

Blanco – Pedernales Groundwater Conservation District

RULES

Publication Date: May 20, 2008

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RULE REVISION RECORD

<u>Date Adopted</u>	<u>Board Resolution/Order Number</u>	<u>Effective Date</u>	<u>Affected Rules</u>
2/5/02	020502-01	2/11/02	Original Adoption
9/16/04	091604-01	9/16/04	Adoption of Rule 7 Drought Management, & update the Cover, Rule Revision Record, and Table of Contents
8/15/06	081506-01	8/15/06	Amendments, Repeals, and Adoptions
11/2/06	110206-01	11/2/06	Amendments to Rules 2, 3.1, and 7.6
5/20/08	052008-01	5/20/08	Amendments

Table of Contents

Rule 1	Introduction	1
1.1	Authority to Promulgate Rules	1
1.2	Purpose of the Rules	1
1.3	Effective Date	2
1.4	Action on Rules	2
1.5	Severability	2
1.6	Regulatory Compliance	2
1.7	Variances	2
1.8	Administrative Fees	3
Rule 2	Definitions	4
Rule 3	Well Registrations, Well Drilling Authorizations, and Operating Permits	13
3.1	Wells Subject to Operating Permits and Exemptions	13
3.2	Existing Wells.....	15
3.3	New Wells – Registration/Well Drilling Authorization	16
3.4	New Wells - Operating Permit.....	19
3.5	Change in Well Condition, Operation, or Status, and Permit Renewal, Amendment, and Revocation	22
Rule 4	Well Standards, Spacing, and Reporting Requirements	25
4.1	Groundwater Production Reporting and Monitoring	25
4.2	Well Spacing.....	26
4.3	Well Construction Standards	28
4.4	Sealing, Capping, or Plugging Wells.....	29
4.5	Well and Property Access.....	31
Rule 5	Groundwater Management Strategies	32
5.1	Groundwater Database and Scientific Investigations	32
5.2	Establishment of a Critical Groundwater Depletion Area (CGDA)	32
5.3	Declaration of an Aquifer Emergency Warning	35
Rule 6	Groundwater Conservation	37
6.1	Waste and Pollution.....	37
Rule 7	Drought Management	38
7.1	Introduction.....	38
7.2	Application.....	38
7.3	Drought Management by Watershed	38
7.4	Triggering Criteria for Initiation and Termination of Drought Stages	40
7.5	Drought Stages.....	41
7.6	Groundwater Conservation Goals and Usage Reduction Measures and Restrictions.....	41
7.7	Municipal Compliance.....	43
7.8	Enforcement.....	43
Rule 8	Procedural Rules	44
8.1	Actions on Management Plan, Bylaws, Administrative Fee Schedule, Budget, and Aquifer Emergency Warnings	44
8.2	Hearings on Rules, Other Than Emergency Rules, and on Designation of a Critical Groundwater Depletion Area.....	44
8.3	Adoption of Emergency Rules.....	46
8.4	Actions on Registrations and Operating Permits	46
8.5	Permit Actions by the Board.....	48
8.6	Permit Actions Requiring a Contested Case Hearing	50
8.7	Hearings On Enforcement Actions	53
Rule 9	Enforcement	55
9.1	Civil Enforcement.....	55
9.2	Notice of Violation	55
9.3	Penalty Schedule.....	55

Rule 1 Introduction

1.1 Authority to Promulgate Rules

The Blanco-Pedernales Groundwater Conservation District (BPGCD or District) is a political subdivision of the State of Texas. On October 11, 2000, the Texas Natural Resource Conservation Commission (TNRCC) (now the Texas Commission on Environmental Quality) in accordance with applicable provisions and requirements of the Texas Water Code, approved a petition for the creation of the District. In a confirmation election held on January 23, 2001, Blanco County voters approved the creation of the District, elected five Directors to the Board of Directors, and approved its authority to assess an ad valorem tax on the Blanco County property owners. As a duly created groundwater district, the District may exercise any and all statutory authority or power conferred under Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Section 36.101 Rule Making Power. All references to statutory provisions in these Rules are to the Texas Water Code, as amended, unless otherwise specifically stated.

The District is located within the Hill Country Priority Groundwater Management Area (PGMA), which was designated and delineated in 1990 by the TNRCC under Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

1.2 Purpose of the Rules

The District Rules are promulgated under the District's Chapter 36 statutory authority to make and enforce rules to provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within Blanco County. These Rules are intended to implement the management strategies and policies incorporated in the District Groundwater Management Plan. These Rules are also intended to minimize the draw down of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve historic use of groundwater, give consideration to the service needs of retail water utilities, and carry out the powers and duties conferred under Chapter 36.

These Rules, and any orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, management plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by Chapter 36 or any other applicable law or statute. The Board shall develop rules that are fair and impartial, and shall consider all groundwater uses and needs. The Board is authorized to make and enforce rules limiting groundwater production based on tract size or the spacing of wells.

Adopted to be effective 2/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

1.3 Effective Date

These Rules and any amendment are effective *on the effective dates indicated following each subsection.*

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Renumbered to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

1.4 Action on Rules

A. The Board may from time to time, following notice and public hearing, amend or revoke these Rules or adopt new Rules following the procedures of Rule 8.2.

B. The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 8.3.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

1.5 Severability

If any Rule, provision, section, sentence, paragraph, clause, word, or other portion of these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other Rules or portions thereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable Rule or of portions thereof had never been contained herein.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Renumbered to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

1.6 Regulatory Compliance

All Blanco County wells and well owners, well drillers, pump installers, and others under the jurisdiction of the District, shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

1.7 Variances

The District may grant an exception to requirements or provisions of the Rules to the extent allowed by Texas Water Code Chapter 36. A person desiring a variance shall submit a written request with supporting information and rationale to the General Manager. The General Manager may act on the request or refer the matter to the Board for consideration. If requested by the person requesting the variance, the General Manager shall refer the matter to the Board for consideration. Consideration by the Board shall be in accordance with Rule 8.5.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. *Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.*

1.8 Administrative Fees

Section 36.205 authorizes the District to assess fees for administrative acts of the District. These fees may not unreasonably exceed the cost to the District of providing the administrative function for which the fee is charged. Fees shall be assessed in accordance with the District Fee Schedule set by the Board. A copy of the Fee Schedule may be obtained from the District Office.

Moved from Rule 3.5, originally adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Renumbered and amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

Rule 2 Definitions

Unless the context indicates a contrary meaning, the words hereinafter defined shall have the following meanings in the Rules of the Blanco-Pedernales Groundwater Conservation District:

“Abandoned Well” - a well, including a cistern or a hand-dug well, that for at least one year: (1) has been left unused, unattended, and improperly protected from contamination and/or sources of pollution; (2) has not been used for a beneficial purpose; or (3) is not registered with the District.

“Administratively Complete Application” – an application in which all required documentation required by Sections 36.113 and 36.1131 and District Rules and payment of all appropriate fees pertaining to the application have been received by the District.

“Adverse Groundwater Conditions” – a condition in which an aquifer or portion of an aquifer is experiencing aquifer mining, deteriorating water quality, or other conditions which may harm or threaten to harm the health, safety and welfare of well owners and aquifer users, as made in a finding under Rule 5.2.

“Aggregate Wells” - a multi-well system comprised of two or more wells that are owned by the same owner and serve the same property, subdivision, facility, or customers.

“Aggregate Withdrawal” - the amount of water withdrawn from two or more permitted wells owned by the same owner that is permitted for a total annual production amount of all wells in the aggregate.

“Agricultural Use or Purpose” – the use of groundwater for:

- (1) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (2) practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;
- (3) 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;
- (4) 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;
- (5) engaging in wildlife management as defined in Texas Tax Code Section 23.51(7); and,
- (6) raising or keeping equine animals.

“Annular Space” - the space between two concentric cylindrical objects, one of which surrounds the other, such as the space between the walls of a drilled hole and the installed casing.

“Aquifer” - a geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

“Aquifer Emergency Warning” – An action taken pursuant to Rule 5.3 of these Rules when the District has determined that hazardous groundwater conditions exist requiring immediate action on the part of the District.

“Aquifer Mining” –A condition where the average available recharge of an aquifer or portion of an aquifer is less than the annual production from that aquifer or that portion of that aquifer. For purposes of these Rules, the terms “aquifer overdrafting”, “reduction of artesian pressure”, “subsidence”, and the “drawdown of the water table or aquifer” shall mean aquifer mining when the condition results from groundwater production.

“Artesian Pressure” - where water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

“Beneficial Use or Purpose” - the use of groundwater (1) for domestic, municipal, stock raising, agricultural use or purpose, industrial, commercial, mining, manufacturing, irrigation, gardening, and pleasure/recreational purposes; (2) for exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or (3) for any other purpose that is useful and beneficial to the user except when such use or purpose falls under the definition of "Waste" as defined in these Rules or Chapter 36.

“Board” - the elected or duly appointed Board of Directors of the Blanco-Pedernales Groundwater Conservation District.

“Capping” - equipping a well with a securely affixed, removable device that will prevent the entrance of surface pollutants into the well.

“Casing” - a tubular structure installed in the excavated or drilled borehole to maintain the well opening.

“Change in Well Condition, Operation, or Status” – to alter the physical or mechanical characteristics of a well, its equipment, its use, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

“Cistern” - an in-ground storage facility for water. See also abandoned well.

“Closed Loop Geothermal Well” - a well constructed for circulating water through a continuous length of tubing, generally for earth coupled-heat exchange purposes. A well system drilled and equipped for the purpose of utilizing the subsurface as a source of energy for heat exchange in heating and cooling systems. These are sealed systems, no

water is to be produced or injected. The same as Earth Coupled Heat Exchange-Closed Loop System.

“Commercial Use or Purpose” - the use of groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use water in those processes, or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering).

“Community Water System” – a public water system that has the potential to serve at least 15 residential connections on a year-round basis or serves at least 25 residents on a year-round basis.

“Conservation” - those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

“Contested Case Hearing” – A permit hearing requested as authorized by Rule 8.5.K, which is noticed and conducted according to the procedures of Rule 8.6.

“Critical Groundwater Depletion Area (CGDA)” – a CGDA is any portion of the District which is so designated and delineated by the Board according to Rule 5.2.

“Director” - an elected or appointed member of the Board of Directors of the BPGCD.

“Discharge” - the volume of water that passes a given point within a given period of time and/or the amount of water that leaves an aquifer by natural or artificial means.

“District” - the Blanco-Pedernales Groundwater Conservation District (BPGCD) or one of its authorized representatives.

“District Monitor Well” - a well designated as such by the District which is used for specific District needs or programs such as water quality monitoring, measuring aquifer levels, or determining Drought Conditions.

“District Office” - the main office of the District at such location as may be established by the Board.

“Domestic Use or Purpose” - the use of groundwater for personal needs or for essential household purposes such as drinking, bathing, heating, cooking, sanitation or cleaning; irrigation of lawns, shade trees, family gardens and orchards; watering of domestic animals; and maintaining ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water located on the person’s property but only if they are entirely lined with impermeable or impervious materials that prevent leakage of water and have a total capacity to hold no more than 50,000 gallons.

