RULES OF THE

GUADALUPE COUNTY GROUNDWATER CONSERVATION DISTRICT

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TABLE OF CONTENTS

SECTION 1. DEFINITIONS AND CONCEPTS 4
RULE 1.1 DEFINITIONS OF TERMS 4
RULE 1.2 PURPOSE OF RULES: 10
RULE 1.3 USE AND EFFECT OF RULES 10
RULE 1.4 AMENDING OF RULES 10
RULE 1.5 HEADINGS AND CAPTIONS 10
RULE 1.6 CONSTRUCTION 10
RULE 1.7 METHODS OF SERVICE UNDER THE RULES 11
RULE 1.8 SEVERABILITY 11
RULE 1.9 COMPUTING TIME: 11
RULE 1.10 TIME LIMITS: 11

SECTIONS 2 (BOARD) AND 3 (GENERAL MANAGER) HAVE BEEN REPEALED. SOME OF THE PROVISIONS IN THESE FORMER SECTIONS HAVE BEEN RELOCATED WITHIN THE CURRENT RULES.

SECTION 4. DISTRICT 12
RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT 12
RULE 4.2 CERTIFIED COPIES 12
RULE 4.3 OFFICE HOURS 12
RULE 4.4 MEETINGS 12

SECTION 5. PERMITS 12
RULE 5.1 STANDARD PERMIT PROVISIONS 12
RULE 5.2 WELL PERMIT EXEMPTIONS 14
RULE 5.3 WELL DRILLING AND PRODUCTION PERMIT 15
RULE 5.4 SPACING AND PRODUCTION REQUIREMENTS 25
RULE 5.5 EXCEPTION TO SPACING AND PRODUCTION RULE 28
RULE 5.6 REWORKING OR REPLACING EXISTING WELLS 29
RULE 5.7 PERMIT AMENDMENTS 30
RULE 5.8 TEMPORARY OR EMERGENCY PERMITS 30
RULE 5.9 HISTORIC USE PRODUCTION 31
RULE 5.10 METER CALIBRATION 32

SECTION 6. OTHER DISTRICT ACTIONS AND DUTIES 33
RULE 6.1 DISTRICT MANAGEMENT PLAN 33
RULE 6.2 NOTICE OF INTENT TO DRILL AND REGISTRATION OF NEW WELLS…. 34
RULE 6.3 LOCATION OF WELLS 35
RULE 6.4 MINIMUM STANDARDS OF WELL COMPLETION 35
RULE 6.5 MINIMUM STANDARDS FOR SEALING, CAPPING, AND PLUGGING OF WELLS 35
RULE 6.6 DRILLER'S LOG, CASING AND PUMP DATA 35
RULE 6.7 WELL MONITORING 36
RULE 6.8 AQUIFER STORAGE AND RECOVERY (ASR) 36

SECTION 7. HEARINGS 37
RULE 7.1 TYPES OF HEARINGS 37
RULE 7.2 NOTICE AND SCHEDULING OF RULEMAKING HEARINGS 38
RULE 7.3 GENERAL PROCEDURES 39
RULE 7.4 UNCONTESTED PERMIT HEARINGS PROCEDURES 42
RULE 7.5 CONTESTED PERMIT HEARINGS PROCEDURES 43
RULE 7.6 CONCLUSION OF THE HEARING; PROPOSAL FOR DECISION 47
RULE 7.7 SOAH HEARING 48
RULE 7.8 RULEMAKING HEARINGS PROCEDURES 50
RULE 7.9 FINAL DECISION; APPEAL 53
RULE 7.10 DESIRED FUTURE CONDITIONS; PUBLIC COMMENT, NOTICE, HEARING, ADOPTION AND APPEAL 54
RULE 7.11 HEARINGS ON OTHER MATTERS 58

SECTION 8. GROUNDWATER QUALITY 58
RULE 8.1 SOLID, HAZARDOUS OR RADIOACTIVE WASTE 58
RULE 8.2 RECHARGE FACILITIES 58
RULE 8.3 WASTEFUL USE OR PRODUCTION: 59
RULE 8.4 POLLUTION OR DEGREDATION OF QUALITY OF GROUNDWATER: 59
RULE 8.5 ORDER TO PREVENT WASTE, POLLUTION, AND/OR DEGRADATION OF QUALITY OF GROUNDWATER: 60

SECTION 9. INVESTIGATIONS AND ENFORCEMENT 60
RULE 9.1 NOTICE AND ACCESS TO PROPERTY 60
RULE 9.2 LIMITATIONS OF DISTRICT EMPLOYEE ACTIVITIES 61
RULE 9.3 CONDUCT OF INVESTIGATION 61
RULE 9.4 REQUEST FOR INJUNCTIVE RELIEF AND ASSESSMENT OF PENALTIES 61
RULE 9.5 ENFORCEMENT; HEARING; ASSESSMENT OF PENALTIES 61

SECTION 10. FEES AND PAYMENT OF FEES 63
RULE 10.1 PERMIT FEES 63
RULE 10.2 APPLICATION AND OTHER FEES 63
RULE 10.3 FEES FOR EXPORT OF GROUNDWATER OUT OF THE DISTRICT 63
RULE 10.4 RETURNED CHECK FEE 64
RULE 10.5 FEE PAYMENTS 64

DEPICTION #1 (Referenced in Rule 5.4(a)) 67

DEPICTION #2 (Referenced in Rule 5.4(a)) 68

Petition to Adopt or Modify Rules Form 70

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS OF TERMS:

In the administration of its duties, the Guadalupe County Groundwater Conservation District follows the definitions of terms set forth in Chapter 36, Water Code, and other definitions as follows:

a. "Affected Person" means, for any permit application, a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

   "Affected Person" means, with respect to a petition over the reasonableness of a Desire Future Condition:

