

Item 10 – Consideration & Adoption of Proposed Rule Revisions

The proposed rule revisions on the following pages have been heard in the Rules Hearing held Thursday, September 11, 2025, prior to the beginning of the Regular Board meeting. The General Manager requests that the following rules be posted for public review before being considered for adoption:

Rule 7.1(e)

Rule 8.3(c)(4)

Rule 8.4(b)(5)

Rule 8.4(b)(7)(B)(4)(c)

Rule 8.5(b)(2)

Rule 10.4(a)

Rule 10.4(b)

All other rules listed on the following pages are eligible to be considered and adopted.

The General Manager requests that a Rules Hearing date be set for Thursday, October 9, 2025, to consider adoption of the above listed District rules.

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~~

~~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

Groundwater production on new permit applications and increased use by historic users may be limited in accordance with the availability goal, as supported by the best available science, in a fair and impartial manner, regardless of type or location of use.

(b) Permitting Goal

The District recognizes that in order to achieve the adopted Availability Goals, the District may authorize groundwater production that is greater than the Availability Goals. The increased production permitting limit is put into effect to achieve the Availability Goals and Desired Future Conditions, while acknowledging that some groundwater permits may have more authorized production than is currently being produced by permittees.

The District shall make a reasonable effort to not grant permit applications for more water production than is actually needed for beneficial use.

(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:

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

43,560

(1) 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 for a new well registered or permitted by the District after September 14, 2023, shall not overlap between wells in the same aquifer.

(2) 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.

(3) The permitted groundwater production capacity is also subject to the spacing requirements in Section 6, as well as the availability, production, and beneficial use limits in Section 7.

~~(3)~~(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.

~~(4)~~(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.

~~(5)~~(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, [including evidence of legal obligation to provide water to end users, as applicable](#). The District shall verify the actual use of permitted wells by operating a well water level monitoring and well meter verification program at intervals that the District deems appropriate.

(f) Permitted Instantaneous Production Limit for Platted Tracts

[If an administratively complete operating permit application for a new non-exempt well is submitted to the District after _____, 2025, on a tract of land that is used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, then the 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 on the well shall be verified by the District. The well is not required to be metered.](#)

Tract Size (must be contiguous)	Installed/Verified Instantaneous Pump Capability Limit
8 - <10 acres	13 gpm limit
6 - <8 acres	11 gpm limit
5 - <6 acres	9 gpm limit
<3 acres	7 gpm limit

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;

~~(b)~~(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 an actual beneficial use and whether sufficient evidence of an intended actual beneficial use is presented, including evidence of legal obligation to provide water to end users, as applicable;
- (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

Railroad Commission permit, and the secondary use of that water must be reused from the primary groundwater production, without first being discharged into a watercourse other than a retention pond.

- A. If a District permittee chooses to conserve groundwater through the secondary use of Railroad Commission-permitted production, then the District permittee shall report the amount of groundwater used, and indicate whether the metered production is from its District-permitted well(s) or from the reuse of the Railroad Commission-permitted well(s).
- B. The District acknowledges that the District permittee's secondary reuse of the Railroad Commission-permitted water may end at any time, therefore, the District permittee's use of that water shall be credited as actual and beneficial use towards the permittee's District-issued production permit(s).

(i) Permits Based on Modeled Available Groundwater

- (1) A district, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108.
- (2) In issuing permits, the district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:
 - (A) the modeled available groundwater determined by the Texas Water Development Board;
 - (B) the Texas Water Development Board's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;
 - (C) the amount of groundwater authorized under permits previously issued by the district;
 - (D) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the district; and
 - (E) yearly precipitation and production patterns.
- (j) Pursuant to Section 36.114(b) and (c) of the Texas Water Code, the District by rule shall determine whether a hearing on a permit or permit amendment application is required and whether the authority to act on the application is delegated to the General Manager.

The General Manager is, therefore, authorized to grant and issue the following administratively complete permit applications and permit amendment applications without further notice, public hearing, nor action by the Board, and the Board hereby ratifies the General Manager's prior issuance of:

- (1) permits for groundwater production for 150 acre-feet per year or less, if the application meets the requirements of the District's Rules; ~~and~~

- (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

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. All 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 in full compliance with Chapter 12 of the Texas Property Code regarding the recording of instruments;

- (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 actual use and the amount of _____ water to be used for each purpose and any evidence supporting the authenticity of the intended actual beneficial use, including evidence of legal obligation to provide water to end users, as applicable;
- (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 Aquifer, 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 pdf 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 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 or artesian head drawdown that can be caused by pumping the well(s) at the permitted rate for one year, 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. 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. Applicant 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 well(s), if permitted, could have on 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 District rules;
 - c. ~~the amount of groundwater authorized under permits previously issued by the District~~ the comparison of the average drawdown within the boundaries of BVGCD based on the most recently approved GMA 12 Run and the most recently approved GMA 12 Run plus the proposed well pumping.;

