~
 - ~~(2) whether a person seeking to participate in the hearing is an affected person who is eligible to participate; and~~
 - ~~(3) which affected persons shall be named as parties to the hearing.~~~~
- ~~(k) The petitioner shall pay the costs associated with the contract for the hearing under this section. The petitioner shall deposit with the district an amount sufficient to pay the contract amount before the hearing begins. After the hearing, the office may assess costs to one or more of the parties participating in the hearing and the district shall refund any excess money to the petitioner. The office shall consider the following in apportioning costs of the hearing:
 - ~~(1) the party who requested the hearing;~~
 - ~~(2) the party who prevailed in the hearing;~~
 - ~~(3) the financial ability of the party to pay the costs;~~
 - ~~(4) the extent to which the party participated in the hearing; and~~
 - ~~(5) any other factor relevant to a just and reasonable assessment of costs.~~~~
- ~~(l) On receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, the district shall issue a final order stating the district's decision on the contested matter and the district's findings of fact and conclusions of law. The district 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 law judge, as provided by Section 2001.058(e), Government Code.~~
- ~~(m) If the district vacates or modifies the proposal for decision, the district shall issue a report describing in detail the district's reasons for disagreement with the administrative law judge's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the district's decision.~~
- ~~(n) If the district in its final order finds that a desired future condition is unreasonable, not later than the 60th day after the date of the final order, the districts in the same~~

~~management area as the district that received the petition shall reconvene in a joint planning meeting for the purpose of revising the desired future condition. The districts in the management area shall follow the procedures in Section 36.108 to adopt new desired future conditions applicable to the district that received the petition.~~

~~(o) A final order by the district finding that a desired future condition is unreasonable does not invalidate the adoption of a desired future condition by a district that did not participate as a party in the hearing conducted under this section.~~

~~(p) The administrative law judge may consolidate hearings requested under this section that affect two or more districts. The administrative law judge shall prepare separate findings of fact and conclusions of law for each district included as a party in a multidistrict hearing.~~

~~(q) Judicial Appeal of Desired Future Conditions.~~

~~(1) A final district order issued under Section 36.1083 may be appealed to a district court with jurisdiction over any part of the territory of the district that issued the order. An appeal under this subsection must be filed with the district court not later than the 45th day after the date the district issues the final order. The case shall be decided under the substantial evidence standard of review as provided by Section 2001.174, Government Code. If the court finds that a desired future condition is unreasonable, the court shall strike the desired future condition and order the districts in the same management area as the district that received the petition to reconvene not later than the 60th day after the date of the court order in a joint planning meeting for the purpose of revising the desired future condition. The districts in the management area shall follow the procedures in Section 36.108 to adopt new desired future conditions applicable to the district that received the petition.~~

~~(2) A court's finding under this section does not apply to a desired future condition that is not a matter before the court.~~

~~**RULE 5.4 MODELED AVAILABLE GROUNDWATER**~~

~~(1) The Texas Water Development Board shall require the districts in a management area to submit to the Texas Water Development Board not later than the 60th day after the date on which the districts adopted desired future conditions under Section 36.108(d-3):~~

- ~~(A) the desired future conditions adopted under Section 36.108;~~
- ~~(B) proof that notice was posted for the joint planning meeting; and~~
- ~~(C) the desired future conditions explanatory report.~~

~~(2) The Texas Water Development Board shall provide each district and regional water planning group located wholly or partly in the management area with the modeled available groundwater in the management area based upon the~~

~~desired future conditions adopted by the districts.~~

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 for which the registration or permit was approved by the District after September 14, 2023. Wells permitted or registered on or before September 14, 2023, are regulated by the spacing requirements of the District Rules that were in effect prior to September 14, 2023.

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.

(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 Aquifer. 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 all new non-exempt wells completed in the District, other than the Brazos River Alluvium Aquifer, 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.

- (2) Spacing of all new non-exempt wells completed in the District, other than the Brazos River Alluvium Aquifer, 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 being 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 screening the Brazos River Alluvium

