

RULE 1.1. DEFINITIONS OF TERMS

- (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.

The only amendment would include adding “railway” to the definition.

RULE 1.1. DEFINITIONS OF TERMS

Current Language:

- (27) “Monitoring Well” means a well installed to measure some property of the groundwater or aquifer it penetrates, and does not produce more than 5,000 gallons of groundwater per year.

Proposed Amended Language:

- (27) “Monitoring Well” means a well ~~installed~~utilized to measure some property of the groundwater or aquifer it penetrates, ~~and does not produce more than 5,000 gallons of groundwater per year.~~

The proposed amendment accurately reflects the nature and use on the monitor system currently employed by the District.

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 authorized representative, in person, by agent, by courier receipted delivery, by ~~certified~~ mail sent to the recipient's last known address, by fax or by email.~~or by telephonic document transfer to the recipient's current telecopier number.~~ Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three (3) days will be added to the prescribed period. Where service by one or more methods has been attempted and failed, the service is complete upon notice publication in a general circulated newspaper in Brazos and Robertson Counties.

~~Amendments include adding fax and email as methods of service and dropping the word "certified" from the mailing method of service.~~

RULE 7.1. MAXIMUM ALLOWABLE PRODUCTION

(b) Permitting Goal

The District recognizes that in order to achieve the adopted Availability Goals, the District may authorize groundwater production that is ~~a small amount~~ 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.

~~The District's permitted production shall be no more than fifteen percent (15%) of the amount of groundwater that is permitted by the District, but not being annually produced by District permittees, based on 2009 metered production. The permitting limits shall be distributed over the regulated aquifers and shall be reviewed annually.~~

~~Once the permitted production is reached for an aquifer, no new production will be granted for persons that hold a previous permit, without verification that the permittee is actually using a substantial percent of their permitted production and can demonstrate with credible evidence the need for additional water production.~~

Amendments include deleting language that no longer applies to the BVGCD permitting process. Permits will issued to an applicant if they have the legal right to produce the groundwater regardless if the permitted amount exceeds the modeled available groundwater prescribed for the particular aquifer.

RULE 7.2. ACTIONS BASED ON AQUIFER RESPONSE TO PUMPING

(d) The District shall initially adopt three threshold average aquifer drawdown levels to act as triggers to provide for increased levels of District regulatory responses based on the change in three (3) consecutive years average aquifer drawdown levels across the District for an aquifer. The District shall monitor how rapidly each threshold is achieved and amend or add new thresholds as better hydrological assessment data becomes available. The initial DFC threshold levels are: Level 1, Level 2, and Level 3. Each level will be based on an average of three (3) consecutive years immediately prior to reaching the trigger. The District-approved methodology to calculate the District-wide average aquifer drawdown and the protocol to measure static water levels shall be adopted through the District's rulemaking procedures in Section 14 of the District's Rules.

(1) **DFC Threshold Level 1.** If Threshold Level 1 is reached, additional study and monitoring may be undertaken as appropriate at such time as the average aquifer drawdown on a District-wide basis, calculated with a District-approved methodology for an aquifer, is greater than **65 percent** of the average aquifer drawdown amounts adopted as a DFC for that aquifer in Section 5 of the Management Plan. The following District actions shall occur to enforce the Desired Future Conditions of the aquifers and to conserve and preserve groundwater availability and protect property rights of landowners and groundwater users:

- (A) Adopt a Study Area(s) for an Aquifer(s). Based on the best available science, the District may designate Study Areas for portions of an aquifer within the District that are experiencing significant drawdowns of the aquifer levels, which may be caused by concentrated groundwater pumping, and develop additional hydrological data and analysis of the causes of the drawdown and hydrological trends developing and make recommendations for appropriate action.
- (B) Monitor aquifer water levels.
- (C) Monitor groundwater production in adjoining GCDs.
- (D) Prepare an annual report on groundwater production and aquifer water-level and drawdown changes.
- (E) Monitor groundwater production reports, with mandatory, if judged necessary by the District, meter checks on all permitted wells in the study area(s).
- (F) Promote and require conservation and administer conservation credit program, once developed and approved.
- (G) If DFC Threshold Level 1 is exceeded, the district may perform studies to provide additional information on the hydrogeology in the area. The results may be used to improve the Groundwater Availability Models and other methodologies used to analyze monitoring and pumping data and predict future aquifer response and groundwater availability.

Amendment include adding "once developed and approved". The conservation credit program has been worked on but not finally approved. The proposed language currently exists in Rule 7.2 but was inadvertently left off of the above sentence in 2015.