   1. an owner of land in the Groundwater Management Area;
   2. a district in or adjacent to the Groundwater Management Area;
   3. a regional water planning group with a water management strategy in the Groundwater Management Area;
   4. a person who holds or is applying for a permit from a district in the Groundwater Management Area;
   5. a person who has groundwater rights in the Groundwater Management Area, or;
   6. or any other person defined as affected by a TCEQ rule.

b. "Aquifer" or "Groundwater Reservoir" shall mean a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

c. "Aquifer Storage and Recovery Project" or "ASR Project" means a project involving the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use by the project operator.

d. "Artesian Well" shall mean a water well completed in the confined portion of an aquifer such that, when properly cased, water will rise in the well, by natural pressure, above an overlying impermeable stratum.

e. "ASR" means aquifer storage and recovery.

f. "ASR Injection Well" means a Class V injection well used for the injection of water into a geologic formation as part of an ASR Project.

g. "ASR Recovery Well" means a well used for the recovery of water from a geologic formation as part of an ASR Project.

h. "Beneficial Use" or "Use for a Beneficial Purpose" shall mean use for:

1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational or pleasure purposes;
2. exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
3. any other purpose that is useful and beneficial to the user that does not commit waste as defined in this rule.

i. "Best Available Science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

j. "Board" means the Board of Directors of the District.

k. "Casing" means a tubular watertight structure installed in the excavated or drilled hole to maintain the well opening and, along with cementing, to confine the groundwaters to their zones of origin and prevent the entrance of surface pollutants.

l. "Cement" means a neat Portland or construction cement mixture of not more than seven gallons of water per ninety-four (94) pound sack of dry cement, or a cement slurry which contains cement along with bentonite, gypsum, or other additives. All manufacturers' recommendations regarding water content for the mix must be strictly adhered to.

m. "Desired Future Condition(s)" means the desired, quantified condition(s) of groundwater resources, including water levels, water quality, spring flows, or volumes, for a specified aquifer within a management area at a specified time or times in the future. Desired Future Conditions are defined by the District in conjunction with other districts within the same groundwater management area as part of the joint planning process required by the TWDB.

n. "Deteriorated Well" means a well, the condition of which will cause, or is likely to cause, pollution of any water in the District.

o. "District" means the Guadalupe County Groundwater Conservation District.

p. "District Act" means the District's enabling legislation, Act of May 29, 1997, 75th Legislature, Regular Session, Chapter 1066, as amended by Act of May 26, 1999, 76th Legislature, Regular Session, Ch. 1141, and Act of May 11 2011, 82nd Legislature, Regular Session, Ch. 70, and as codified in Texas Special Districts Local Laws Code Chapter 8833.

q. "District office" means the office and headquarters of the District. The location of the District office may be changed from time to time by resolution of the Board.

r. "District Potable Water Purveyor" means any Municipality, City, or Water Supply Corporation, investor owned or non-profit, whose sole purpose is to supply potable water to a customer base with no less than 95% of its service area within the boundaries of the District.

s. "Drilling Permit" means a permit for a water well to be drilled, or an existing well that is to be reworked, re-drilled, or re-equipped to increase production.

t. "Emergency Multiple Systems Interconnects" means that a District Potable Water Purveyor whose lines interconnected with a system or systems outside of the District for the sole purpose of *temporary* assistance during an emergency situation. All interconnects shall be valved and metered at the District boundary lines. The District shall be provided with written notification immediately as to the nature of the emergency, the estimated time of assistance required and the current meter reading. Emergency assistance to an entity with more than 5% of its service area outside of the District is subject to District transportation Permitting Requirements and Fees.

u. "Groundwater" means water percolating beneath the earth's surface within the District.

v. "Groundwater Management Area" means an area designated and delineated by the TWDB as suitable for the management of groundwater resources.

w. "Hearings Examiner" means a person whom the Board has delegated in writing the responsibility to preside over a hearing or matters related to the hearing, and who has the authority vested in a Presiding Officer under Chapter 36 of the Texas Water Code and these rules.

x. "Historic Use" is an amount of groundwater produced and beneficially used during any consecutive 12-month period during the Historic Use Period, for a nonexempt purpose or in a nonexempt amount.

y. "Historic Use Period" is defined as November 5, 1977 through August 11, 2004.

z. "Managed Available Groundwater" means the amount of water that may be permitted by the District for beneficial use in accordance with the Desired Future Condition of a particular aquifer and is a statutory term

used in some literature but that was replaced by the term "Modeled Available Groundwater."

aa. "Modeled Available Groundwater" means the amount of water that the TWDB Executive Administrator determines may be produced on an average annual basis to achieve a Desired Future Condition established for the groundwater resources in the District.

bb. "Mud" means a relatively homogeneous, relatively viscous fluid produced by the suspension of clay-size particles in water.

cc. "Municipal" use also means use of groundwater for retail or wholesale public water supply when the context involves a retail public utility or entity other than a municipality.

dd. "New well application" means an application for a permit for a well that has not been drilled.

ee. "Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

ff. "PFD" means a Proposal for Decision issued by SOAH or the District's Hearings Examiner or Presiding Officer.

gg. "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

hh. "Presiding officer" means the President, Vice President, Secretary, or other Board member presiding at any hearing, meeting, workshop, or other proceeding, or a Hearings Examiner conducting any hearing or other proceeding related to the hearing.

ii. "Production" means groundwater actually pumped from percolating waters or aquifer and put to a proven beneficial use authorized by Texas law.

jj. "Production Permit" means a permit for a water well issued or to be issued by the District allowing the withdrawal of a specified amount of groundwater for a beneficial use for a designated period.

kk. "Project Operator" means a person holding an authorization under this subchapter to undertake an aquifer storage and recovery project.

ll. "Pumper" means a person authorized to produce groundwater as provided in these Rules.