- (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 pdf copy of any geophysical logs run in the pilot hole for

- (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 8.5. 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. A well is completed when it has been drilled and constructed to permit 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) well permit(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 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 by September 14, 2028.
- (c) Processing Fee – The application to renew a permit shall be accompanied by payment of the application processing fee established by the Board, if any.
- (d) Decision on Renewal Application —
- (1) Except as provided by Subsection (ii), the District shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:
 - (A) the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and
 - (B) the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.
 - (2) The District is not required to renew a permit under this section if the applicant:
 - (A) is delinquent in paying a fee required by the District;
 - (B) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or
 - (C) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.
 - (3) If the District is not required to renew a permit under Subsection (2)(B), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.
 - (4) (A) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the

- (2) The District may assess a well registration fee or other administrative fee for an ASR recovery well in the same manner that the District assesses such a fee for other wells registered with the District.

(h) Desired Future Conditions

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](#);
 - (ii) developing or distributing alternative water supplies;
 - (iii) conducting aquifer monitoring, data collection, and aquifer science.
- (d) The fees listed 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 diameter of the casing used in constructing the well; or
 - (2) the actual, authorized, or anticipated amount of water to be withdrawn from the well.

RULE 9.2. APPLICATION, REGISTRATION, AND OTHER FEES

The Board, by Order, shall establish a schedule of fees. The Board will attempt to set fees that do not unreasonably exceed the costs incurred by the District for performing the administrative function for which the fee is charged.

RULE 9.3. PAYMENT OF FEES

All fees are due at the time of application, registration, or permitting. The annual water use fee for a permit shall be paid in annual, quarterly, or monthly installments at the election of the permittee. Permittees whose annual water use fee is \$200.00 or less are required to pay annually. New permittees electing to pay by installments shall make the first installment at the time of permit issuance with subsequent payments due as described below.

- (a) Annual water use fees shall be paid at the time of permit issuance and are subsequently

RULE 10.4. HEARING AND PERMIT ISSUANCE

- (a) Applications for transport permits are subject to the hearing procedures provided by these Rules in Section 14. [Applications and permits for transport permits are subject to the permitting provisions provided by these Rules in Sections 7 and 8.](#)
- (b) In determining whether to issue a permit to transfer groundwater out of the District, the Board shall be fair, impartial, and nondiscriminatory and shall consider the [permits considerations provided by these Rules in Sections 7 and 8, as well as the following factors](#) when deciding whether to issue or impose conditions on a drilling, operating, or transport:
 - (1) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
 - (2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
 - (3) the approved Region G Water Plan and certified District Management Plan.
- (c) The District may not deny a transport permit based on the fact that the applicant seeks to transport groundwater outside of the District and may not impose more restrictive permit conditions on transporters than the District imposes on existing in-District users, unless:
 - (1) such limitations apply to all subsequent new operating permit applications and permit amendment applications to increase use by historic users, regardless of type or location of use;
 - (2) such limitations bear a reasonable relationship to the existing District Management Plan; and
 - (3) such limitations are reasonably necessary to protect existing use.
- (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;
 - (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

condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the District.

- (b) District employees and agents are entitled to enter any public or private property within the boundaries of the District or adjacent to any reservoir or other property owned by the District at any reasonable time for the purpose of inspecting and investigating 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 \$~~25~~40,000 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.

- 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 aquifer responses to a project for which there is a Well Assistance Agreement, 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 relevant aquifer formation as a resource by conducting mitigation of wells consistent with current state regulatory standards.

Rule 16.4. MITIGATION PROCEDURES

The following procedures outline the general work flow, support services, and the outside services the District intends to use, as appropriate, to address mitigation of AP Wells pursuant to a Well Assistance Agreement. The District shall implement its Well Assistance Program consistent with these procedures.

(a) Mitigation Criteria

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

- (1) The well must screen sands of the same aquifer as the relevant project, unless otherwise specified in a Well Assistance Agreement.
- (2) 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.
- (3) The well must be active or have been active prior to the date specified in the Well Assistance Agreement, which is expected to be the date of Operating Permit issuance for the relevant project, with operational equipment capable of pumping 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 such date. The District staff will determine if the well has been active.
- (4) The well must be located in the District.
- (5) 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.

(b) Phase 1 Well Investigation

- (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.