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Alan Day
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112 West Third Street
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Reference: **PUBLIC HEARING 07/15/2026 – COMMENTS REGARDING PROPOSED BVGCD RULE CHANGES DATED 06/17/2026**

Dear Mr. Day,

Thank you for the opportunity to comment on the District Board's proposed rule amendments.

To avoid any appearance that these amendments are arbitrary or capricious, I respectfully request that the Board provide a brief explanation of the intent behind each proposed rule change and the circumstances that prompted its consideration. This has been done in the past and would be equally helpful during the current rulemaking process.

As I understand the proposals, the Board is seeking to accomplish three primary objectives:

1. Require the installation and use of monitoring (observation) wells for certain high-volume groundwater producers and transporters, with the associated costs borne by the permit holder through the permitting process.
2. Clarify how existing permitted groundwater producers that currently provide water across district boundaries as part of public utility operations will be treated under the proposed definition of "transporter," and whether those operations will be subject to additional requirements.
3. Establish a groundwater curtailment framework based on priority dates, similar in concept to a prior appropriation doctrine, whereby production reductions would be implemented according to permit classifications and seniority.

I do not necessarily disagree with these objectives. However, I encourage the Board to carefully consider the following comments and questions as it deliberates the proposed amendments.

Rule 1.1 (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 these rules. ~~**the District’s rules on December 2, 2004.**~~

COMMENT: I recommend that the definition of "existing well" be returned to the language that existed prior to the November 9, 2017, amendment.

The term "existing well(s)" appears throughout the District's rules and has historically been used in a broader context to distinguish currently constructed and operating wells from proposed or future wells. By tying the definition to a fixed historical date, the proposed amendment may unintentionally create conflicts with other rule provisions where the term is used without reference to that date.

In addition, the proposed definition appears to overlap with, and potentially supersede, the concept of a "historic well," creating uncertainty regarding the distinction between the two classifications.

If the Board wishes to establish a specific date threshold for a particular regulatory purpose, that date should be included within the applicable rule section rather than incorporated into the general definition of "existing well." This approach would preserve consistency throughout the rules while allowing the Board to address specific policy objectives where necessary.

Rule 1.1 (29) “New Well” means any well other than an existing well.

COMMENT: If the definition of "existing well" remains tied to the current historical date, then the Board should also review the definition of "new well," which is currently defined as "any well other than an existing well."

When these two definitions are read together, a well constructed after the specified historical date could arguably remain a "new well" indefinitely, regardless of how long it has been in operation. This interpretation appears inconsistent with the ordinary meaning and regulatory purpose of distinguishing between existing and proposed wells.

For that reason, I believe the better approach is to revise the definition of "existing well" and return it to its broader, pre-2017 language. If the Board chooses not to do so, then corresponding amendments to the definition of "new well" may be necessary to avoid ambiguity and unintended regulatory consequences.

Rule 1.1 (28) “Monitoring Well” means a well utilized to measure properties of the groundwater or aquifer it penetrates. A monitor well can be used to measure water levels and/or groundwater quality. The District may adopt a guidance document(s) for required monitoring well drilling, equipping, operating, and reporting standards.

COMMENT: The original definition more closely reflected the commonly accepted meaning of a monitoring well, sometimes referred to as an observation well. The 2018 amendment broadened the definition to better reflect the District's historical monitoring program, which utilizes a variety of wells—including exempt, non-exempt, and, when available, static wells—to collect groundwater level data.

The current proposed amendment goes beyond defining a monitoring well and begins to address regulatory requirements and District authority. Definitions should describe the nature and purpose of a term, while construction standards, operational requirements, reporting obligations, and permitting conditions should be addressed elsewhere in the rules.

I recommend the following definition:

"Monitoring Well" means an independent, static installation used for observing groundwater levels and flow conditions, obtaining samples for determining groundwater quality, and evaluating the hydraulic properties of water-bearing strata. Monitoring wells are sometimes referred to as "observation wells."

COMMENT: Similar to the definition of "Water Meter," this definition explains the meaning and purpose of a monitoring well without prescribing how, when, where, or by whom the well must be constructed, equipped, operated, or reported. Those requirements are more appropriately addressed in proposed Rule 8.3(k) or another dedicated rule section.

The language concerning monitoring well drilling, equipping, operation, reporting standards, and permit requirements should be consolidated into a single rule section. The additional monitoring well provisions proposed in Rule 7.2(d)(1)(B) and Rule 10.4(d)(4) appear redundant and may create confusion if similar requirements are repeated in multiple locations throughout the rules.

There is an important distinction between a “well that is monitored” and a “monitoring well.” The District's groundwater monitoring program may utilize many types of wells to collect data; however, a monitoring well is a specific type of well designed and installed primarily for observation and data collection purposes.

If the District intends to establish detailed technical standards for monitoring wells, those standards would be better presented in a separate guidance document, standard operating procedure (SOP), or technical manual that can be updated as monitoring technology and best practices evolve.

The DFC Curtailment statement (H) seems to be out of place and not structured the same as other lettered statements.

COMMENT: I think it belongs to the level 3 section, not at end of level 2.

Thank you for considering these comments.

The District's rules function as an interconnected regulatory framework. Changes to a definition, permitting standard, or reporting requirement rarely occur in isolation; they often affect multiple rules, permit holders, and future Board decisions. For that reason, I encourage the Board to evaluate each proposed amendment not only on its individual merits, but also on how it interacts with the District's existing rules and policies.

I respectfully request that the Board continue its practice of clearly identifying the purpose of each proposed amendment, the problem it is intended to address, and the anticipated consequences of the change. Such transparency helps stakeholders understand the Board's objectives, provides a more complete administrative record, and promotes confidence that the rulemaking process is thoughtful, deliberate, and fair.

Finally, I encourage the Board to consider whether some issues would be better addressed through comprehensive review rather than piecemeal amendments. A thorough evaluation of related definitions, permitting requirements, monitoring standards, and enforcement provisions can help ensure that the rules remain internally consistent, avoid unintended consequences, and continue to support the District's long-term groundwater management goals.

Thank you for your service and for the opportunity to participate in this important process.

Sincerely,



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