“Drill” - drilling, digging, equipping, completing wells, or changing the size of wells or well pumps/motors (resulting in an increase in production volume capability) whereby a drilling or service rig must be on location to perform the activity.

“Drilling Documentation Deposit” – a deposit assessed against all wells drilled or completed after February 11, 2002 as part of the registration process. The deposit is refundable upon submittal to the District of the State of Texas Well Report and other documents generated during the drilling and completion of the well.

“Drought” - a prolonged period of time in which no substantial rainfall and surface water runoff occurs and/or aquifer discharge exceeds recharge as determined under Rule 7.

“Earth Coupled Heat Exchange” or **“Closed Loop System”** - the same as a closed loop geothermal well.

“Emergency Rule” – A rule adopted under Rule 8.3.

“Exempt Well” - a well exempted under Rule 3.1.C. for which the owner is not required to obtain an operating permit but for which the owner is required to obtain a registration number by registering the well's use and location with the District.

“Existing Well” - any well in the District that was drilled or dug on or before February 11, 2002.

“Fees” - charges imposed by the District pursuant to Texas Water Code Chapter 36.

“Groundwater Management Plan” – a management plan developed by the District pursuant to Section 36.1071.

“Groundwater or Underground Water” - water percolating beneath the earth's surface.

“Groundwater Reservoir” - a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

“Hand-Dug Well” – A well installed by hand digging or by auger drilling.

“Hazardous Groundwater Conditions” – a groundwater quality condition as described in Rule 5.3.A. that may be detrimental to the health, safety, and welfare of the residents or livestock of Blanco County.

“High Volume Well” – a well, regardless of the type of use of the water, that is equipped with a pump that is capable of producing more than 25,000 gallons per day (17.36 gallons per minute).

“Industrial Use or Purpose” – use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products.

“Injection Well” - a well used to inject water or other material into a subsurface formation or into pipe or tubing placed in the formation for the purpose of storage or disposal of the fluid.

“Irrigation Use or Purpose” - use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees, other than for domestic use or purpose.

“Licensed Water Well Driller” - any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the Texas Department of Licensing and Regulation’s Water Well Drillers and Pump Installers Program.

“Licensed Water Well Pump Installer” - any person who holds a license issued by the State of Texas pursuant to the provisions of HB 1648, 72nd Texas Legislative Session and the substantive rules of the Texas Department of Licensing and Regulation’s Water Well Drillers and Pump Installers Program.

“Livestock Use or Purpose” – the use of groundwater to provide water for domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations, including maintaining ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water located on the person’s property but only if they are entirely lined with impermeable or impervious materials that prevent leakage of water and have a total capacity to hold no more than 50,000 gallons. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are not considered livestock. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock.

“Low Volume Well” – a non-exempt well that is equipped with a pump that is capable of producing only 25,000 gallons per day (17.36 gallons per minute) or less.

“Managed Available Groundwater” - the amount of water that may be permitted by the District for beneficial use in accordance with the desired future condition of the aquifer as determined under Section 36.108. The District, to the extent possible, shall issue permits up to the point that the total volume of groundwater permitted equals the managed available groundwater, if administratively complete permit applications are submitted to the district.

“Monitor or Observation Well” - a well generally used for collecting water-quality and/or water level data.

“New Well” - a well drilled or dug after February 11, 2002.

“Nonexempt Well” - a well for which the owner is required under Rule 3.1 to obtain an operating permit under Rule 3.2.B. or 3.4.

“Notice of Violation (NOV)” - written notice from the District notifying a person that they are in violation of law, including violation of a District Rule, Order, or permit.

“Open or Uncovered Well” - a well that is not closed, capped, or covered as required by the District.

“Operate or Operations” - to produce or cause to produce water from a well.

“Operating Permit” - the authorization issued by the District under which an owner of the property may construct, drill, or change a nonexempt well within the District in compliance with approved District standards and may withdraw a specific amount of groundwater from a nonexempt well for a designated period of time.

“Overpumping or Overproduction” - to produce water from a well in excess of the amount authorized to be withdrawn under an operating permit issued by the District.

“Owner” or “Well Owner” - any person who has the right to drill a well on a tract of land or to produce groundwater from the land, either by ownership, contract, lease, easement, or any other estate in the land.

“Party in a Contested Case Hearing” – an applicant or other person defined under Rule 8.5.K and designated under Rule 8.5.L.

“Permit Amendment” - the process under Rule 3.5.E whereby the District considers and approves an increase in the permitted annual production amount or the change from a Low Volume well to a High Volume well.

“Permit or Registration Modification” – the process under Rule 3.5 whereby the General Manager modifies a registration or permit to reflect changes in well ownership or well conditions or status.

“Permitted Well” – a well for which an operating permit required under Rule 3.1 has been issued by the District.

“Permittee” - a person who has a permit issued by the District.

“Person” - includes a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

“Plugging” - the permanent closure of a well in accordance with approved State and District standards.

“Presiding Officer” – the Board President or hearings examiner, or if the Board President is not present, the director selected by the other directors to serve as Presiding Officer.

“Production” - all water withdrawn from the ground, measured at the wellhead. See also definition of “withdrawal.”

“Production Capability” - the volume of water a well can produce as determined by either the rated pumping capability of the installed pump or as measured by the District.

“Public Water System” – a system as defined in 30 Texas Administrative Code Chapter 290 for providing water for human consumption to the public.

“Recharge” – the amount of water that infiltrates to the water table of an aquifer.

“Recharge Zone” - the land surface area in which water infiltrates permeable rock layers that provide a flow path for water to enter an aquifer.

“Recovery Well” – a well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

“Remediation Well” - a well used to pump or vent contaminated air, water, or fluids from the ground. Includes a recovery well.

“Retail Water Utility or Retail Public Water Utility” – as defined by Texas Water Code Section 13.002 and 30 Texas Administrative Code Section 291.3, any person, corporation, public utility, water supply corporation, municipality, political subdivision or agency operating, maintaining, or controlling within Blanco County facilities for providing potable water service for compensation.

“Rules” - standards and regulations promulgated by the District.

“Seal” - an official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, shall be in violation of District Rules, and may subject the well owner to civil suit and/or penalties. Also, the official District seal adopted by the Board of Directors.

“Special Provisions” - conditions or requirements added to a permit, which may be more or less restrictive than the Rules as a result of circumstances unique to a particular situation.

“Spring” - a point of natural discharge from an aquifer (may incorporate man-made structural features such as spring houses, retaining walls, settling ponds, pipes, etc.).

“State of Texas Well Report” or “Well Log” – the report that every well driller who drills, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.10 and 76.700, including any special purpose geophysical log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

“Surface Completion” - sealing off access of undesirable water, surface material, or other potential sources of contamination to the well bore by proper casing, cementing, or grouting procedures.

“TCEQ” – Texas Commission on Environmental Quality, successor agency to the TNRCC.

“Test Well” – a well drilled for purposes of testing water availability or quality.

“TNRCC” - Texas Natural Resource Conservation Commission, predecessor agency to the TCEQ.

“Variance” - an authorized exception to requirements or provisions of the Rules granted by the District in accordance with Rule 1.7.

“Waste” -

- (1) The 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.
- (2) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (3) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
- (4) The 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.
- (5) 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 commission under Chapter 26 “Water Quality Control”.
- (6) Groundwater pumped for irrigation that escapes as irrigation tailwater 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.
- (7) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner’s land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner’s land or to percolate through the stratum above which the water is found.
- (8) Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well.
- (9) The pumping of groundwater into ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water, except as provided in District Rules.

“Water Table” - the upper boundary of the saturated zone in an unconfined aquifer.

“Water Well” - an artificial excavation constructed to explore for or produce groundwater.

“Well” - , water well, test well, dewatering well, or monitoring well.

“Well Log” – Same as State of Texas Well Report - an accurate record made during drilling on a form prescribed by the Water Well Drillers Rules (16 Texas Administrative Code Chapter 76), showing the depth of the well bore, thickness of the formations, character of casing installed, and any other data required by the Water Well Drillers Rules. It also includes any special purpose well log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

“Well Pumps and Equipment” - devices and materials used to produce water from a well, including the seals and safeguards necessary to protect the water from contamination.

“Well Registration” - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping, or future planning purposes.

“Wildlife Use or Purpose” – groundwater used for watering wildlife.

“Withdraw or Withdrawal” - the act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 11/02/06 by Board Resolution 110206-01 on 11/02/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

Rule 3 Well Registrations, Well Drilling Authorizations, and Operating Permits

All wells located in Blanco County shall be registered with the District in accordance with Rule 3.2.A or 3.3, and shall comply with all State and District well construction requirements. Based on the registration information, certain well owners will be required to obtain operating permits.

The decision whether to grant or deny a permit required under these Rules, shall be based on the considerations required by 36.113(d) and Rule 3.4.C. As authorized by Section 36.113(f), all permits issued by the District shall be subject to the District Rules and to terms and conditions regarding the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practical the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules applicable to wells subject to registration and permitting. Registration of a well, issuance of a well drilling authorization, or operating permit does not limit the District's authority to regulate a well or the production of water from a well.

The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, pumping capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District. All well and well site access shall be conducted in accordance with Rule 4.5.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

3.1 Wells Subject to Operating Permits and Exemptions

Operating Permits are issued by the District in accordance with Texas Water Code Chapter 36, District Rules, and the District Groundwater Management Plan (GMP). The issuance of Operating Permits is subject to Managed Available Groundwater (MAG) limitations contained in the GMP. The MAG is a result of Texas Water Code Chapter 36.108 requirements for regional planning, cooperation, and coordination with other Groundwater Conservation Districts located in Groundwater Management Area 9 and counties adjacent to Blanco County.

A. High Volume Wells Required to Obtain an Operating Permit

A well, regardless of the type of use of the water, that is equipped with a pump that is capable of producing more than 25,000 gallons per day (17.36 gallons per minute), shall obtain an operating permit under Rule 3.2.B or 3.4, and shall be designated as a High Volume Well.

B. Low Volume Wells Required to Obtain an Operating Permit

A non-exempt well that is equipped with a pump that is capable of producing only 25,000 gallons per day (17.36 gallons per minute) or less, shall obtain an

operating permit under Rule 3.2.B or 3.4, and shall be designated as a Low Volume Well.

C. Wells Providing Groundwater to Surface Impoundments

- (1) Any well currently providing groundwater as of November 2, 2006 to ponds, lakes, tanks, reservoirs, or other surface impoundments shall obtain an operating permit to continue such use unless exempted under Rule 3.1.D.
- (2) Except for those wells permitted under Rule 3.1.C(1), no operating permit shall be issued for any well that proposes to provide groundwater after November 2, 2006 to ponds, lakes, tanks, reservoirs, or other surface impoundments, because such use is considered waste under District Rules.

