

EXHIBIT B

**RULES OF THE BRAZOS VALLEY
GROUNDWATER CONSERVATION DISTRICT**

The District is authorized under § 36.101 of the Texas Water Code to make and enforce Rules, including Rules limiting groundwater production and the spacing of wells, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by Chapter 36 of the Texas Water Code. The District incorporates by reference all authorities granted to the District by the District Act and Chapter 36 of the Texas Water Code into its District Rules. These Rules are effective as of September 14, 2023.

RULE 1.1. DEFINITIONS OF TERMS

In the administration of its duties, the Brazos Valley Groundwater Conservation District follows the definitions of terms set forth in the District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

- (1) "Acre-foot" means the amount of water necessary to cover one acre of land one foot deep, or about 325,000 gallons of water.
- (2) "Agriculture" means any of the following activities:
 - (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
 - (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;
 - (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
 - (D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
 - (E) wildlife management; and
 - (F) raising or keeping equine animals.
- (3) "Agricultural use" means any use or activity involving agriculture, including irrigation.
- (4) "Average annual production rate or capacity" means the permitted annual production amount in acre feet multiplied by 0.62 to equal gallons per minute of production on an average annual basis.
- (5) "Best available science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

- (6) "Board" means the Board of Directors of the Brazos Valley Groundwater Conservation District.
- (7) "Conjunctive use" means the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.
- (8) "Contiguous acreage" means land with the same continuous boundary within the District that is owned or legally controlled for the purpose of groundwater withdrawal by the well owner or operator. The contiguous acreage assigned to the well shall bear a reasonable reflection of the cone of depression impact near the pumped well, as based on the best available science and the production based acreage required by District Rule 7.1(c). Land that is owned or legally controlled by the well owner or operator that is separated only by a road, highway, railway, or river from other land owned or controlled by the well owner or operator is contiguous.
- (9) "Desired future condition" means a quantitative description, adopted in accordance with Section 36.108, of the desired condition of the groundwater resources in a management area at one or more specified future times.
- (10) "De-watering Well" means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.
- (11) "Discharge" means the amount of water that leaves an aquifer by natural or artificial means.
- (12) "District" means the Brazos Valley Groundwater Conservation District.
- (13) "District Act" means the Act of May 26, 2001, 77th Leg., R.S., ch. 1307, 2001 Tex. Gen. Laws(HB 1784).
- (14) "District Office" means the office of the District as established by resolution of the Board.
- (15) "Drilling Permit" means a permit for a water well issued or to be issued by the District allowing a water well to be drilled.
- (16) "Existing Well" means a groundwater well within the District's boundaries, for which drilling or significant development of the well commenced before the effective date of the District's rules on December 2, 2004.
- (17) "Evidence of historic or existing use" means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the

admissibility and introduction of evidence of historic or existing use, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

- (18) “Groundwater” means water located beneath the earth's surface within the District but does not include water produced with oil in the production of oil and gas.
- (19) “Hearing Body” means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of the District Act.
- (20) “Hearing Examiner” means a person appointed by the Board of Directors to conduct a hearing or other proceeding.
- (21) “Historic Use” means the highest annual amount of water withdrawn from an active groundwater well in the District for an actual beneficial use, prior to the adoption date of the District’s first set of rules.
- (22) "Inflows" means the amount of water that flows into an aquifer from another formation.
- (23) “Injection well” includes:
 - (a) an air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
 - (b) a cooling water return flow well used to inject water previously used for cooling;
 - (c) a drainage well used to drain surface fluid into a subsurface formation;
 - (d) a recharge well used to replenish the water in an aquifer;
 - (e) a saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
 - (f) a sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
 - (g) a subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; or
 - (h) a closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.
- (24) “Landowner” means the person who bears ownership of the land surface.
- (25) “Leachate Well” means a well used to remove contamination from soil or groundwater.
- (26) "Modeled available groundwater" means the amount of water that the Texas Water Development Board determines may be produced on an average annual basis to achieve a desired future condition established under Section 36.108.

