

**Item 4 – Draft Proposed Language for Rule 8.4(b)(3)**

During the Rules Hearing held on August 10<sup>th</sup>, the Board asked that further considerations be made about how to implement proof of legal authority to produce water from under a certain tract of land. Monique and Rusty worked on and agreed the best avenue was to have permit applicants to sign an affidavit attesting to the authority to produce.

Attached is draft proposed language revising Rule 8.4(b)(3) addressing the affidavit. The draft affidavit is also attached for your review.

**It is the recommendation of the General Manager that both the draft language revising Rule 8.4(b)(3) and the affidavit be approved by the Board and posted for a Rules Hearing on November 9, 2017.**

#### **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. 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 transfer 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;
  - (4) for exempt wells, a statement regarding the basis for asserting that the well will be exempt under Rule 8.1;

**AFFIDAVIT OF LEGAL RIGHT TO PRODUCE GROUNDWATER**

**BEFORE ME**, the undersigned authority, on this day personally appeared \_\_\_\_\_, who being duly sworn on his oath, says and deposes as follows:

"My name is \_\_\_\_\_. I am of sound mind, over eighteen (18) years of age, and have never been convicted of a felony or of a crime involving moral turpitude. My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

I have personal knowledge of the facts stated herein, and they are true and correct.

1. I am submitting to the Brazos Valley Groundwater Conservation District ("District") an application for a drilling and/or operating permit for water well located at \_\_\_\_\_.
2. I have the legal authority to produce the groundwater associated with the land surface and the permit application for the well listed in #1 above, as required by District Rule 7.1(c).
3. Exhibit A is the map the identifies the water rights to be legally controlled by the applicant under District Rule 7.1(c) for the well listed in #1 above.
4. I have provided to the District any and all documents that evidence my right to own, control, or produce the groundwater rights associated with the permit application for the well listed in #1 above, as required by District Rule 7.1(c).
5. I have provided to the District any and all 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). And I understand that I am required to provide such transfer documents as they occur in the future.
6. I understand that 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.

**FURTHER AFFIANT SAYETH NOT."**

\_\_\_\_\_

**SWORN AND SUBSCRIBED** to before me on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Notary Seal)

\_\_\_\_\_  
**Notary Public in and for the State of Texas**

**My Commission Expires:** \_\_\_\_\_