D. Wells Exempt from Obtaining an Operating Permit

- (1) A well used solely for domestic use, for providing water to livestock, poultry, or wildlife if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons per day (17.36 gallons per minute), unless the well will be used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code.
- (2) A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig. The District shall not deny an application for a permit for any well used to supply water for hydrocarbon production activities if the application is in compliance with the spacing, density, and production Rules applicable to all permitted water wells of the District. The District shall require such a well to be permitted and comply with District Rules if the well is no longer solely used to supply water for a rig actively engaged in drilling or exploration operations.
- (3) A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water. These water wells are not required to comply with the spacing requirements of the District. The District shall require a well to be permitted and comply with District Rules if the withdrawals from the well are no longer necessary for mining activities, or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code. An entity holding such a Chapter 134 permit for a water well shall report monthly to the District (1) the total amount of water withdrawn during the month; (2) the quantity of water

necessary for mining activities; and (3) the quantity of water withdrawn for other purposes.

- (4) A well drilled and completed solely for purposes of aquifer testing, including a test well, or for monitoring water levels or water quality. Every effort must be made to use any water produced during testing for a beneficial purpose. Wells drilled under this exemption that are subsequently converted to another use must submit a Change in Well Condition or Status form obtained from the District in accordance with Rule 3.5.E. Conversions to a non-exempt use are subject to the Operating Permit requirements under Rule 3.2.B or 3.4.

E. Edwards-Trinity (Plateau), Upper Glen Rose (Upper Trinity), or Marble Falls Aquifers Wells

In accordance with the District Groundwater Management Plan, the District will not issue an operating permit for a new well proposed to withdraw groundwater from the Edwards-Trinity (Plateau), Upper Glen Rose (Upper Trinity), or Marble Falls Aquifers.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 11/02/06 by Board Resolution 110206-01 on 11/02/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

3.2 Existing Wells

Any well in the District that was drilled on or before February 11, 2002, is an existing well under these Rules. Owners of all existing wells are required to register the wells with the District under Rule 3.2.A. Owners of some existing wells are also required to obtain an operating permit for the wells from the District under Rule 3.2.B.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

A. Registration

The owner of an existing well located in Blanco County shall register the well with the District. Forms for registering an existing well are available from the District Office. The owner shall provide all information required on the form, if known or available, and a copy of the completed State of Texas Well Report, if available.

No fee shall be charged for registering an existing well. The well shall be registered under its existing State well number. If the well does not have a State well number, the District shall issue a temporary well number pending assignment of a State well number.

The District shall determine under Rule 3.1 whether the existing well must obtain an operating permit and whether it is a High Volume or Low Volume Well. The District shall also determine whether it is currently operational, abandoned,

plugged, or capped. If the District determines that no operating permit is required, no further approval is required of existing wells, except as may be required by Rule 3.5.D or 3.5.E regarding changes in ownership or well conditions. Subsequent changes in well conditions or operations or purpose of use of water from a registered well may result in the well being reclassified as non-exempt, which would require the well owner to apply for an operating permit. The owner of an existing registered well that proposes to change conditions, operations, or status shall seek authorization from the District, as required by Rule 3.5.E, prior to making such changes.

B. Operating Permit

If based on the registration submitted under Rule 3.2.A., the District determines that an existing well requires an operating permit, the well owner shall obtain an operating permit as described in this Rule 3.2.B. The owner shall submit to the District an operating permit application on a form obtained from the District. All operating permit applications shall be signed and sworn to as required by Texas Water Code Section 36.113(b). The owner shall provide any information deemed necessary by the District. **No fee shall be charged for applying for or issuing an operating permit for an existing well.** No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. Once the owner has submitted the application and all required information, the General Manager shall determine whether the well is a High Volume or Low Volume Well, and whether the requested annual production amount is reasonable. The decision on the application shall be processed according to Rule 8.4. The owner of an existing registered well that proposes to change conditions, operations, or status shall seek authorization from the District, as required by Rule 3.5.E, prior to making such changes.

An operating permit shall specify and authorize the annual maximum groundwater production from the well (in gallons per year or acre feet per year), which has been determined by the General Manager as being reasonable, the owner of the well, the state or temporary well number, the type of use permitted, and any special permit conditions. When two or more wells are owned by the same person and operated as a multi-well system, the District may issue an operating permit for an aggregate withdrawal. An operating permit for an aggregate withdrawal shall allow groundwater to be produced from any well of the aggregate system up to the permitted production amount. The aggregate wells shall be listed on the permit.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

3.3 New Wells – Registration/Well Drilling Authorization

- A.** Written authorization must be obtained from the District before a new well is drilled or an existing registered well changes conditions, operations, or status.

- B.** A new well is a well drilled after February 11, 2002.
- C.** The owner of a new well proposed to be located in Blanco County shall register the well with the District prior to commencement of drilling. This registration shall serve as an application for a well drilling authorization. Forms for registering a new well are available from the District Office.
- D.** The owner shall provide all information required on the form, if known or available.
- E.** A registration fee and documentation deposit shall be charged for registering a new well. A Late Payment Fee may be assessed against the property/well owner for any Drilling Documentation Deposits, Well Registration Fees, Operating Permit Application Fees, or other appropriate fees that are not paid before the commencement of drilling the well.
- F.** The District shall issue a temporary well number pending assignment of a State well number.
- G.** If the District determines that the information is complete, that the registration fee and documentation deposit have been paid, that location of the proposed well complies with Rule 4.2 spacing requirements, and that the registrant is in compliance with all District Rules, the District shall issue a well drilling authorization. If an operating permit under Rule 3.4 is required, the owner shall obtain such an operating permit prior to producing water from the well, other than for testing purposes.
- H.** The registrant may begin drilling immediately upon receiving the approved registration and well drilling authorization. The well shall comply with all State and District well construction and spacing requirements. The owner shall ensure that the driller files a copy of the State of Texas Well Report with the District within 60 days of completion. No further approval is required of new exempt wells, except as may be required by Rule 3.5.D and 3.5.E regarding subsequent changes in ownership or well conditions or operations. Increases in the pumping capability or purpose of use may result in the well being reclassified so that the well owner would be required to apply for an operating permit.
- I.** Drilling shall begin within one year of approval of the registration and issuance of a well drilling authorization. At that time, if no drilling has begun, the well drilling authorization expires. The registration fee is non-refundable. The Drilling Documentation Deposit is refundable. After expiration of a well drilling authorization, an owner shall submit, prior to drilling the well, a new registration/application for well drilling authorization accompanied by the appropriate fee and deposit.
- J.** A test well is exempt from obtaining an operating permit under Rule 3.4, but this does not guarantee issuance of an operating permit for that well when it is converted to a different use. Once testing is concluded, the well must either be properly plugged under Rule 4.4.C or the owner must submit a Change in Well

Condition or Status to convert the well to a different use. In the case of conversion to a non-exempt use, the owner must obtain an operating permit under Rule 3.4.

Adopted to be effective 02/14/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

3.4 New Wells - Operating Permit

If based on the registration submitted under Rule 3.3 or based on well test results, the District determines that a new well requires an operating permit, the owner is required to obtain an operating permit prior to producing water from the well, as follows.

Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

A. Application

- (1) An application for an operating permit for a new non-exempt well shall be submitted to the District in writing and be sworn to by the well owner. The application shall be submitted on forms obtained from the District and shall include a water conservation plan and other information required by District Rules or deemed necessary by the General Manager to comply with the requirements of Chapter 36 and address specific District needs. A separate application is required for each well, although the District may issue aggregate permits.
- (2) The applicant must provide sufficient documentation to the District to show that the applicant has a real and current need of the quantity of groundwater requested in the application or will have such a need within one year following the date of application.
- (3) If the applicant requests more water than the District deems reasonable, or if the applicant disagrees with the District's evaluation, the District may approve the application on a temporary basis for a production quantity acceptable to the Board, and require the applicant to provide documentation to the District in support of the applicant's belief that the requested amount is reasonable and necessary. Following submission and review of such documentation, the Board may reconsider the application and make adjustments to the permitted production quantity if deemed appropriate by the Board.
- (4) An applicant for an operating permit requesting an annual groundwater withdrawal volume of 5,000,000 gallons or more shall submit a report to the District on the results of an aquifer test. The aquifer test must be performed on existing or test wells located on the property in question and must be conducted and reported in accordance with the District's current aquifer test requirements guidance document. The aquifer test and subsequent report must be conducted and prepared by either a registered Professional Engineer or a registered Professional Geoscientist.

B. Administrative Completeness of Application

In order to adequately address the purposes and requirements of Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant. The application will be considered administratively incomplete until the required documents have been submitted to the District. The applicant shall be notified when the application and its accompanying documentation has been reviewed by the District and deemed administratively complete. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues

with the District. No application for a High Volume Well shall be deemed administratively complete until the applicant has provided to the District the name and mailing address of all persons who own property located within a ¼-mile radius of the proposed well site.

If an application remains administratively incomplete for more than 180 days following either the original application date or the date the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.

If an application is amended after notice is provided under Rule 8.5.F, the application shall be deemed administratively incomplete and shall be reprocessed under Rule 3.

C. Consideration of Operating Permit Applications

The District shall promptly consider and act on each administratively complete application for an operating permit. Within 60 days after the date an operating permit application is determined to be administratively complete, the District shall either act on the application or set it for a public hearing on a specific date in accordance with the provisions of Rule 8.4.

The District shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each application. The District shall consider the following, which include the considerations required by Texas Water Code Section 36.113(d):

- (1) Does the application and other required documentation conform to the requirements of Chapter 36 and these Rules?
- (2) Is the well located within 50 feet or within the service area of a retail public water utility or community water system? If so, has the applicant shown that the utility or community water system is unable or unwilling to provide water service?
- (3) Does the proposed use of water unreasonably affect existing groundwater and surface water resources or existing permit holders?
- (4) Is the proposed use of water considered beneficial use?
- (5) Is the proposed use of water consistent with the District's certified water management plan?
- (6) Has the applicant agreed to avoid waste and achieve water conservation?
- (7) Will the conditions and limitations in the permit prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells?

- (8) Does the application include an acceptable water conservation plan?
- (9) Has the applicant agreed to use reasonable diligence to protect groundwater quality?
- (10) Has the applicant agreed to follow the District Rules on well plugging at the time of well closure?
- (11) Are the applicant and the well in compliance with all District Rules and have all required fees been paid?
- (12) Is the requested annual maximum production reasonable?
- (13) Is the proposed well located within a Critical Groundwater Depletion Area? If so, the District shall consider the conditions within the CGDA, how the proposed well may affect the CGDA, whether additional groundwater production is available, and, if available, how much can be allocated to the proposed well.
- (14) Is the proposed well a High Volume Well? If so, has the District provided notice to all persons who own property located within a ¼-mile radius of the proposed well site, as identified by the applicant under Rule 3.4.B?
- (15) Will the proposed well withdraw groundwater from either the Edwards-Trinity (Plateau), Upper Glen Rose (Upper Trinity), or Marble Falls aquifers? If so, the District will deny the application in accordance with the District Groundwater Management Plan.

An operating permit shall designate whether the well is a High Volume or Low Volume well. It shall specify and authorize the annual maximum groundwater production from the well (in gallons per year or acre feet per year), the owner of the well, the assigned well number, the type of use permitted, and any special permit conditions.