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;
- (b) all groundwater well 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:
- (bc) 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.

The amendment adds a new category of exempt well allowing small commercial wells producing less than 25,000 gallon/day an exemption. This does not affect the current 50,000 gallon/day exemption for domestic or livestock use.

RULE 8.5. OPERATING PERMIT TERM AND RENEWAL

- (b) Duration of Permit – All operating permits and permit renewals are effective for a term of five (5) years from the date a permit is granted, unless granted a one (1) year term under Rule 8.3(j), or otherwise stated on the permit. Except, an operating permit for a well or well site will automatically expire three years from its issuance if the permitted well(s) has not been completed or is not significantly under development.

A rule change in 2015 added one-year permits to the BVGCD permitting framework. The amendment simply recognizes the existence of the one-year permit.

RULE 8.10. AQUIFER STORAGE AND RECOVERY PROJECTS

Pursuant to Subchapter N, Chapter 36, Texas Water Code:

- (a) In this section, "aquifer storage and recovery project," "ASR injection well," "ASR recovery well," and "project operator" have the meanings assigned by Section 27.151.
- (b) Registration and reporting of wells

A project operator shall:

 - (1) register the ASR injection wells and ASR recovery wells associated with the aquifer storage and recovery project with the District;
 - (2) each calendar month by the deadline established by the commission for reporting to the commission, provide the District with a copy of the written or electronic report required to be provided to the commission under Section 27.155; and
 - (3) annually by the deadline established by the commission for reporting to the commission, provide the District with a copy of the written or electronic report required to be provided to the commission under Section 27.156.
- (c) If an aquifer storage and recovery project recovers an amount of groundwater that exceeds the volume authorized by the commission to be recovered under the project, the project operator shall report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the report required by Subsection (1)(b).
- (d) The ASR recovery wells that are associated with an aquifer storage and recovery project are subject to the permitting, spacing, and production requirements of the District if the amount of groundwater recovered from the wells exceeds the volume authorized by the commission to be recovered under the project. The requirements of the District apply only to the portion of the volume of groundwater recovered from the ASR recovery wells that exceeds the volume authorized by the commission to be recovered.
- (e) A project operator may not recover groundwater by an aquifer storage and recovery project in an amount that exceeds the volume authorized by the commission to be recovered under the project unless the project operator complies with the applicable requirements of the District as described by this section.
- (f) Fees and Surcharges
 - (1) The District may not assess a production fee or a transportation or export fee or surcharge for groundwater recovered from an ASR recovery well, except to the extent that the amount of groundwater recovered under the aquifer storage and recovery project exceeds the volume authorized by the commission to be recovered.

(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.

(g) 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.

(h) Aquifer storage and recovery projects in the District are subject to interlocal agreements or other contractual agreements with the District.

This entire section is new and being added in anticipation of Aquifer Storage and Recovery projects being reality in the District in the near future. Wording for this section is verbatim and directly from Chapter 36, Texas Water Code.

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. ~~District Monitor Wells are exempt from application, registration, and well log deposits. The General Manager shall exempt District Monitor Wells from any other fee if he determines that the assessment of the fee would result in the District charging itself a fee.~~

The amendment to Rule 9.2 deletes wording that not relevant to the District monitoring well framework.

RULE 10.3. APPLICATION

An application for a transport permit must be filed in the District office and must include the information and studies required under Rule 8.4 for a drilling and/or operating permit, plus the following information:

- (b) the projected effect of the proposed groundwater transport on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District, including the Rule 8.4 information and studies and any proposed plan of the applicant to mitigate adverse hydrogeological impacts of the proposed transport of water from the District.~~the projected effect of the proposed groundwater transport on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District, including:~~
- ~~(1) — a hydrogeological report by a registered professional in hydrogeology assessing the impact of the proposed well on existing wells and the aquifer from which withdrawals are proposed;~~
 - ~~(2) — information describing the projected effect of the proposed transporting of water on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;~~
 - ~~(3) — the names and addresses of the landowners and/or registration/permit holders and the location of their water wells, that are located within the spacing-requirement circumference of the applied-for well from which water to be transported to the proposed receiving area is to be produced; and~~
 - ~~(4) — any proposed plan of the applicant to mitigate adverse hydrogeological impacts of the proposed transport of water from the District.~~

The deletions to Rule 10.3 are being proposed to delete redundant language expressed in greater specificity in Rule 8.4 which was amended following the 85th Legislative Session.