mm. "Rules" means the rules of the District compiled in this document as it may be supplemented, repealed or otherwise amended from time to time.

nn. "SOAH" means the State Office of Administrative Hearings.

oo. "Subdivision of a groundwater reservoir" means a definable part of a groundwater reservoir in which the groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

pp. "TCEQ" means the Texas Commission on Environmental Quality.

qq. "TDLR" means the Texas Department of Licensing and Regulation.

rr. "Texas Open Meetings Act" means Chapter 551, Government Code.

ss. "Texas Public Information Act" means Chapter 552, Government Code.

tt. "Texas Rules of Civil Procedure" and "Texas Rules of Evidence" mean the procedural and evidentiary rules in effect at the time of the District's action, hearing, or proceeding.

uu. "Transportation Facility" means any facility constructed for the purpose of exporting groundwater beyond the District's boundaries.

vv. "TWDB" means the Texas Water Development Board.

ww. "Waste"[1] as used herein shall mean any one or more of the following:

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;

[1] This definition of waste is substantively identical to the statutory definition in Texas Water Code § 36.001(8), and is already in the District's rules and included for context because of the several references to waste below in Section 8 (Groundwater Quality).

3. The escape of groundwater from a 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, 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 Texas Commission on Environmental Quality under Chapter 26 of the Texas Water Code;
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; or
7. For water produced from artesian well, "waste" has the meaning assigned by Section 11.025 of the Texas Water Code.

xx. "Water rights" means groundwater owned as provided for in Section 36.002 of the Texas Water Code and other applicable law. Within the context of these rules, a permit applicant's demonstration of a sufficient amount and "commitment" of water rights refers to the requirement that the permit applicant have an ownership or contractual interest in a sufficient amount of water rights within a certain radius of the well(s) identified in the permit application for the duration of the term of the requested permit.

yy. "Well" means any facility, device, or method used to withdraw groundwater from within the District.

zz. "Well operator" means the person who operates a well or a water distribution system supplied by a well.

aaa. "Well owner" means the person who holds a possessory interest in: (1) the land upon which a well is located or to be located, and who has authority to and who may lawfully produce groundwater from this land and/or (2) the well itself as long as this person has the authority to produce groundwater from the land on which the well is located, as evidenced by written documentation that establishes the consent of the landowner to this person's ownership and operation of the well.

bbb. "Withdraw" means the act of extracting or producing groundwater by pumping or some other method.

RULE 1.2 PURPOSE OF RULES:

These Rules are adopted pursuant to Section 36.101 of the Texas Water Code and Section 5 of the District Act for the purpose of conserving, preserving, protecting and recharging the groundwater in the District, and these rules are adopted under the District's statutory authority to prevent waste of groundwater, protect rights of owners of interests in groundwater, prevent degradation of water quality, and to carry out the powers and duties of Chapter 36, Texas Water Code. Nothing in these rules or Chapter 36 of the Texas Water Code shall be construed as granting the authority to deprive or divest a landowner, including a landowner's lessees, heirs, or assigns, of the groundwater ownership and rights described by Section 36.002 of the Texas Water Code, recognizing, however, that Section 36.002 does not prohibit the District from limiting or prohibiting the drilling of a well for failure or inability to comply with minimum well spacing or tract size requirements adopted by the District; affect the ability of the District to regulate groundwater production as authorized under Section 36.113, 36.116, or 36.122 or otherwise under Chapter 36, Texas Water Code, or a special law governing the District; or require that a rule adopted by the District allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner. The District's orders, resolutions, policies, guidelines, and other actions have been enacted and implemented to fulfill these objectives.

RULE 1.3 USE AND EFFECT OF RULES:

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

RULE 1.4 AMENDING OF RULES:

The Board may, following notice and hearing as provided in these rules and Chapter 36 of the Texas Water Code, amend these Rules or adopt new Rules from time to time.

RULE 1.5 HEADINGS AND CAPTIONS:

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

RULE 1.6 CONSTRUCTION:

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

RULE 1.7 METHODS OF SERVICE UNDER THE RULES:

Except as otherwise expressly provided in these Rules, any notice or document required by these Rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. shall be deemed complete the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed period of time after service, three days will be added to the prescribed period. Where service by other methods has proved impossible, the service may be complete upon publication of the notice in a newspaper with general circulation in the District, or by such other method as may be approved by the Board. The person or person's attorney or authorized representative shall certify compliance with this rule in writing over signature and on the filed document. A certificate by a person or the person's attorney of record, or the return of an officer, or the affidavit of any person showing service of a document, shall be prima facie evidence of the fact of service.

RULE 1.8 SEVERABILITY:

If any one or more of the provisions contained in these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other Rules or provisions of these Rules and these Rules will be construed as if such invalid, illegal or unenforceable rule or provision had never been contained in these Rules.

RULE 1.9 COMPUTING TIME:

In computing any period of time prescribed or allowed by these Rules, order of the Board, provided by a Presiding Officer, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

RULE 1.10 TIME LIMITS:

Applications, requests, or other papers or documents required or permitted to be filed under these Rules or by law must be received for filing in the District office within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing. Time periods set forth in these rules shall be measured by calendar days, unless otherwise specified.

SECTIONS 2 AND 3 HAVE BEEN REPEALED. SOME OF THE PROVISIONS IN THESE FORMER SECTIONS HAVE BEEN RELOCATED WITHIN THE CURRENT RULES.

SECTION 4. DISTRICT

RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT:

All documents, reports, records, and minutes of the District will be available for public inspection and copying in accordance with the Texas Public Information Act (the "TPIA"). Upon written request of any person, the District will furnish copies of its public records in accordance with the TPIA. Persons who are furnished copies may be assessed a copying charge, pursuant to policies established by the Board and consistent with the TPIA and regulations of the Office of the Attorney General of the State of Texas.