When two or more wells are owned by the same person and operated as a multi-well system, the District may issue an operating permit for an aggregate withdrawal. An operating permit for an aggregate withdrawal shall allow groundwater to be produced from any well of the aggregate system up to the permitted production limit. The aggregate wells shall be listed on the permit.

Adopted to be effective 02/14/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

3.5 Change in Well Condition, Operation, or Status, and Permit Renewal, Amendment, and Revocation

A. Operating Permit Term

Unless otherwise specified by the District as a special permit condition, operating permits issued by the District are valid for a period of three years.

B. Operating Permit Renewals

The General Manager shall review each permit at the end of its term. Renewal shall be automatic except under the following circumstances, when the renewal shall be referred to the Board for action under Rule 8.5.

(1) If the permit holder is not in compliance with permit conditions or District Rules. The issue upon referral is limited to whether the permit holder is in compliance and if not, whether to deny renewal based on the non-compliance.

(2) If the well is located in a CGDA. The issue upon referral is limited to whether the production limits are consistent with the well's location in a CGDA and the overall conditions in the CGDA.

(3) For a High Volume Well, upon the notification by two Directors under Rule 8.4.B. The issue upon referral is limited to the issues listed in 3.5.B(1) and (2) and whether upon renewal the permit will be amended to comply with changes in District Rules since the initial permit issuance or the last renewal or amendment.

The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit and any renewal will be subject to all current District Rules.

C. Operating Permit Involuntary Amendment or Revocation

Operating permits are subject to involuntary amendment or revocation for violation of District Rules, violation of the permit, including special permit conditions imposed by the Board, violation of the provisions of Chapter 36, waste of groundwater, or other actions that the Board determines to be detrimental to the groundwater resources in Blanco County. Involuntary amendment or revocation shall be in accordance with Rule 9. Permits whose permitted annual production amount exceeds the average annual production (based on a 3-year average) by 30% or more will be considered as being over-permitted and may be subject to involuntary amendment by the District in order to more accurately reflect actual usage.

D. Change of Well Ownership

Any change of ownership of a registered well shall be reported by the new owner by submitting a Change of Well Ownership form to the District within 90 days

after the change. The General Manager shall modify the registration or operating permit to reflect the new owner and shall determine whether there has been a change in well condition, operation, or status in addition to the change in ownership. A change in well condition, operation, or status shall be processed in accordance with Rule 3.5.E.

E. Change in Well Condition, Operation, or Status

No person shall change the type of use of a registered well, alter the size of a registered well, the well pump, or its production amount, or plug a registered well in Blanco County without District authorization. No change shall be authorized if the applicant has unresolved compliance issues with the District. For wells that will be plugged, the owner shall comply with Rule 4.4.C.

Prior to conducting any of the above activities, the owner shall complete and submit a Change in Well Condition or Status form to the District. The General Manager may modify the registration or operating permit to reflect such changes unless he determines that the changes (1) change the status of the well from exempt to nonexempt; (2) change the characterization of the well as High Volume or Low Volume; or (3) change the permitted production amount of a permitted well. In such cases, the changes will be processed as follows:

(1) Change in Status from Exempt to Nonexempt Well

For an exempt well, if the General Manager determines that the proposed change in well condition or operation makes the well no longer exempt under Rule 3.1.C, the owner shall apply for an operating permit under Rule 3.4 and pay appropriate application fees in accordance with the District Fee Schedule for new non-exempt wells. The proposed change is not authorized until the operating permit is issued by the District.

(2) Change in Characterization of the Well as High Volume or Low Volume

(a) For a permitted well, if the General Manager determines that the proposed change in well condition or operation changes the characterization of the well from a High Volume well to a Low Volume well, the General Manager may modify the permit to reflect the new characterization as a Low Volume Well and the well will be subject to the requirements of District Rules controlling that characterization.

(b) If the General Manager determines that the proposed change will change the characterization of the well from a Low Volume well to a High Volume well, the change will require a permit amendment. An application for an amendment to the operating permit shall be submitted to the District, accompanied by the appropriate amendment application fee, at least 90 days prior to the date the change is to take place. Within 60 days after the date the

amendment application is deemed administratively complete, it will be referred to the Board, in accordance with Rule 8.4. A decision on whether to approve the amendment shall be considered as provided in Rule 3.4.C.

- (c) If the change is from a Low Volume to a High Volume Well, instead of paying the Permit Amendment Application Fee, the applicant must pay the application fee for a new High Volume, non-exempt well in accordance with the current District Fee Schedule.

(3) Change in Permitted Production Amount

With regard to a permitted well:

- (a) If the change in well condition or operation results in a reduction of the permitted annual production amount, the General Manager shall modify the permit to reflect the changed production limit.
- (b) If the change results in an increase of the permitted annual production amount, an application for an amendment to the operating permit shall be submitted to the District, accompanied by the appropriate amendment application fee, at least 90 days prior to the date the change is to take place. Within 60 days after the date the amendment application is deemed administratively complete, it may be approved by the General Manager or referred to the Board, in accordance with Rule 8.4. A decision on whether to approve the amendment shall be considered as provided in Rule 3.4.C.

F. Registration and Permit Application Fees

Registration and permit application fees shall be assessed in accordance with the District Fee Schedule adopted by the Board. A copy of the Fee Schedule may be obtained from the District Office.

Adopted to be effective 02/14/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

Rule 4 Well Standards, Spacing, and Reporting Requirements

4.1 Groundwater Production Reporting and Monitoring

A. Notification Required Prior to Drilling and Pump Installation

The following notifications are required to allow the District to determine the registration and operating permit status of the well and to observe drilling and pump installation, if the District so desires:

- (1) Prior to drilling a well in the District, the driller shall notify the District. This notification may be accomplished by verbal or written means. This applies to all persons who drill a well in the District.
- (2) Prior to installing a pump with a pumping capability of greater than 25,000 gallons per day (17.36 gallons per minute), the pump installer shall notify the District. This notification may be accomplished by verbal or written means. This applies to all persons who install the specified size pump in the District.

B. Well Drilling and Completion Reports

The State of Texas Well Report, all well logs, pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District office within 60 days after completion of the well or well project. Although the information will ordinarily be submitted by the well driller or pump installer, it is the responsibility of the owner to ensure compliance with this Rule.

C. Annual Water Use Report – High Volume Wells

For each High Volume Well, on or before March 1st of each year, the permittee authorized to produce groundwater shall file an annual report with the District describing the amount of water produced and used for the permitted purposes on an annual basis for the preceding calendar year. The report shall be filed on a form obtained from the District.

D. Monthly Reports – Certain Wells for Mining Activities

A well for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, which is exempt from obtaining an operating permit under Rule 5.1.C(3), shall report monthly to the District (1) the total amount of water withdrawn during the month; (2) the quantity of water necessary for mining activities; and (3) the quantity of water withdrawn for other purposes.

E. Production-Monitoring Devices

During hydrological studies, pump tests, or in areas designated by the Board as Critical Groundwater Depletion Areas, the Board may require production-monitoring devices to be installed on wells required to have an operating permit at the permittee's expense. These monitoring devices shall be made available for District inspection during normal business hours or during the pump tests or studies as necessary. An hour meter may be considered a production-monitoring device if the well output in gallons per minute can be calculated accurately.

F. Inspections of Permitted Wells

District employees, Board members, District consultants, or other District agents may conduct random or periodic inspections of wells required to have an operating permit, for any District purpose. The District shall coordinate and schedule such inspections with the well owner, as authorized by Rule 4.5.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

4.2 Well Spacing

All wells drilled in Blanco County after **February 11, 2002** shall comply with the following well spacing rules unless exempted under Rule 3.1.C(3).

A. Spacing Requirements

The following well spacing shall be required for wells in Blanco County. These distances are more stringent than those required by 16 Texas Administrative Code, Section 76.1000, as amended.

Any subdivision of existing tracts of land shall be done in such a fashion that new property lines shall be located no closer than the spacing requirements of this Rule from any existing or proposed well.

Projected Pumping Capability of Proposed Well in Gallons per Minute	Spacing Required Between Existing Wells and the Proposed Well	Distance of Proposed Well from Property Lines
Up to 17.36	100 feet	50 feet
17.36 – 200 GPM	300 feet	150 feet
201 – 400 GPM	750 feet	375 feet
401 – 800 GPM	1200 feet	600 feet
> 800 GPM	1500 feet	750 feet

The owner of a proposed new well or someone desiring to subdivide existing tracts of land who, due to the peculiarities of the property shape or the local geology or hydrology, may need to locate a well closer than the above spacing requirements may apply for a variance of the spacing requirements under this Rule, in accordance with Rule 1.7. Except for proposed new wells on tracts of land that were subdivided prior to February 11, 2002, or for the drilling of

replacement wells, the owner requesting a variance from the property line spacing requirements shall obtain a waiver or easement of the property line spacing requirements from adjoining, affected property owners. Such documents shall be notarized, filed with the Blanco County Clerk, and copies shall be submitted with the application for a variance to the District office prior to drilling the proposed well or subdividing the land. Such a waiver or easement will affect drilling options on the property of the owner granting it by causing the distance requirements for property lines and between wells to be adjusted inward on the property for which the waiver is granted. The District shall not accept reciprocal waivers or easements from adjoining property owners if the waivers or easements would involve the same portion of the adjoining properties.

New wells drilled to replace existing wells do not have to meet the spacing requirements between the original well and the new well.

B. Minimum Tract Size

The District will work with other Blanco County officials to ensure that proposed new wells will be drilled in compliance with current minimum tract sizes or other tract or lot requirements or restrictions imposed or accepted by other Blanco County authorities.

C. Spacing from Potential Sources of Contamination

All new wells must comply with the distances given for separation of wells from sources of potential contamination in the Water Well Drillers Rules, 16 Texas Administrative Code § 76.1000(a)(1)–(4), as amended.

D. Spacing from Retail Water Utility Service Area or Community Water System

In order to minimize the draw down of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve historic use of groundwater, and give consideration to the service areas of retail water utilities, all new wells other than those belonging to the retail water utility or the community water system shall be required to be spaced such that they are located a minimum of fifty feet (50 feet) outside the service area of a retail water utility or community water system unless additional spacing is required under Rule 4.2(E).

The District may approve a variance to this Rule, in accordance with Rule 1.7, for an owner desiring to drill a well within the service area of a retail water utility or community water system. The owner requesting such a variance shall provide the District with sufficient documentation to prove that either (1) the retail water utility or community water system will not or cannot provide water service to the tract of land on which the well is proposed to be drilled; or (2) the well is exempt under Rule 3.1.C(3).