- (27) "Management Area" means an area designated and delineated by the Texas Water Development Board under Chapter 35 as an area suitable for management of groundwater resources.
- (28) "Monitoring Well" means a well utilized to measure some property of the groundwater or aquifer it penetrates.
- (29) "New Well" means any well other than an existing well.
- (30) "New Well Application" means an application for a permit to drill and operate a new well.
- (31) "Open Meeting Law" means Chapter 551, Texas Government Code.
- (32) "Operating Permit" means a permit issued by the District for a water well, allowing groundwater to be withdrawn from a water well for a designated period.
- (33) "Property legally assigned to a well" is property owned or legally controlled for purposes of groundwater withdrawal by a well owner or operator and assigned to a specific well by the owner or operator.
- (34) "Public Information Act" means Chapter 552, Texas Government Code.
- (35) "Public water supply well" means a well that produces the majority of its water for use by a public water system.
- (36) "Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- (37) "Presiding Officer" means the President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.
- (38) "Produce or Production" means extracting groundwater by pumping or by another method.
- (39) "Rate of Production" means the amount of groundwater that is stated in the District's operating permits that limits the number of gallons of groundwater produced per minute ("gpm"), with a maximum annual cap of overall groundwater production specified in acre-feet. For example, a District operating permit could state that the authorized rate of production is 1000 gpm, not to exceed a total amount of 1600 acre-feet of groundwater production per year.
- (40) "Recharge" means the amount of water that infiltrates to the water table of an aquifer.

- (41) “Rules” means the Rules of the District compiled in this document and as may be supplemented or amended from time to time.
- (42) “Texas Rules of Civil Procedure” and “Texas Rules of Civil Evidence” mean the civil procedure and evidence Rules as amended and in effect at the time of the action or proceeding. Except as modified by the Rules of the District, the rights, duties, and responsibilities of the presiding officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those Rules.
- (43) “Transport” means transferring or moving groundwater outside the District.
- (44) “Transport Permit” means an authorization issued by the District allowing the transport of a specific quantity of groundwater outside the District’s boundaries for a designated time period. All applicable permit Rules apply to transport permits.
- (45) “Use for a Beneficial Purpose or Beneficial Use” means:
 - (a) Agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
 - (b) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
 - (c) any other purpose that is useful and beneficial to the user and that does not cause waste.
- (46) "Waste" means any one or more of the following:
 - (a) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
 - (b) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
 - (c) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
 - (d) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
 - (e) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Texas Commission on Environmental Quality under Chapter 26, Texas Water Code;
 - (f) groundwater pumped for irrigation that escapes as irrigation tail water onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or
 - (g) for water produced from an artesian well, "waste" also has the meaning assigned by

Section 11.205, Texas Water Code.

- (47) “Water Meter” means a water flow measuring device that can accurately record the amount of water produced during a measured time.
- (48) “Well” means any facility, device, or method used to withdraw groundwater from within the District’s boundaries.
- (49) “Well Owner” or “Well Operator” means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the legal right to occupy the property and to capture groundwater withdrawn from a well or well system located on the property. The term “well owner” includes but is not limited to a person that holds a well permit for the well.
- (50) “Well System” means a well *or* group of wells tied to the same distribution or transportation system.
- (51) “Withdraw or Withdrawal” means extracting groundwater by pumping or by another method.
- (52) “Windmill” means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

RULE 1.2. PURPOSE OF RULES

These Rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

RULE 1.3. USE AND EFFECT OF RULES

The District uses these Rules in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on the exercise of any discretion nor be construed to deprive the District or Board of the exercise of any powers, duties, or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

RULE 1.4. HEADINGS AND CAPTIONS

The section and other headings and captions contained in these Rules are for reference purposes only. They do not affect the meaning or interpretation of these Rules in any way.

RULE 1.5. CONSTRUCTION

A reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the Water Code. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code.

RULE 1.6. METHODS OF SERVICE UNDER THE RULES

Except as otherwise expressly provided in these Rules, any notice or documents required by these Rules to be served or delivered may be delivered to the recipient, or the recipient's

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;
- (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 on smaller tracts under Rule 7.1(g).

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

- d. A copy of chemical analyses performed on water samples collected from the well following construction and well development

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

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

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

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

- (8) the applicant's water conservation plan and, if any subsequent user of the water is a municipality or entity providing retail water services, the water conservation plan of that municipality or entity shall also be provided along with a copy of the contract between the applicant and any subsequent user of the water, indicating that the applicant and that municipality or entity will comply with the District's Conservation Plan.
- (9) the location of the well(s) and the estimated rate at which water will be withdrawn and where the water is proposed to be used the District may access the well location and take GPS coordinates and photographs, in compliance with District Rule 15.1;
- (10) a well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the applicable authorities, including the District;
- (11) The identity of the well driller, including the well driller's license number; and,
- (12) Except for wells and wells in the Brazos River Alluvium Aquifer formation, the applicant shall send a certified letter of notification to all landowners and/or registration/permit holders that are located within the spacing-requirement

circumference of the applied-for well(s). A copy of the landowner letters and proof that it was sent certified mail shall be submitted with the application.

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

The letter and published notices must include:

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

RULE 8.5. 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 Production Fee
Once the well has been completed, water use fees associated with the well permit(s) will be applicable, as specified in the District's annually adopted fee schedule.