RULE 4.2 CERTIFIED COPIES:

Requests for certified copies must be in writing. Certified copies will be made under the direction of the General Manager and will be affixed with the seal of the District. Persons furnished certified copies may be assessed a certification charge, in addition to the copying charge, pursuant to policies established by the Board.

RULE 4.3 OFFICE HOURS:

The District will maintain business hours as designated from time to time by the Board of Directors.

RULE 4.4 MEETINGS:

The Board will hold a regular meeting at least once each quarter and may meet more frequently as the Board may establish from time to time. At the request of the President, or by written request of at least two members, the Board may hold special meetings. All Board meetings will be held in accordance with the Texas Open Meetings Act.

SECTION 5. PERMITS

RULE 5.1 STANDARD PERMIT PROVISIONS:

All permits are granted subject to the District Act, these Rules, the District Management Plan, Drought Management Plan, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued shall contain the following standard permit provisions:

a. This permit is granted in accordance with the provisions of the District Act, Water Code, and the Rules, Management Plan, Drought Management Plan and orders of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the

Texas Water Code, the District Act, the District Rules, Management Plan, Drought Management Plan, orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in this permit.

b. This permit confers no vested rights in the holder, and it may be revoked or suspended, or its terms may be modified or amended pursuant to the provisions of the District Act.

c. The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner. In the event that groundwater is to be transported a distance greater than one-half (1/2) mile from the well, it must be transported by a pipeline or truck to prevent waste caused by evaporation and percolation.

d. To ensure regular measurement and recording of groundwater production, withdrawals from all permitted wells shall be accurately measured either by a District-approved metering device accessible to District employees at any time during normal business hours, or a District-approved alternative measuring method. The District may require the permit holder, at the permit holder's expense, to test the accuracy of the meter and submit a certificate of the test results. This requirement is in addition to the requirement for meter calibration in District Rule 5.10. If the tests reveal that a meter is not registering within an accuracy of 95%-105% of actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or well system, the permit holder must take appropriate steps to remedy the problem, and to retest the meter within 90 days from the date the problem is discovered.

e. In addition, the permittee must keep records of the amount of groundwater produced and the purpose of the production and agrees to make those records available for District inspection, if requested by the District. Immediate written notice must be given to the District by the permittee in the event the well is either polluted or causing pollution of the aquifer.

f. The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by District representatives.

g. The application pursuant to which this permit has been issued is incorporated in this permit, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of the permit. In the event of conflict between the provisions of this permit and the contents of the application, the provisions of this permit shall control.

h. Violation of this permit's terms, conditions, requirements, or special provisions shall subject the permit holder to civil penalties, injunction from further well operation and production, and other legal action as provided by the District Rules.

i. Wherever special provisions are inconsistent with other provisions or District Rules, the special provisions prevail.

RULE 5.2 WELL PERMIT EXEMPTIONS:

a. Well drilling and operating permits are not required for:

1. a well used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

2. the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well 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 associated with the drilling rig; or

3. the drilling of a water 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 activities regardless of any subsequent use of the water.

4. the drilling of a water well for temporary use to supply water to a rig that is actively engaged in drilling a groundwater production well permitted by the District except that this exemption may not exceed 180 days but may be extended until the groundwater production well is complete; or

5. a well used for an aquifer storage and recovery project, except as provided under District Rule 6.8.

b. Notwithstanding Subsection (a), the District may require a well to be permitted by the District and to comply with all District rules if:

1. the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

2. the withdrawals from a well exempted under Subsection (b)(3) 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.

3. the groundwater withdrawals that were exempted under Subsection (a)(4) exceed the amount specified in the permit issued by Texas Commission on Environmental Quality.

c. A person holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of 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.

d. A water well exempt under this rule shall be registered in accordance with rules promulgated by the District; and be equipped and maintained so as to conform to the District's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir. The driller of a well exempted under Subsection (a) or (b) shall file the drilling log with the District.

e. A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b).

RULE 5.3 WELL DRILLING AND PRODUCTION PERMIT:

a. **Permits Required**:

1. Every person, unless exempted by Rule 5.2, must obtain a permit from the District for the drilling of a water well and production of water.

2. The requirement for a permit under this Rule shall also apply to any well currently in operation located within the District prior to the effective date of this rule, before the well may be altered or re-equipped to increase production, and prior to a change in the intended use of the water that is to be produced from the well.

3. A well used for any beneficial purpose that is either drilled, completed, or equipped so that it is incapable of producing more

than 100 g.pm. does not have to submit the information required by subsection (b)(4)(x)-(xiii) and (xvi),(b)(5)(ii), (b)(6), and (b)(10) of this rule and is not subject to a permit hearing under subsection (c) or the evaluation required by subsection (d) of this rule. A drilling or permit application filed for the type of well described by this subsection shall be acted on by the District's Board at a meeting noticed in accordance with the Texas Open Meetings Act or by the General Manager if the Board passes a motion or resolution to delegate authority to the General Manager to act on this type of application. The Board or General Manager may impose special provisions or other requirements as authorized by Rule 5.1.

b. **Permit Application:**

1. The permit application provided for herein must be filed with the District in the form or forms promulgated by the District and such permit must be obtained from the District prior to the drilling of water wells and proposed production of water, all in accordance with the provisions of this rule.

2. Before submitting an application for a well permit, prospective applicants may meet with District representatives to have District rules and application procedures explained in complete detail.

3. The applicant shall identify the depth of the water-bearing formation which the applicant proposes to drill, complete, and produce the well.

4. An application for the production of water for which a permit is required under this Rule shall:

   (i) be in writing and sworn to;
   (ii) contain the name, post-office address and place of residence or principal office of the applicant;
   (iii) identify the actual or anticipated location, pump size, and production capacity of the well from which the water is to be produced;
   (iv) identify the location and description of the well site, the property on which the well is to be situated, the pump size, the production capacity of the well, and the aquifer from which the water is to be produced;
   (v) the number of contiguous acres of land that the well is to be constructed upon.
   (vi) include the location and amount of the water rights committed to and required for the groundwater production

amount for each well associated with the permit application.