E. Clustering of wells.

If in the case of development of multiple wells by a single owner on the same tract of land and for geological or hydrological reasons it is desired to cluster wells, the District shall consider, and may approve, such a request provided the spacing requirements are achieved as follows:

- (1) Retail water utilities and community water systems may apply to drill new wells, replacement wells, or monitor wells within the confines of a well field owned by the utility without regard for District spacing requirements if the site plan for the proposed new well and the well field has been designed by a professional engineer and has been approved by the TCEQ.
- (2) In the case of a well with a pumping capability of 401-800 gpm, the distance from the property line shall be 600 feet to the nearest well of the cluster.
- (3) In the case of a well with a pumping capability of >800 gpm, the distance from the property line shall be 750 feet to the nearest well of the cluster.
- (4) Minimum distances between existing wells located on adjoining property and any newly drilled well of the cluster shall be maintained as cited in the above table, but existing wells are exempt from this requirement.
- (5) The total property upon which the clustered wells are to be located shall be contiguous, owned by the permittee, and the same in square or rectangular configuration as if the wells were not clustered and were located on a grid accommodating both the spacing between wells and the property line distances. For example, a two well field of >800 gpm per well would require an area of 103.3 acres (1500 feet by 3000 feet). Likewise, a four well field of >800 gpm would require an area of 206.6 acres (3000 feet by 3000 feet).

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

4.3 Well Construction Standards

Construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended and the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code ("TAC"), Chapter 76, as amended, and additional standards as required in this Rule.

In order to prevent the degradation of the quality of groundwater, the Board has determined that, in addition to the requirements in the above statutes, the following requirements shall be required for well construction in Blanco County.

- A. To prevent pollutants from entering the wellhead, all wells shall be completed with a watertight sanitary seal. Any existing well not meeting this requirement is required to comply with this Rule at the time the wellhead is next removed. Wells with odd-sized casing or those having well heads for which there is no factory made watertight sanitary seal available shall be completed or modified in such a manner that shall meet the intent of this Rule.
- B. For new wells other than monitor wells, the annular space and grouting requirements under 16 TAC 76.1000(a)(1) is increased from ten feet to fifty feet (50 feet). If the top of the first potable water bearing strata is less than fifty feet below the surface, this distance can be reduced to a depth just above the first potable water bearing strata, but in no case shall be less than ten feet.

If a proposed well penetrates either the Edwards-Trinity (Plateau), Upper Glen Rose (Upper Trinity), or Marble Falls aquifers, with the intention of producing groundwater from an underlying aquifer, the well shall be grouted to a depth that will prevent flow of groundwater from those aquifers into the underlying aquifers.

- C. All wells shall be equipped with an inspection port, inspection tube, or some other means that will allow free and clear access to the water table for the purposes of measuring water levels or disinfecting a well. Control boxes, pipes, fittings, or other wellhead equipment shall not hinder access to the inspection port. Electrical cables must be secured or taped to the production pipe in such a manner that will not restrict access for measurement of water levels and will reduce possible entanglement with water level measuring tapes or e-lines.
- D. Well vents may be installed in threaded inspection ports or the PVC inspection tube provided that the vent is constructed in such a manner that it may be easily removed and reinstalled as necessary for disinfecting a well or for measuring water levels.
- E. If production pipe centralizers or stabilizers are used in the well, the District shall require the installation of an inspection tube for purposes of disinfecting a well and measuring water levels. The inspection tube must be at least $\frac{3}{4}$ inch diameter PVC or 1-inch diameter PVC in wells with a casing of 6-inch diameter or larger. It must be installed parallel to the production pipe, capped on the bottom, and have sufficient perforations to allow rapid and free flow of water to the inside of the tube. The tube must extend from the sanitary seal to just above the pump.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

4.4 Sealing, Capping, or Plugging Wells

A. Sealing Wells

Following the procedure of Rule 9.1.B., the District may require the sealing of a well that is in violation of District Rules or that has been prohibited from

producing groundwater. The reasons for requiring the sealing of a well include: (1) failure to apply for an operating permit prior to drilling a nonexempt well; (2) operating a nonexempt well without an operating permit; (3) exceeding the production limits when the well is located within a Critical Groundwater Depletion Area (CGDA); or (4) when the Board has denied, cancelled, or revoked an operating permit.

If the owner fails to seal the well, District staff is authorized to provide notice of intent to access the well for the purpose of sealing the well pursuant to Section 36.123 and Rule 4.5. Upon accessing the well, District staff or agents may seal the well by physical means, tag it to indicate that the well has been sealed by the District, or take any other appropriate action necessary to clearly indicate that the well has been sealed. The seal is intended to preclude operation of the well and/or identify unauthorized operation of the well.

Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner who authorizes, allows, encourages, or condones such action, to enforcement and penalties pursuant to all applicable District Rules.

B. Capping Wells

The District shall require an open or uncovered well that is in a non-deteriorated condition to be capped to prevent waste, pollution, or prevent deterioration. The well shall remain capped until conditions that led to the capping are eliminated. The cap shall provide a sanitary seal to prevent the introduction of potential contaminants and shall be capable of sustaining a weight of at least four hundred (400) pounds. If the owner fails to close or cap the well in compliance with District Rules, the District may go on the land and close or cap the well. Reasonable expenses incurred by the District in closing or capping a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118.

C. Plugging Wells

Not later than the 180th day after the date a landowner or other person who possesses a deteriorated or abandoned well learns of its condition, the well shall be plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Prior to plugging the well, the well owner shall submit a plugging plan to the District. Not later than the 30th day after the date the well is plugged, a driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to the District, as required by Texas Occupations Code, Section 1901.255(d).

If the owner fails to plug the well in compliance with State law, the District may:

- (1) following the procedures of Rule 4.5, go on the land and plug the well. Reasonable expenses incurred by the District in plugging a well constitute a lien on the land on which the well is located pursuant to Section 36.118; or
- (2) as authorized by Texas Occupations Code, Section 1901.256, otherwise enforce Section 1901.255 related to landowners that have an abandoned and/or deteriorated well located on their property.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

4.5 Well and Property Access

The District has authority under Section 36.123 to enter any public or private property in Blanco County at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, wells, or compliance with District Rules, regulations, permits, or other orders. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. Whenever possible, District employees and agents shall notify, coordinate, and schedule well and property access in advance with the property owner, his agent, tenant, or other local contact. Notice is not required if prior permission to enter land or access wells has been granted by the property owner, his agent, tenant, or other local contact. District employees or agents accessing public or private wells or property shall exhibit proper credentials upon request. District employees or agents acting under this authority shall observe all applicable rules and regulations concerning safety, internal security, and fire protection. If unexpected, emergency, or critical conditions require District employees or agents to access public or private wells or property without prior access arrangements, the General Manager shall, at the first reasonable opportunity, contact the property owner, his agent, tenant, or other local contact. The General Manager shall inform him of the District's accessing the well or property, the reasons for the District access, and any pertinent information or action resulting from the District's access.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

Rule 5 Groundwater Management Strategies

5.1 Groundwater Database and Scientific Investigations

- A.** The District shall create and maintain a database of information on wells and aquifers located within Blanco County. District shall locate, collect, and add existing data to this database as opportunity permits. District staff shall acquire new data through a variety of aquifer studies including water level measurements, water quality testing, hydrological testing, aquifer surveys, and other appropriate research or scientific investigations. The District shall periodically review the accumulated data to better understand and manage the groundwater resources in Blanco County.

- B.** Pursuant to Section 36.107 and Section 36.109, the District shall implement any research projects or scientific studies and collect any information deemed necessary by the Board including groundwater use, water conservation, aquifer recharge, groundwater quantity and quality, aquifer conditions, geology, hydrology, hydrogeology, and other groundwater related fields. Pursuant to Rule 4.5 and Section 36.123, well owners shall cooperate with District research projects and scientific studies.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

5.2 Establishment of a Critical Groundwater Depletion Area (CGDA)

The Board may restrict the permitted annual production amount from wells requiring an operating permit if the Board determines that scientific data clearly indicate that one or more of the following conditions exist and that the regulation of production will minimize the drawdown of the water table and/or the reduction of artesian pressure: that the District, or a portion of the District, is experiencing (1) a lowering of the water table and/or a reduction in artesian pressure to such a degree that aquifer mining is occurring; (2) subsidence, interference between wells, degradation of water quality, negative impacts on historic use or retail water utilities; or (3) other adverse groundwater quantity or quality conditions.

A. Designation of a Critical Groundwater Depletion Area

If District research, scientific investigations, and/or groundwater and aquifer data indicate that adverse groundwater conditions exist, the Board may designate the area as a Critical Groundwater Depletion Area.

B. Procedures for Designating a Critical Groundwater Depletion Area

- (1) The Board shall hold a public hearing on the proposed CGDA and shall publish notice in the local newspaper(s) sixty (60) days prior to the date of the public hearing. During this period, the District shall provide

information to interested parties and shall accept public comment regarding the proposed Rule designating a CGDA.

- (2) The public hearing shall be held in accordance with the District public hearing Rules.
- (3) The Board shall evaluate the comments received during the public comment period and during the public hearing and consider all available information and data in their deliberations on the merits of designating a CGDA. The Board may designate and delineate a CGDA by amending the District Rules. Any CGDA so designated shall be consistent with the District's Groundwater Management Plan.
- (4) The designation of a CGDA shall specify what adverse groundwater conditions are being addressed by the CGDA. The CGDA may be either temporary or permanent. If the CGDA is to be temporary, the Board shall set the duration or set specific criteria that, once achieved, will result in the termination of the CGDA. In no event shall a temporary CGDA endure longer than two years without official Board action extending it or converting it to a permanent CGDA. The designation of a temporary CGDA may be based on data indicating that aquifer mining is occurring due to unusual climatic conditions, periods of extended drought, or other conditions that may affect groundwater on a temporary basis.
- (5) Once a temporary CGDA has been in existence for a period of two years the District shall consider whether to terminate or renew the Rules designating the CGDA. After notice and hearing, the Board shall determine whether the available data indicates that continued production limits are the only reasonable mitigation effort to adequately address the adverse groundwater conditions requiring designation of the CGDA. The Board may repeal the Rules designating the CGDA, or amend the Rules to extend the term of the temporary CGDA an additional two years, or convert it to a permanent CGDA.

C. Administration of a Critical Groundwater Depletion Area

- (1) Once a CGDA has been designated and delineated by the Board, the area shall be given a unique name for identification purposes.
- (2) All owners of permitted wells shall be notified of the existence of the CGDA and any new regulatory requirements by certified mail.
- (3) The owners of permitted wells within the CGDA shall provide the District with reports of groundwater production from each well they own or operate within the CGDA. These reports shall be on forms provided by the District and shall be submitted to the District at intervals required by the District. Production volumes shall be calculated using as accurate a method as possible to estimate pumping volume, such as recording pumping times and rates in gallons per minute. If the Board has required

flow-measuring devices in accordance with the paragraph below, the owner shall submit the actual production indicated by the measuring device.