- (4) This provision applies to new wells in the Simsboro Aquifer that did not meet the definition of an existing well as of December 2, 2004.
 - (5) This provision applies to permit applications for new wells to be drilled in the Queen City, Sparta, Yegua-Jackson, Calvert Bluff, Carrizo and Hooper aquifers that are deemed to be administratively complete after May 9, 2013.
 - (6) This requirement also applies to applications to amend a permit by increasing the annual production amount. If an existing permit is amended to increase the annual production amount, 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.
- (d) **3300 gpm Production Limit**
 All new wells within the District that are drilled in the Simsboro Formation, must be designed and equipped to not exceed a maximum production limit of 3300 gpm under normal operating conditions. The District will also adopt production limits for other aquifer formations within the District, as supported by the best available science.
- (e) **Beneficial Use**
 Production limits on wells will be based on evidence of beneficial use submitted in Operating Permit applications. The District shall verify the actual use of permitted wells by operating a water level monitoring and well meter verification program at intervals that the District deems appropriate.
- (f) **Minimum Tract Size & Permitted Instantaneous Production Limit for Platted Tracts**
If an administratively complete non-exempt well permit application is submitted to the District after September 11, 2025, the minimum tract size for a tract of land in a platted subdivision to be served by the well on the tract shall be two (2) acres. The tract must be part of a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code. The exempt well permit applicant is limited to one well with a pump capability not to exceed the following gallon per minute (GPM) capability. The capability of the pump installed in the well shall be verified by the District. The well is not required to be metered.

<u>Tract Size (must be contiguous)</u>	<u>Installed/Verified Instantaneous Pump Capability Limit</u>
<u>8 - <10 acres</u>	<u>13 gpm limit</u>
<u>6 - <8 acres</u>	<u>11 gpm limit</u>
<u>3 - <6 acres</u>	<u>9 gpm limit</u>
<u>2 - <3 acres</u>	<u>7 gpm limit</u>

RULE 7.2. ACTIONS BASED ON AQUIFER RESPONSE TO PUMPING

Groundwater reductions that result from entering DFC Threshold Level 3 may be reinstated if aquifer levels rise and the average drawdown amount is less than 90% of the adopted DFC.

RULE 7.3. DISTRICT RULES VOID

In the event political subdivisions are not bound by District rules or do not follow our rules, pursuant to a court ruling, then the District's Rules are void and not applicable to the private sector.

SECTION 8. REGISTRATION AND PERMITTING

RULE 8.1. EXCLUSIONS AND EXEMPTIONS

The permit requirements in Section 8 do not apply to:

- (a) All groundwater wells in Brazos and Robertson counties used solely for domestic use or for providing water for livestock or poultry that are either drilled, completed, or equipped so that they are incapable of producing more than 50,000 gallons of groundwater per day (35 gallons per minute).
~~(a)~~
- (b) All groundwater wells in Brazos and Robertson counties used for a beneficial use other than domestic use or providing water for livestock or poultry that are either drilled, completed, or equipped so that they are incapable of producing more than 25,000 gallons of groundwater per day:
- (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 Subsection (b)(4) 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.

(e) A well used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempt under this Rule and must comply with Rule _____.

RULE 8.2. REGISTRATION OF EXEMPT WELLS

- (a) All water wells exempt under Rule 8.1 from the requirement to obtain a permit must be registered with the District by the well owner or the well operator in order to be protected by the District, as authorized by Chapter 36 of the Texas Water Code. If the exempt well is in existence on the effective date of these Rules, the well owner or operator should file with the District on form(s) prescribed by the General Manager an application for Certificate of Registration. Existing exempt wells will be registered in accordance with the application schedule adopted by the District. After review and determination by the General Manager that the well is exempt, the owner or operator shall be issued a Certificate of Registration. No fee will be charged for the registration of exempt wells.
- (b) For a new well that is exempt under Rule 8.1, a well registration form must be submitted to the District prior to the well being drilled. The applicant and/or the well driller violate the District's Rules and Chapter 36, Texas Water Code, by drilling or causing to be drilled, a well(s) without prior authorization from the District;
- (c) New exempt water wells shall be equipped and maintained so as to conform to the District's Rule 12.3 requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

RULE 8.3. PERMITTING OF NON-EXEMPT WELLS

- (a) Drilling Permit. No person, including a well owner or well driller, shall construct or drill a new well without first obtaining a drilling permit. A permit is required for drilling all groundwater wells that are not exempt, including but not limited to: agricultural irrigation, industrial, public water supply, and oil and gas production, including hydraulic fracturing wells. An application for a drilling permit shall accompany an operating permit application for the same well(s), and must be completed in

accordance with Rule 8.4.

Removed paragraph 2 regarding District's processing of permit applications the first six months after initial District Rules were adopted in 2005.

(b) Operating Permit.

- (1) No person shall modify, alter or operate a new well without an operating permit, unless the well is exempt under Rule 8.1.
- (2) After the adoption of these Rules, the District will adopt a schedule by which all well operators must submit their applications for an operating permit. After the established deadline for filing applications for operating permits for an existing non-exempt well has passed, no person shall operate an existing well unless an application is pending with the District or has been granted.
- (3) Except as provided by Rule 11.1(a), no person shall modify or alter an existing well or alter the size of a pump without an operating permit, unless the well is exempt under Rule 8.1.