(vii) state the nature and purpose of the proposed use and the anticipated amount of water to be used;

(viii) state the anticipated time within which the proposed construction or alteration is to begin;

(ix) state the presently anticipated duration required for the proposed use of the water;

(x) provide information showing the anticipated effect of the proposed production on the quantity and quality of water available for future use both inside and outside the District;

(xi) provide information showing the anticipated effect of the proposed production on the quantity and quality of water available for future use within the affected area; if the proposed production is to exceed 200 ac.-ft./yr., then the producer must, at a minimum, provide information showing the anticipated effects after twenty-five (25) and fifty (50) years; if there is any existing water production, or any planned production of which the applicant is aware, of more than 200 ac.-ft./yr. within five (5) miles of the proposed well which may affect, or be affected by, the applicant's proposed production, such effects must be included in the applicant's required studies;

(xii) identify any other presently owned sources of water, the availability of which is both technically feasible and economically reasonable for the permittee, that could be reasonably used for the stated purposes, including quality and quantity of such alternate sources;

(xiii) identify any other liquids, the availability of which is both technically feasible and economically reasonable for the permittee, that could be reasonably substituted for the fresh ground water and possible sources of such liquid including quantity and quality;

(xiv) provide information showing what water conservation measures permittee has adopted, what water conservation goals permittee has established, and what measures and time frames are necessary to achieve the permittee's established water conservation goals;

(xv) if the water is to be resold to others, provide a description of the permittee's service area, permittee's metering and leak detection and repair program for its water storage, delivery and distribution system, permittee's drought or emergency water management plan; and

(xvi) identify well(s) producing from the same formation within the proposed well's applicable "area of influence", as well as the owner(s) of said well(s).

5. The application must be accompanied by a map or plat drawn on a scale that adequately details the proposed project, showing:

   (i) the location of the existing or proposed well(s);
   (ii) the location of the existing or proposed production metering device(s) for compliance with Subsection 5.1(d) of these Rules;
   (iii) the location of the existing or proposed water use facilities; and
   (iv) the location of the proposed or increased use or uses.

6. The Rule 5.3 permit application must be accompanied by an application fee as required by District Rule 10.2. This application fee shall be used to cover the cost of considering and processing the application.

7. The District shall determine whether the application, maps, and other materials comply with the requirements of this rule. The District may require amendment and/or supplementation of the application, maps, or other materials to achieve necessary compliance.

8. Before construction of any wells associated with a Production project may be commenced, a Rule 5.3 applicant or permittee must apply for and obtain a drilling permit for each proposed well as required by Rules 5.1 and this rule. An application or application for drilling permit(s) must be submitted concurrently with a Rule 5.3 application for Production. Applications submitted concurrently will be considered together by the Board according to the standards and rules applicable to each.

9. Applicants who request to produce more than 200 acre-feet/year must submit a drought management plan with its application. Final issue of a production permit by the District to the applicant is contingent upon District approval of the submitted drought management plan.

10. Notice of filing of an application: All permit applicants must provide notice by publication in a newspaper of general circulation in the District, and by mailing notice by certified mail, return receipt requested, to all property owners within the "area of influence" as described in these rules.

    (i) All public notices covered by this section must include the following information and be approved by the District prior to issuance:

(A) name and address of the applicant;
(B) date the application was filed;
(C) location and a description of the well that is the subject of the application;
(D) a brief summary of the information in the application; and
(E) a brief statement provided by the District setting forth generally that:

(I) a hearing will be set on the application;
(II) notice of the hearing will be published and posted at a future date, and such notice will include information on the location, date, and time of the hearing and the method by which a person can contest the application;
(III) the notice described in paragraph (II) will not be mailed to the person unless requested under these rules and that it will be the individual responsibility of the person to review the District's postings and publications of notices of hearings if the person wishes to contest the application or otherwise participate in the hearing; and
(IV) any other information deemed relevant by the District.

(ii) The applicant must include in the notices mailed to property owners within the "area of influence" a statement recommending that any such owner immediately register with the District any unregulated well within the proposed well's applicable "area of influence"; and

(iii) The applicant must provide the District with all information required by these rules for the District to declare that the application is administratively complete as well as the following information:

(A) proof of publication of public notice;
(B) proof by certified mail receipt that notice was sent by certified mail to the property owners and well owners to whom notice is required under this Subsection (proof of actual receipt by the owner is not required of the applicant); and
(C) a list of the names and addresses of the property owners notified by certified mail.

c. **Permit Hearing**:

1. Notice of Hearing: Once the District has received an administratively complete application for a water well permit or production permit, a major permit amendment, or a minor permit amendment for which the Board President and General Manager decides that a hearing is required, and associated fees, the General Manager, with the Board President's approval, will issue written notice of hearing on the application in accordance with these rules.

(i) Notices of all hearings of the District shall be prepared by the General Manager, with the Board President's approval, and shall, at a minimum, state the following information:

(A) the name and address of the applicant;
(B) the name or names of the owner or owners of the land if different from the applicant;
(C) the time, date, and location of the hearing;
(D) the address or approximate proposed location of the well, if different than the address of the applicant; and
(E) 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;
(F) a general explanation of the manner by which a person may contest the application, including information regarding the need to appear at the hearing or submit a motion for continuance on good cause under these rules; and
(G) any other information the Board or General Manager deems relevant and appropriate to include in the notice.