- (4) The Board may require all permitted wells within the CGDA to be equipped with a District approved flow meter or other measuring device at the well owner's expense.
- (5) The Board may set a maximum annual total production volume for the CGDA. In order to reduce or eliminate aquifer mining, the total annual production from all wells, both exempt and nonexempt, must not exceed the maximum annual total production volume set by the Board.
- (6) The Board may set or allocate production limits on all permitted wells within the CGDA in order to help bring the total pumping volume within acceptable production limits to reduce or eliminate aquifer mining. The Board shall determine and allocate the volume of water that may be produced based on historical usage, generally accepted industry standards, types of use, special or unusual water supply needs, human or animal health, safety, or welfare needs, local groundwater availability, local groundwater quality, local geology and hydrology, alternative water sources, or any other criteria authorized by law. Exceeding the Board-authorized production limit of a permitted well located within a CGDA shall be a violation and may subject the well owner to enforcement action under District Rules.
- (7) The Board shall consider the conditions within the CGDA, how a proposed well may affect the CGDA, whether additional groundwater production is available, and, if available, how much shall be allocated to the proposed well. Based on these considerations, the Board may approve, deny, or modify operating permits within the CGDA.
- (8) The Board shall notify the owners of exempt wells about the CGDA and request their cooperation in conserving groundwater, using groundwater more efficiently, and avoiding waste of groundwater.
- (9) The Board shall review the status of the CGDA at least every two years and shall evaluate all pertinent data concerning the CGDA, and amend District Rules as necessary to accomplish the purposes of the CGDA. Changes or other Board action may include, but are not limited to, production limit increases or decreases for all or part of the CGDA, production limit increases or decreases for specific permitted wells, removal of specified land areas from the CGDA, addition of specified land areas to the CGDA, and identification of any permitted wells exceeding their annual production allocation. Any changes shall require the Board to go through the notice and hearing procedure required by this Rule. Any changes shall be communicated to the owners of all permitted wells within the CGDA by written notice and all landowners by notice published in one or more local newspapers.

- (10) An owner of a permitted well within a CGDA may request a temporary increase or decrease in the annual water allocation through petition to the Board on a case-by-case basis, in accordance with Rule 1.7. Should the Board determine that such a variance is justified and is consistent with the purposes of the CGDA and/or the District Rules, the District Management Plan, prudent aquifer management practices, and does not exceed the maximum annual total production for the CGDA, the Board may grant a temporary variance for an individual well.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

5.3 Declaration of an Aquifer Emergency Warning

- A.** The Board or the General Manager may act to protect groundwater and aquifer users by declaring an Aquifer Emergency Warning if the Board or the General Manager determines that scientific data or other evidence clearly indicates that the District, or a portion of the District, is experiencing hazardous groundwater quality conditions that require immediate action on the part of the District. Groundwater conditions that require immediate action are those that may be hazardous to the health, safety, and welfare of the residents or livestock in Blanco County. Hazardous conditions include, but are not limited to, contamination of groundwater due to hazardous material pollution, the presence of any chemical contaminant whose concentrations exceed Safe Drinking Water Standards, the presence of any bacteria or bacterial concentrations that threaten human or animal health, safety, or welfare, and any other water quality condition the Board or the General Manager determines to be of immediate threat to the groundwater of Blanco County.
- B.** Upon declaring an Aquifer Emergency Warning by the Board or the General Manager, the District will contact all appropriate authorities to inform them of the Aquifer Emergency Warning and the reasons for its declaration. Those agencies contacted shall include, as appropriate, the TCEQ, Texas Railroad Commission, Blanco County Health Department, Texas Department of Health, Blanco County Sheriff's Office, Blanco Mayor's Office and Police Department, Johnson City Mayor's Office and Police Department, Blanco County Judge and Blanco County Commissioners, and local newspapers.
- C.** If the District determines that certain property or well owners may be at high risk due to the nature of the Aquifer Emergency Warning, the District will attempt to contact them on an individual basis in order to alert them to the hazardous conditions and offer suggestions on implementing appropriate protective measures.
- D.** The District shall hold a public meeting in accordance with Rule 8.1 within 14 days following the declaration of an Aquifer Emergency Warning to more fully inform the public about the nature of the Aquifer Emergency Warning and explain the steps undertaken by the District to mitigate the hazardous conditions. The District may provide suggestions, advice, and recommendations to Blanco County

residents on ways to address the hazardous conditions or implement protective measures.

- E.** The District will initiate further studies and analysis within the area affected by the aquifer emergency warning. The District investigations will seek to determine the extent and severity of the hazardous condition, whether the hazardous conditions are temporary or permanent, if restrictive measures have improved the hazardous conditions, what further actions may be necessary to mitigate or alleviate the problem, and how similar hazardous conditions may be prevented in the future.
- F.** The Aquifer Emergency Warning shall be in effect until cancelled by the Board. The Board shall cancel the Aquifer Emergency Warning upon notification by a competent state or local authority that the hazardous condition is no longer a concern or if scientific evidence indicates that the hazardous conditions no longer exist or no longer pose a threat.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

Rule 6 Groundwater Conservation

6.1 Waste and Pollution

A. General Prohibition

No person shall intentionally or negligently commit waste or pollution of the groundwater resources of Blanco County.

B. Wasteful Use

Groundwater produced from within the District shall not be used in such a manner or under such conditions as to constitute waste.

C. Wasteful Production

Any person producing or using groundwater shall use every possible precaution, in accordance with the most acceptable and approved methods, to stop and prevent waste of groundwater.

D. Groundwater Pollution

No person shall pollute or harmfully alter the character of the groundwater in Blanco County by causing or allowing the introduction of undesirable water, pollutants, or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a well.

E. Orders to Prevent Waste or Pollution

After providing notice to affected parties and holding a public meeting under Rule 8.1, the Board may adopt orders necessary to prohibit or prevent waste or pollution. If the Board or the General Manager determines that an emergency exists requiring the immediate entry of an order to prohibit waste or pollution and protect the public health, safety, and welfare, a temporary order may be entered without notice and hearing in accordance with District Rule 5.3. A public meeting shall be held within 14 days of issuance of an emergency Board order under this Rule 6.1.E. at which the Board shall either revoke, amend, or confirm the order.

If the District has identified a person responsible for the waste or pollution of groundwater and an emergency exists, it may issue a temporary order under this Rule 6.1.E. and then as soon as possible, proceed under Rule 9 enforcement against the responsible person.

Adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

Rule 7 Drought Management

7.1 Introduction

The District may designate the various drought conditions and implement the applicable provisions of this Rule upon determination that such implementation may be necessary for the conservation, preservation, protection, recharging and prevention of waste of the groundwater in Blanco County and/or to protect and preserve the public health, welfare, and safety during drought situations and/or periods of low rainfall.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

7.2 Application

Provisions of this Rule shall apply to all Blanco County wells and all persons or organizations owning or operating any well(s) producing groundwater within Blanco County, regardless of the size, pumping capacity, date drilled, water usage, ownership, or the exempt or non-exempt status of the well(s).

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04.

7.3 Drought Management by Watershed

For drought management purposes, the District has divided Blanco County into two watersheds, the Blanco River watershed and the Pedernales River watershed. This division is based on the hydrological, topographical, geological, and demographic differences of the groundwater and groundwater users of Blanco County. The two divisions will allow for more appropriate drought management and administrative actions and strategies. Furthermore, it is anticipated that District declarations of drought stages will be easier for the public to understand and relate to their specific property, well, and water usage. Such an approach during drought conditions will serve to coordinate and unify water conservation efforts between Blanco County residents who rely on private wells and the water conservation efforts of the municipal public water supply systems of the City of Blanco and the City of Johnson City.

Rather than adhere strictly to the topographical watershed divide between the two rivers, a more easily understood and identifiable watershed boundary will be used by the District. The two watersheds are defined as follows:

**A. Blanco River Watershed:
consists of (and is interchangeable with) Blanco County Precincts 1 and 4.**

The Trinity Aquifer lies primarily within the Blanco River watershed, which is one of the two most densely populated parts of Blanco County. With the exception of a small portion located in Kendall County, the headwaters of the Blanco River lie primarily in Blanco County. Thus, Blanco River flow is little influenced by rainfall outside of Blanco County. The Trinity Aquifer typically produces low to medium quantities of water, generally exhibits slow to moderate recharge rates, and often exhibits relatively rapid declines in water levels, particularly during

periods of high usage and/or drought conditions. The City of Blanco owns several wells but currently relies exclusively on surface water for the needs of its water utility customers.

The City of Blanco has prepared a Water Conservation and Drought Management Plan which is applicable to all customers served by the City of Blanco Public Water System. The drought triggering conditions in the City of Blanco Plan are based primarily on water flow conditions in the Blanco River. Since much of the flow in the Blanco River is derived from Trinity Aquifer groundwater discharging from springs and seeps, changes in flow conditions in the Blanco River are expected to be related to changes in Trinity Aquifer water levels. The District will seek to correlate Blanco River flow conditions with Trinity Aquifer monitor well water levels.

The District incorporated into this Drought Management Rule as much of the City of Blanco's plan as appeared appropriate for rural well users. It is the intent of the District to closely unify drought management efforts in the City of Blanco and with well owners located in the Blanco River Watershed and Blanco County Precincts 1 and 4. However, initiation or termination of drought stages in the Blanco River Watershed and Precincts 1 and 4 is the sole responsibility of the District, which has the duty and authority to take independent drought management action as authorized by Chapter 36 and these Rules.

**B. Pedernales River Watershed:
consists of (and is interchangeable with) Blanco County Precincts 2 and 3.**

The Pedernales River watershed is less densely populated than the southern part of the county, except within the city limits of Johnson City. The residents in the Pedernales River watershed are served primarily by wells producing groundwater from the Ellenburger, Hickory, and, to a lesser extent, the Trinity Aquifer and a few other minor aquifers. The Ellenburger Aquifer and Hickory Aquifer produce small to large quantities of water, depending on location, and tend to recharge more rapidly than the Trinity Aquifer. The Pedernales River drains a large area west of Blanco County and is heavily impacted by rainfall events upstream in Gillespie County and areas to the west. Recharge in the Pedernales River watershed appears to be closely related to both the higher flow in the Pedernales River and eastward migration of groundwater from areas to the west.

The City of Johnson City has prepared a Water Conservation and Drought Contingency Plan (Ordinance No. 03-005) which is applicable to all customers served by the City of Johnson City Public Water System. The Ordinance is based primarily on quantified reductions in specific capacity and pumping times for their public water supply wells, which are located in the Ellenburger Aquifer. The District will seek to correlate Johnson City public well hydrological conditions with Ellenburger Aquifer monitor well water levels. Many rural residents in the Pedernales River Watershed also rely on wells producing from the Ellenburger Aquifer, and water level changes in their wells will likely be comparable to changes in the Johnson City wells.

The District incorporated into this Drought Management Rule as much of the City of Johnson City's Ordinance as appeared appropriate for rural well users. It is the intent of the District to closely unify drought management efforts in Johnson City and with well owners located in the Pedernales River Watershed and Blanco County Precincts 2 and 3. However, initiation or termination of drought stages in the Pedernales River Watershed and Precincts 2 and 3 is the sole responsibility of the District, which has the duty and authority to take independent drought management action as authorized by Chapter 36 and these Rules.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

7.4 Triggering Criteria for Initiation and Termination of Drought Stages

Drought Stages will be initiated and/or terminated by specific watershed. Drought Stages and the associated conservation and management practices shall apply only to the specific watershed designated and described in Rule 7.3. Declarations of initiation or termination of Drought Stages will be provided to Blanco County newspapers, posted at the District Office, or communicated to well owners in such a manner as may be deemed necessary by the District.