(c) Before granting or denying a drilling and/or operating permit for a well, or permit amendment under §36.1146, the District shall consider whether:

- (1) the application conforms to the requirements prescribed by these Rules and Chapter 36, Texas Water Code, and is accompanied by the prescribed fees, and is therefore Administratively Complete;
- (2) the applicant violated the District's Rules and Chapter 36, Texas Water Code, prior to submitting its application to the District by either drilling or operating a well(s) without a permit;
- (3) the proposed use of water unreasonably affects existing groundwater and surface water resources ~~or~~, existing permit holders, or wells that are registered with the District and exempt from the requirement to obtain a permit District rules;
- (4) the proposed use of water is dedicated to a beneficial use and whether sufficient evidence of an intended beneficial use is presented;
- (5) the proposed use of water is consistent with the District's Certified Water Management Plan, including the District's Availability Goals;
- (6) the applicant has agreed to avoid waste and achieve water conservation;
- (7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure;
- (8) would not be otherwise contrary to the public welfare; and
- (9) this section does not apply to the renewal of an operating permit issued under §36.1145.

(d) The District may impose more restrictive permit conditions on new permit applications and applications for increased use by historic users, provided that:

- (1) such limitations apply to all subsequent new permit applications and permit

- (2) permits or permit amendments that:
 - (a) the District deemed that the permit or permit amendment application(s) were administratively complete under the District's Rules;
 - (b) the District provided notice(s) to the public of the permit or permit amendment application(s) under Rules 14.1 and 14.2 during the time period from January 1, 2021, to July 1, 2024; AND
 - (c) the District did not receive any written notices of intent to contest the permit or permit amendment application(s) under rule 14.3.5(a-); and
- (3) permits for wells that are used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, under Rule _____.

The General Manager shall provide reports of the granted permits/permit amendments to the Board.

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

The District may consider hydrogeologic conditions related to the injection and recovery of groundwater as part of an aquifer storage and recovery project in the planning for and monitoring of the achievement of a desired future condition for the aquifer in which the wells associated with the project are located.

SECTION 9. FEES AND DEPOSITS

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. 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.

- (a) Pursuant to the District Act, the water use fee may not exceed:
 - (1) \$0.25 per acre-foot for water used for irrigating agricultural crops or operating existing steam electric stations; and
 - (2) \$0.0425 per thousand gallons for water used for any other purpose.
- (b) The water use fees may be increased at a cumulative rate of up to three percent per year.
- (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 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, including wells located outside the District under an interlocal contract;

conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the District. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

RULE 15.2. RULE ENFORCEMENT

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Act, Water Code Chapter 36, District permit, District Rules, the Board of Directors may assess a civil penalty or file for an injunction or other appropriate remedy in a court of competent jurisdiction, as authorized by Chapter 36.102 of the Texas Water Code.

RULE 15.3. SEALING OF WELLS.

- (a) Following due-process, the District may, upon orders from the judge of the courts, seal wells that are prohibited from withdrawing groundwater within the District by the District Rules to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:
 - (1) no application has been granted for a permit to drill a new water well which is not excluded or exempted from obtaining a permit; or
 - (2) no application has been granted for an operating permit to withdraw groundwater from an existing well that is not exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or
 - (3) the Board has denied, canceled, or revoked a drilling permit or an operating permit.
- (b) The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.
- (c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these Rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

RULE 15.4. CIVIL PENALTIES.

- (a) The District may enforce Chapter 36 of the Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
- (b) The Board by rule may set reasonable civil penalties for breach of any Rule of the District in an amount not to exceed ~~\$2540~~,000 per day per violation, and each day of

a continuing violation constitutes a separate violation. All civil penalties recovered by the District shall be paid to the Brazos Valley Groundwater Conservation District.

- (c) A penalty under this section is in addition to any other penalty provided by the law of this State and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located.
- (d) If the District prevails in any suit to enforce its rules, the District may seek and the court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.

RULE 15.5. 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. Failure of the permittee to submit complete, accurate, and timely pumpage, transport and water quality reports as required by District Rule may result in late payment fees, forfeiture of the permit, or payment of increased meter reading and inspection fees as a result of District inspections to obtain current and accurate pumpage and/or transported volumes and water quality reports.

RULE 15.6. EMERGENCY ORDERS

The District will develop Emergency Contingency Plans to deal with water quality or water quantity emergencies. Public hearings on Emergency Contingency Plans shall be conducted by the Board prior to adoption. To implement Emergency Contingency Plans, the Board, or the General Manager if specifically authorized by an Emergency Contingency Plan, may adopt emergency orders of either a mandatory or prohibitory nature, requiring remedial action by a permittee or other party responsible for the emergency condition.