(ii) Not later than the tenth day prior to the date of the hearing, notice shall be:

(A) posted by the General Manager, with the Board President's approval, at a place readily accessible to the public in the District Office;
(B) provided by the General Manager, with the Board President's approval, to the County Clerk of Guadalupe County, whereupon the County Clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse annex;
(C) provided to the applicant by regular mail;

(D) provided to any person who has requested notice under subsection (iii) of this rule by regular mail or email; and

(E) provided to property owners within the "area of influence" by regular mail or email.

(iii) A person may request notice from the District of a hearing on a permit or a permit amendment application. The request must be in writing and 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. An affidavit of an officer or employee of the District establishing attempted service by first class mail or email to the person in accordance with the information provided by the person is proof that notice was provided by the District.

(iv) Failure to provide notice under subsection (iii) does not invalidate an action taken by the District at the hearing.

(v) All hearings shall be held at the location set forth in the notice.

(vi) The General Manager, with the Board President's approval, shall set a permit hearing date within 60 days after the date the administratively complete application is submitted. The permit hearing shall be held within 35 days after the setting of the date. Within this same time frame, the General Manager, with the Board President's approval, shall post notice and set a hearing on the application before the District Board. The General Manager may schedule as many applications at one hearing as the General Manager deems necessary, with the Board President's approval.

2. Registration of Unregulated Wells for Remediation: Notwithstanding the presence of unregulated wells of record in a proposed well's applicable "area of influence", the District may grant a requested permit if, among other things, all setback and production rules are complied with. However, remediation of all unregulated Carrizo wells of record within the proposed well's applicable "area of influence" when the production permit is issued remains the responsibility of the producer, and the producer must submit with its application a written guarantee to the District that the applicant will fulfill that responsibility. Furthermore, retention of the production permit is contingent upon timely fulfillment of the producer's commitment to remediate all such pre-qualified unregulated wells, as necessary. Every notified owner of property within the applicable "area of influence" of the applicant's proposed well who wishes to register an unregulated well with the District so as to be eligible for future well remediation must do so

on or before the date of issue of the applicant's production permit. Well registration material to be submitted to the District should include, but not necessarily be limited to, all well completion records (including driller's log and any electric logs), aquifer(s) produced, type of casing, year completed, water chemistry (conductivity), pump capacity, average amount of water produced, and average static water level above mean sea level.

d. **Permit Evaluation:**

In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board will consider the purpose of the District Act and all other relevant factors, including, but not limited to, (1) the District Management Plan and Drought Management Plan; (2) the quality, quantity, and availability of alternative water supplies; (3) the impact on other landowners' rights in groundwater and on the equitable distribution of the resource resulting from a grant or denial of the permit; and (4) the Desired Future Condition(s) and Modeled Available Groundwater of the aquifer at issue, as soon as each is final and any respective challenges and appeals have been exhausted. In evaluating whether an application shall be approved, the Board of Directors shall consider whether the proposed use will either constitute waste or that such use will constitute a "use for a beneficial purpose" as those terms are defined under Chapter 36 of the Texas Water Code, as amended, whether the use is otherwise inconsistent with the statutory purposes of the District, and the other considerations in this section. The Board, before issuing a permit, must also find and determine that all other presently owned sources of water, the availability of which are both technically feasible and economically reasonable to the permittee, have been considered and that no other liquid, the availability of which is both technically feasible and economically reasonable for the permittee, could be reasonably substituted for the use of fresh groundwater. In evaluating the application, the District shall consider the quantity of water proposed to be produced; the term for which production is requested; the safety of the proposed production with respect to the contamination of the aquifer; the actual or anticipated number, location, pump size and production capacity of the wells from which water is to be produced; the nature of the proposed use; the effect of the proposed use of the water on municipal, agricultural, industrial, recreational and other categories of use, and such other factors expressly set forth in Texas Water Code Section 36.113 and as are consistent with the purposes of the District.

e. **Permit Limitations:**

On approval of an application, the District shall issue a Production Permit to the applicant. The permittee's right to produce shall be limited to the extent and purposes stated in the permit. The permit shall be valid for a

period not to exceed five (5) years, at which time the permit may be renewed. A permit shall not be transferable except as provided in Rule 5.7.

f. **Permit Information:**

The permit shall be in writing and attested by the seal of the District and it shall contain substantially the following information:

The permit is issued subject to the rules of the District and to the continuing right of the District to manage the aquifers within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended. The permit shall be in writing and attested by the seal of the District and it shall contain substantially the following information:

1. the name of the person to whom the permit is issued;

2. the date the permit is issued;

3. the term for which the permit is issued;

4. the date the original application was filed;

5. the aquifer to be produced, and the actual or anticipated number, location, pump size and production capacity of the wells from which water is to be produced;

6. the legal description of the land that the well is to be constructed upon;

7. the maximum quantity of water to be produced annually and the destination and use or purpose for which the water is to be produced;

8. The permit is issued subject to the rules of the District and to the continuing right of the District to manage the aquifer within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended;

9. a list of water rights committed to each well in a sufficient amount to meet the groundwater production requirements in these rules; and

10. any other information the District prescribes.

g. **Renewal:**

1. The District shall, without a hearing, renew or approve an application to renew a permit issued under Rule 5.3 before the date on which the permit expires, provided that:

   (i) the application is submitted in a timely manner and accompanied by any required fees; and
   (ii) the permit holder is not requesting a change to the permit along with the renewal that would otherwise require a major or minor amendment under Rule 5.7(c) and (d).

2. The District is not required to renew a permit under Rule 5.3(g)(1) if the applicant:

   (i) is delinquent in paying a fee required by the District;
   (ii) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or
   (iii) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or District Rule.

3. If the District is not required to renew a permit under Rule 5.3(g)(2), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

4. If the holder of a permit issued under Rule 5.3, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under Rule 5.7, the permit as it existed before the permit amendment process remains in effect until the later of:

   (i) the conclusion of the permit amendment or renewal process, as applicable; or
   (ii) a final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

5. If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under Rule 5.3(g)(1) without penalty, unless subsection (2) of Rule 5.3(g) applies to the applicant.