A. Initiation of Drought Stages

The District will maintain an ongoing aquifer water level monitoring program to provide the District with data to help identify the onset of drought conditions and stages of severity. The District will also monitor any declarations of drought stages by the City of Blanco and the City of Johnson City and take note of the triggering conditions which warranted such declarations. The District General Manager and District Staff shall review the water levels in the District Monitor Wells and determine if groundwater levels in either the Blanco River Watershed or the Pedernales River Watershed have been in a state of continuous decline. If such is the case, the General Manager may initiate an appropriate Drought Stage. If groundwater levels have not been in a state of continuous decline, or if aquifer, meteorological, Palmer Drought Index, or other conditions exist that need to be addressed by the Board of Directors, the General Manager may bring the matter to the attention of the Board of Directors prior to taking any official action. The Board may consider the matter, along with any recommendations provided by the District Staff, and may declare the initiation of any of the Drought Stages warranted by this Rule.

If the General Manager recommends initiation of Drought Stage 3 or 4 that does not coincide with initiation by the City of Blanco or the City of Johnson City, the General Manager shall refer the matter to the Board for a decision.

B. Termination or Reduction of Drought Stages

The General Manager and District Staff shall review the water levels in the District Monitor Wells and determine if groundwater levels in either the Blanco River Watershed or the Pedernales River Watershed are increasing or if significant recharge conditions are occurring. In either case, the District General Manager

may terminate or reduce the Drought Stage to one that is appropriate. If groundwater levels have not increased, or if aquifer, meteorological, Palmer Drought Index, or other conditions exist that need to be addressed by the Board of Directors, the General Manager may bring the matter to the attention of the Board of Directors prior to taking any official action. The Board may consider the matter, along with any recommendations provided by the District Staff, and may declare the termination or reduction of any of the Drought Stages warranted by this Rule.

If the General Manager recommends termination or reduction of Drought Stages 3 or 4 that does not coincide with termination or reduction by the City of Blanco or the City of Johnson City, the General Manager shall refer the matter to the Board for a decision.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

7.5 Drought Stages

District Drought Management consists of four Drought Stages, which are comparable to the Drought Stages and trigger conditions designated by the City of Blanco and the City of Johnson City as of September 2004.

- A. Stage One Mild Drought**
(comparable to City of Blanco Stage 1 and Johnson City Stage 1 or 2)
- B. Stage Two Moderate Drought**
(comparable to City of Blanco Stage 2 and Johnson City Stage 3)
- C. Stage Three Severe Drought**
(comparable to City of Blanco Stage 3 and Johnson City Stage 4)
- D. Stage Four Critical Drought or Groundwater Emergency**
(comparable to City of Blanco Stage 4 and Johnson City Stage 5 or 6)

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04.

7.6 Groundwater Conservation Goals and Usage Reduction Measures and Restrictions

Water conservation goals and groundwater usage reduction measures and restrictions are defined in this Rule. They are comparable to the goals, reductions, and restrictions incorporated by the drought contingency plans of the City of Blanco and the City of Johnson City. However, this District Rule more closely addresses the uses, needs, concerns, and compliance capabilities of well owners and users, most of which are outside the service areas of retail water utilities and community water supply systems.

A. Stage One Mild Drought

Conservation Goal: 5-10% reduction in groundwater use

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Providing groundwater to ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water that have a

total capacity of more than 50,000 gallons is prohibited except for those wells permitted for non-domestic irrigation.

B. Stage Two Moderate Drought

Conservation Goal: 20% reduction in groundwater use

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Water outside lawns, trees, shrubs once every 5 to 7 days
- Water at night between hours of 8pm and 8am
- Keep swimming pools, landscape or decorative ponds, and fountains covered, use water recirculation, and refill only once every 5 to 7 days
- Wash vehicles at car wash only as needed
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Water livestock in leak-proof troughs as much as practical
- Providing groundwater to ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water that have a total capacity of more than 50,000 gallons is prohibited except for those wells permitted for non-domestic irrigation.

C. Stage Three Severe Drought

Conservation Goal: 20-50% reduction in groundwater use

Usage Reduction Measures:

- Continue, or increase voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Water outside lawns, trees, shrubs once every 5 to 7 days
- Water at night between hours of 8pm and midnight using hand-held hose with automatic shut-off nozzle or automatic timer
- Hose end sprinkler systems prohibited
- No filling, refilling, or adding water to swimming pools, landscape or decorative ponds, or fountains except to support aquatic life
- Wash vehicles at car wash only as needed
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Watering for dust control only when required by law
- Livestock watered in leak-proof troughs strongly recommended
- Pumping groundwater into livestock ponds is discouraged
- Providing groundwater to ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water that have a total capacity of 50,000 gallons or less is discouraged.
- Providing groundwater to ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water that have a total capacity of more than 50,000 gallons is prohibited.

D. Stage Four Critical Drought or Groundwater Emergency

Conservation Goal: 50% + reduction in groundwater use

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- No outside watering of lawns, trees, shrubs, or gardens
- No vehicle washing
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Watering for dust control only when required by law
- Livestock watered in leak-proof troughs only
- Providing groundwater to ponds, lakes, tanks, reservoirs, swimming pools, or other surface impoundments for holding water, regardless of capacity, is prohibited.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 11/02/06 by Board Resolution 110206-01 on 11/02/06.

7.7 Municipal Compliance

The BPGCD recognizes that, as of September 2004, the City of Blanco's current Water Conservation and Drought Management Plan and the City of Johnson City's current Water Conservation and Drought Contingency Plan serve in such a capacity as to accomplish the intent of this Drought Management Rule for drought management and groundwater conservation purposes within the municipal water service areas of the City of Blanco and the City of Johnson City. The District will work with the City of Blanco and the City of Johnson City during any declared Drought Stage to ensure that city-owned wells are in compliance with the provisions of this Rule.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04.

7.8 Enforcement

The District will rely primarily on voluntary compliance with this Rule. Persons who are found to be in non-compliance with District Drought Management Rules will be contacted by District Staff. District Staff will explain the drought conditions, District Rules, and the need for everyone to comply with a County-wide effort to conserve groundwater during times of drought in order to reduce the impacts of drought on all aquifer users. Past experience by other groundwater districts has proven that such informational-based enforcement efforts are an effective method of achieving compliance with District Rules while building local cooperation and consensus among well owners and well users. However, persons who repeatedly violate District Rules will be subject to additional requests for compliance and may be subject to other remedies authorized under Chapter 36 or other applicable laws or codes of the State of Texas.

Adopted to be effective 09/16/04 by Board Resolution 091604-01 on 09/16/04.

Rule 8 Procedural Rules

8.1 Actions on Management Plan, Bylaws, Administrative Fee Schedule, Budget, and Aquifer Emergency Warnings

- A. Once the District has developed a proposal involving its Management Plan, bylaws, administrative fee schedule, or budget, or if a hearing is required under Rule 5.3.D., the District will decide at which Board meeting the Board will consider the matter. The Board meeting at which the matter is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.

- B. Notice required by the Open Meetings Act shall be provided for the meeting.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

8.2 Hearings on Rules, Other Than Emergency Rules, and on Designation of a Critical Groundwater Depletion Area

- A. Once the District has developed a proposal involving its Rules or designation of a Critical Groundwater Depletion Area under Rule 5.2, the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.

- B. Notice required by the Open Meetings Act shall be provided for the hearing.

- C. In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:
 - (1) Post notice in a place readily accessible to the public at the District office;
 - (2) Provide notice to the county clerk of Blanco County;
 - (3) Publish notice in one or more newspapers of general circulation in Blanco County; and
 - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 8.2.F. Failure to provide notice under this Rule 8.2.C(4) does not invalidate an action taken by the District at a hearing under this Rule 8.2.

- D.** Notice of the hearing on the proposal required by Rule 8.2.C. shall include:
- (1) A brief explanation of the subject of the hearing. If the purpose of the hearing is to consider changes to the District Rules, the notice shall include a statement that the District's Board of Directors will consider changes to the District Rules at the Board meeting, which will serve as the public hearing on the matter.
 - (2) The time, date, and location of the hearing.
 - (3) The agenda of the hearing.
 - (4) A statement that the proposal is available to be reviewed or copied at the District Office and on the District's website prior to the hearing.
 - (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
 - (6) A statement that oral public comment will be taken at the hearing.
- E.** Copies of the proposal shall be available during normal business hours at the District Office and shall be posted on the District's website at least 20 days prior to the hearing.
- F.** A person may submit to the District a written request for notice of a hearing under this Rule 8.2. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request.
- G.** Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.
- H.** Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.
- I.** The District shall make and keep in its files an audio recording of the hearing.
- J.** The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
- K.** The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

- L. If in the course of the deliberation during the meeting, the Board decides it wants to substantially change the proposal, the Board shall “continue” or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposal, the District shall provide notice and opportunity for comment and hold a hearing on the substantially changed proposal under this Rule. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

8.3 Adoption of Emergency Rules

- A. The District may adopt an emergency rule without following the notice and hearing provisions of Rule 8.2, if the Board:
 - (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days’ notice; and
 - (2) Prepares a written statement of the reasons for its finding under Rule 8.3.A(1).
- B. An emergency rule under this Rule 8.3 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C. Except as provided by Rule 8.3.D., a rule adopted under this Rule may not be effective for longer than 90 days.
- D. If notice of a hearing under Rule 8.2 is given before the emergency rule expires under Rule 8.3.C., the emergency rule is effective for an additional 90 days.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

8.4 Actions on Registrations and Operating Permits

- A. Within 60 days after the date on which the District determines that an application is administratively complete, an application under this Rule 8.4 shall be acted on by the District’s General Manager or shall be referred to the Board by setting it on the agenda for Board action at a Board meeting.
- B. In this Rule 8.4 “on the notification by two Directors” means that within 10 days after the date an application is deemed administratively complete by the District, a Director representing the precinct in which the well is located and an additional Director submits a written or email notification to the General Manager that the decision on the application will be acted on by the Board under Rule 8.5 and shall not be acted on by the General Manager. The Director at large represents all precincts and may act accordingly under this Rule.

- C.** A registration under Rule 3 for a new or for an existing well may be acted upon by the District's General Manager without further Board action.
- D.** An application for an operating permit for an existing Low Volume Well may be acted upon by the District's General Manager without further Board action. An application for an operating permit for an existing High Volume Well may be acted upon by the District's General Manager unless on the notification by two Directors under Rule 8.4.B it is referred to the Board for action under Rule 8.5. In either case, the well owner may request that it be referred to the Board for action.
- E.** An application for an operating permit for a new Low Volume well may be acted upon by the District's General Manager without further Board action unless on the notification by two Directors under Rule 8.4.B it is referred to the Board for action under Rule 8.5.
- F.** An application for an operating permit for a new High Volume well shall be referred to the Board for action under Rule 8.5.
- G.** An application for renewal of an operating permit may be acted upon by the District's General Manager without further Board action except in the following situations, when the renewal shall be referred to the Board for action under Rule 8.5.