6. The District may initiate an amendment to a permit issued under Rule 5.3, in connection with the renewal of a permit or otherwise, in accordance with Rule 5.7. If the District initiates an amendment

to a permit issued under Rule 5.3, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

h. **Reporting:**

A permittee authorized to produce water for agricultural use shall file with the District annual reports describing the amount of water produced and used each month for the permitted purpose. Such report shall be filed on the appropriate form or forms provided by the District within 15 days of December 31 following commencement of production and annually thereafter. Permittees authorized to produce water for other purposes of use shall file with the District monthly reports describing the amount of water produced and used each month for the permitted purpose. Such report shall be filed on the appropriate form or forms provided by the District within 5 days of the first of each month. The General Manager may modify the frequency of reporting if conditions relevant to the District's statutory responsibilities support a change in reporting frequency in the General Manager's sole discretion. All permittees shall keep accurate records of the amount of water produced and shall make those records available for inspection by the District if requested.

i. **Fees:** See Section 10 below.

RULE 5.4 SPACING AND PRODUCTION REQUIREMENTS:

This rule establishes the spacing and production requirements for non-exempt wells and the amount of water rights that must be committed within a certain radius of each the well(s) associated with a production permit application.

a. Carrizo Well Spacing: The dip of the Carrizo beds is defined as having an orientation of 140° true. The strike, being perpendicular to the dip, is defined as having an orientation of 050° true. Around every regulated Carrizo well, existing or proposed, an ellipse (see depiction #1) whose major and minor radii are correlated to the average projected g.p.m. productive capacity of the well is defined as the well's Carrizo formation "area of influence". The major axis of the ellipse is parallel to the dip of the Carrizo beds, while the minor axis of the ellipse is parallel to the strike of the Carrizo beds (see depiction #2). The major radius of the ellipse (the radius along the major axis) is three (3) lateral feet times the average projected g.p.m. productive capacity of the well. The minor radius of the ellipse (the radius along the minor axis) is two (2) lateral feet times the average projected g.p.m. productive capacity of the well. The "areas of influence" of adjacent Carrizo wells, unless they are both existing wells when these rules are approved, may touch, but not overlap (see depiction #2).

b. Wilcox Wells Spacing: Around any proposed or existing Wilcox well, a circle with a radius of four (4) lateral feet times the average projected productive g.p.m. capacity of the proposed well is defined as the well's Wilcox formation "area of influence". The "areas of influence" of adjacent Wilcox wells, unless they are both existing wells when these rules are approved, may touch, but not overlap.

c. Well Setbacks: Every well must be set back from any adjacent property line no less than one quarter (1/4) foot per g.p.m. of the well's average projected g.p.m. productive rate, but no less than one hundred feet (100 ft.), in any case, unless the owner of the affected adjacent property gives written permission to the producer to do otherwise. A copy of this written permission, if it is necessary, must be submitted to the District with the producer's application. Example: a proposed 1000 g.p.m. well must be set back a minimum of 250 feet from any adjacent property line.

d. Carrizo Aquifer Water Rights: The District is responsible for calculating, and regularly updating, by employing a computer program using the most reliable hydrological data available, the approximate total volume of saturated Carrizo sand within the District. The District is also responsible for calculating and regularly updating, by employing a computer program using the most reliable hydrological data available, the relative percentage of the total volume of the Carrizo sand within the District beneath every individual property in the District. The District has the responsibility to set, and continually adjust to changing conditions, the total amount of water that may be annually withdrawn from the Carrizo aquifer within the District ("the annual production cap"). The relative percentage of the total amount of saturated Carrizo sand within the District which is attributed to any individual property times the annual production cap equals that individual property's annual Carrizo water right.

e. All existing Carrizo production within the District that requires it by the stipulations of the production sunsetting provisions in these rules, as well as all proposed new Carrizo production within the District, must be supported by a commitment of a sufficient amount of water rights as defined above. Proof of commitments of a sufficient amount of water rights must be submitted to the District for its consideration and approval with any applications for new, renewed, or augmented production permits. Furthermore, this sufficiency must be reconfirmed on a regular basis to the District for production permits to remain in force.

f. Wilcox Aquifer Water Rights: Wilcox water rights are linearly correlated to the surface acreage above the Wilcox aquifer, up to a maximum of one-half (1/2) acre-feet/year. Proof of commitments of a sufficient amount of water rights must be submitted to the District for its consideration and approval with any applications for new, renewed, or augmented production permits. All water rights must be located within four (4) miles

of the proposed well(s). Furthermore, this sufficiency of committed water rights must be reconfirmed on a regular basis to the District for production permits to remain in force. Cumulative annual production shall be computed and confirmed by District personnel according to the number and location of acres of groundwater rights attached to the specific well by the applicant at the time the application is filed. All Wilcox water rights located within four (4) lateral feet times the average projected g.p.m. productive capacity of the proposed well must be committed to that well.

g. All existing Wilcox production that requires it by the stipulations of the sunsetting provision in these rules, as well as all proposed new Wilcox production within the District, must be supported by a commitment of a sufficient amount of attached water rights as defined above. Proof of commitments of a sufficient amount of water rights must be submitted to the District for its consideration and approval with any applications for new, renewed, or augmented production permits. Furthermore, this sufficiency must be reconfirmed on a regular basis to the District for production permits to remain in force.

h. Sunsetting of Historic Use Permits: "Historic use" permits are to be sunsetted (phased out) according to the following schedule. The approved production amount shall be permitted to the producer without the requirements for attached water rights until January 1, 2025. For every year thereafter, the producer must possess a production permit obtained from the District for any water produced. In order to obtain a production permit for such a well, the producer must submit to the District proof of a commitment of a sufficient amount of water rights and must also meet every other rule requirement of this District concerning well production, except for rules concerning spacing and setbacks.