 - (1) If the permit holder is not in compliance with permit conditions or District Rules. The issue upon referral is limited to whether the permit holder is in compliance and if not, whether to deny renewal based on the non-compliance.
 - (2) If the well is located in a CGDA. The issue upon referral is limited to whether the production limits are consistent with the well's location in a CGDA and the overall conditions in the CGDA.
 - (3) For a High Volume Well, upon the notification by two Directors under Rule 8.4.B. The issue upon referral is limited to the issues listed in 3.5.B(1) and (2) and whether upon renewal the permit will be amended to comply with changes in District Rules since the initial permit issuance or the last renewal or amendment.
- H.** A change in well condition, operations, or status may be acted upon by the District's General Manager without further Board action, unless the requested change falls under another provision of this Rule 8.4.
- I.** An application for amendment of an operating permit may be acted upon by the District's General Manager without further Board action, unless the amendment would change the characterization of the well to a High Volume Well or upon the notification by two Directors under Rule 8.4.B. In such situations, the application shall be referred to the Board for action under Rule 8.5.
- J.** Upon request by an applicant, any operating permit application shall be referred to the Board for action under Rule 8.5. This includes amendments and renewals.

- K.** The General Manager has the discretion to refer any operating permit application to the Board for action under Rule 8.5. This includes amendments and renewals.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

8.5 Permit Actions by the Board

- A.** In this Rule, “applications” refers to applications referred to the Board for action under the requirements of Rule 8.4.
- B.** Within 60 days of the date on which the District determines that an application is administratively complete, the General Manager shall refer the application to the Board by setting it on the agenda for Board action at a Board meeting.
- C.** An application that is referred to the Board shall be considered by the Board within 95 days of the date on which the application was determined to be administratively complete.
- D.** Notice required by the Open Meetings Act shall be provided for the meeting and shall include the name of the applicant, the address or approximate location of the well, and the requested annual production amount.
- E.** At least 10 days prior to the scheduled meeting date, the applicant shall publish notice in a format acceptable to the District in a newspaper of general circulation in Blanco County. The notice shall include the name of the applicant; the address or approximate location of the well; a brief description of what the application seeks, including the requested annual production amount; and the precinct in which the well is located. The same information shall be posted on the District’s website.
- F.** At least 10 days prior to the scheduled meeting date, the District shall mail notice of the Board meeting on the application to the applicant. In the case of a High Volume Well, the District shall also mail such notice to each person who owns land located within ¼ mile of the well site. The applicant may not make any amendments to the application after notice required by this Rule 8.5.F is mailed. If the District receives an amended application after this date, the application becomes administratively incomplete and must be reprocessed by the District under Rule 3.
- G.** Copies of the application, the applicant’s response to any notices of deficiency, and a written staff position shall be available at the District Office prior to the meeting. These materials will be posted on the District website at least 10 days prior to the scheduled meeting date.
- H.** Anyone interested in the application may submit written comments about the application to the District prior to the scheduled meeting at which the application will be considered by the Board or may attend the meeting and submit written comments or make oral comments at the time designated for comments.

- I.** The Board, at its sole discretion, may administer an oath to the staff, the applicant, and anyone who makes oral comments on the application.
- J.** The Board shall issue a written order or resolution reflecting its decision. If the Board approves the application, the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the date the final hearing on the application is concluded.
- K.** A request for contested case hearing, which will be conducted under Rule 8.6, shall be in writing and shall be made within 10 days after the Board's decision under 8.5.J. on the application. The request shall identify the issues in dispute. Only the request of a person with standing may be granted a contested case hearing. In the case of an application for an operating permit for an existing well, only the applicant has standing. For all other applications under this Rule 8.5, only the following have standing:
- (1) The applicant.
 - (2) A person who:
 - (a) has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority, that is not merely an interest common to members of the public; and
 - (b) is affected by the Board's action on the application; and
 - (c) owns property within a ¼ - mile radius from the subject well.
- L.** If the District receives a written request for contested case hearing from the applicant, the District shall follow the requirements of Rule 8.6 and initiate a contested case hearing. If such a request is made by a person other than the applicant, as authorized by Rule 8.5.K.(2), the District shall schedule a pre-hearing conference at its next regularly scheduled Board meeting, in no event longer than 35 days after the date of the request. The District shall determine at the pre-hearing conference whether a contested case hearing will be held under Rule 8.6. This determination will be based on whether the requesting person has standing under Rule 8.5.K and whether the issues identified by the requesting person are issues authorized by District Rules for evaluating the application.
- M.** The effective date of the written order shall be 10 days after the date on which the President of the District signs the order or resolution, if no request for a contested case hearing under Rule 8.5.K. is received by the District. The order or resolution shall include a statement that the order or resolution and its attachment become effective and final within 10 days of that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.
- N.** If there is a timely filed request for a contested case hearing, a pre-hearing conference is held under Rule 8.5.L. and the Board determines that there will be

no contested case hearing, the effective date of the written order shall be the date on which the Board denies the contested case hearing request.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

8.6 Permit Actions Requiring a Contested Case Hearing

- A.** Rule 8.6 applies only to applications for which the District has received a timely filed request for a contested case hearing under Rule 8.5.K.
- B.** If the District receives a timely filed request for a contested case hearing under Rule 8.5.K., the application shall be set for hearing allowing sufficient time for the notice required by Rule 8.6. In any event, a pre-hearing conference under Rule 8.5.L or an initial hearing, whichever is applicable, shall be held within 35 days after the setting of the date.
- C.** Notice required by the Open Meetings Act shall be provided for the hearing if conducted by a quorum of the Board.
- D.** In addition to the notice required by the Open Meetings Act, not later than the 10th day before the date of the hearing, notice shall be provided as follows:
 - (1) Post notice in a place readily accessible to the public at the District office;
 - (2) Provide notice to the county clerk of Blanco County;
 - (3) Mail notice to the applicant by regular mail;
 - (4) Mail notice to the person requesting a contested case hearing by regular mail; and
 - (5) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 8.6.F. Failure to provide notice under this Rule 8.6.E(5) does not invalidate an action taken by the District at contested case hearing.
- E.** Notice of the hearing on the application shall include the following:
 - (1) The name of the applicant;
 - (2) The address or approximate location of the well or proposed well;
 - (3) 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;
 - (4) The time, date and location of the hearing; and
 - (5) Any other information the District considers relevant and appropriate.
- F.** A person may submit to the District a written request for notice of a hearing on a permit or permit amendment. A request is effective for the remainder of the

calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request.

G. The hearing must be conducted by

- (1) a quorum of the Board; or
- (2) an individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing.
- (3) Except as provided in (4), the Board President or the hearings examiner shall serve as the presiding officer at the hearing.
- (4) If the hearing is conducted by a quorum of the Board and the President is not present, the Directors conducting the hearing may select a Director to serve as the presiding officer.

H. The presiding officer has the following authority and obligations:

- (1) May convene the hearing at the time and place specified in the notice;
- (2) May set any necessary additional hearing dates;
- (3) May designate the parties regarding a contested application;
- (4) May establish the order for presentation of evidence;
- (5) May administer oaths to all persons presenting testimony;
- (6) May examine persons presenting testimony;
- (7) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;
- (8) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- (9) May prescribe reasonable time limits for testimony and the presentation of evidence.
- (10) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- (11) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an

impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and

(12) May continue a hearing from time to time and from place to place without providing notice under Rule 8.6.D. and E. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings notice under Rule 8.6.C. shall be provided.

I. The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule 8.6.I.

J. If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board written exceptions to the report within 10 days of issuance of the report. The report shall include:

- (1) A summary of the subject matter of the hearing;
- (2) A summary of the evidence received; and
- (3) The hearing examiner's recommendations for Board action on the subject matter of the hearing.

K. The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the application is concluded.

L. Request for rehearing or findings and conclusions shall be considered as follows:

- (1) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may administratively appeal a decision of the Board on an application by requesting written findings and conclusions or a rehearing before the Board.
- (2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated

party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.

- (3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.
- (4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- (5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

M. A decision by the Board on an application is final if:

- (1) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- (2) A request for rehearing is filed on time, on the date:
 - (a) the Board denies the request for rehearing; or
 - (b) the Board renders a written decision after rehearing.

N. An applicant or a party to a contested hearing may file a suit against the District under Texas Water Code § 36.251 to appeal a decision on an application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.

8.7 Hearings On Enforcement Actions

- A.** If the District receives a timely filed written request for hearing from a Respondent who has received a notice of violation from the District, the District shall decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.
- B.** Notice required by the Open Meetings Law shall be provided for the meeting.
- C.** Notice of the hearing on the enforcement action shall be mailed to the Respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

- D.** Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.
- E.** The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the enforcement action.
- F.** The Board, at its sole discretion, may appoint a Hearings Officer or committee of the Board to conduct the hearing on the enforcement action (Hearing Body). Any hearing conducted by a Hearing Body, shall be conducted in the same manner as provided in this Rule 8.7. At the close of the hearing, the Presiding Officer shall make a written recommendation to the Board. The recommendation shall become part of the record. The Board is not required to approve the recommendation of the Hearing Body.
- G.** The Board shall issue a written order or resolution reflecting its decision.
- H.** The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

Rule 9 Enforcement

9.1 Civil Enforcement

As authorized by Texas Water Code Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed \$10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation. The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a complaint filed in a court of competent jurisdiction. In addition, the District may seek, and the court shall grant, recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.

Moved from 1.8, which was originally adopted to be effective 02/11/02 by Board Resolution 020502-1-01 on 02/05/02. Amended to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

9.2 Notice of Violation

To initiate an enforcement action, the District shall provide written notice to a person who is believed to be in violation of law, including violation of a District Rule, Order, or permit. The notice shall include information about the violation and may require remedial action and may assess a penalty. The notice shall provide the opportunity for public hearing under Rule 8.7. Such written notice will be considered a Notice of Violation.

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06.

9.3 Penalty Schedule

The District may assess penalties against well drillers, pump installers, well owners, property owners, permit holders, or any combination thereof for non-compliance with District Rules including failure to comply with conditions of a permit issued by the District. Penalties will be assessed in accordance with the following schedule. The District may calculate such penalties based on the penalty amount per day/per violation/per person, and each day of a continuing violation constitutes a separate violation.

Schedule of Penalties for Non-Compliance

Non-Compliant Action	Penalty
Failure to notify District of drilling activity or pump installation of greater than 25,000 gpd capacity, location, date, and time, as required by Rule 4.1.A.	\$ 250.00
Drilling a well without District authorization.	\$1,000.00
Failure to submit the State of Texas Well Report and other information, as required by Rule 4.1.B.	\$ 250.00
Violation of District Rule or permit requirement	\$ 250.00
Subsequent violation of same Rule by the same person	\$ 500.00

Adopted to be effective 8/15/06 by Board Resolution 081506-01 on 8/15/06. Amended to be effective 5/20/08 by Board Resolution 052008-01 on 5/20/08.