i. Permitted wells, regardless of the formation produced or of the stipulations of the relevant permit, shall never, in any case, be produced at instantaneous rates of more than 1200 g.p.m. or at average rates of more than 1000 g.p.m.

j. No well may produce from both the Carrizo and the Wilcox aquifers simultaneously, and all necessary preventative measures must also be taken by the producer to prevent any aquifer-to aquifer transmission or leakage.

k. Only wells with permits in force retain the protection from new well encroachment afforded by the applicable "area of influence" that is granted to that well by the production permit. If a producer loses all or part of the water rights attached to a producing well, the producer is given a grace period of twelve (12) months from the date of loss to re-acquire sufficient water rights, before having to forfeit due to that insufficiency the production permit and all of the well protections afforded thereof.

Notwithstanding the 12-month grace period before possible permit forfeiture, if a producer loses water rights attached to a permitted well, the producer must immediately cease any water production based on those lost rights until such time that sufficient replacement water rights are required.

l. For the purpose of preventing waste or confiscation of property, the Board reserves the right in particular subterranean water zones and/or reservoirs to enter special orders increasing or decreasing distances provided by this requirement

m. In applying this requirement, no subdivision of property made subsequent to the adoption of the original spacing requirement will be considered in determining whether or not any property is being confiscated within the terms of such spacing requirement.

n. Requirements for spacing between wells under this rule shall not apply as between wells that are drilled and completed in different aquifers, except that any such wells shall be separated from one another by a distance of at least 100 (one hundred) linear feet, on-center.

o. Water rights associated with one well may be consolidated with other wells by the District's Board when making a decision on a permit application that requests authorization to consolidate multiple wells under one permit.

RULE 5.5 EXCEPTION TO SPACING AND PRODUCTION RULE:

a. In order to protect property rights, to prevent waste, or confiscation of property, the Board may grant exception to the above spacing and production rules. This rule shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board.

b. If an exception to the spacing or production rules is desired, the application shall be submitted by the applicant in writing to the District office on forms furnished by the District. The application accompanied by a plat or sketch, drawn to the scale of 1:24,000, which shows accurately the property lines in the immediate area and the location of all existing wells within the applicant's wells applicable "area of influence". The application shall also contain the names and addresses of the owners of all such wells. Such application and plat shall be certified by some person acquainted with the facts who shall state that all the facts therein are true and correct.

c. Hearing notices shall state that the application does not meet the spacing requirements of the District, and an exception is requested by the applicant.

RULE 5.6 REWORKING OR REPLACING EXISTING WELLS:

a. No person shall rework, re-drill, or re-equip a well in a manner that would increase the maximum rate of production of water from such well beyond any previous rate of production of such well, or change the intended use of a well, if the production from the well will be greater than 25,000 gallons per day or 17.5 gallons per minute, without first having made an application to the District and having been granted a permit by the District to do so. Any proposed augmentation of a well's capacity requires the applicant to apply for new completion and production permits in the normal way. This process includes, among other things, all necessary notifications, hearings, attachments of sufficient water rights, and commitments of remediation to any additional unregulated well owners of record within the new enlarged applicable "area of influence" of the well proposed to be augmented. If a proposed modified well of augmented capacity would not comply with spacing, setback, or production rules for a new well of the identical capacity, such an application for well modification may be granted only after those rules are completely complied with by the applicant.

b. Replacement Wells:
No person shall replace a well without a permit unless the well is exempted as provided for in Rule 5.2. A replacement well, in order to be considered as such, must be used for the same purpose, watering the same acreage as the well it is replacing. A replacement well must be completed in the same aquifer as the well it replaces, and shall not be drilled, completed, or equipped so as to increase the rate of production of water from the well it replaces. A replacement well must not be located toward any other well or authorized well site unless the new location compiles with the minimum spacing and production rules set out in Rule 5.5 herein; otherwise the replacement well shall be considered to be a new well for which an application must be made under Rule 5.4 herein. The District may grant a permit for a replacement well without notice or hearing if the well meets the spacing and production requirements of Rule 5.5, and the applicant agrees to the terms of Rule 5.4.

c. The location of the well being replaced shall be protected in accordance with the spacing and production rules of the District until the replacement well is drilled and tested. The owner must, within 60 days of the issuance of the permit, indicate in writing to the District which one of these two wells he desires to produce and must submit a completed registration form and driller's log, and any mechanical log which may have been made, on the replacement well. Immediately after determining which well will be retained for production, the other well shall be:

1. plugged according to Rule 6.4 herein;

2. if the well is not deteriorated, as defined in Rule 1.1 herein, the well maybe capped according to Rule 6.4 herein; or

3. properly equipped in such a manner that it cannot produce more than 25,000 gallons per day, or 17.5 gallons per minute.

RULE 5.7 PERMIT AMENDMENTS:

a. A permit amendment is required prior to any deviation from the permit terms regarding the maximum amount of groundwater to be produced from a well, ownership of a well or permit, the location of a proposed well, the purpose of use of the water, the location of use of the groundwater, or the drilling and operation of additional wells, even if aggregate withdrawals under an existing permit remain the same.

b. An application for a permit amendment must be made on a form provided by the District. Permit amendment application fees shall be established by the Board.

c. A major permit amendment includes, but is not limited to, a change that would substantially alter the size or capacity of a well, a request to increase the annual quantity of groundwater authorized to be withdrawn, a change in the purpose of use of the water, and a change in the location of groundwater withdrawal, except for a replacement well authorized under Rule 5.6b. A major permit amendment may not be made prior to notice and hearing.

d. Amendments that are not major, as determined by the General Manager and these Rules, including an amendment sought by a permittee for a decrease in the quantity of groundwater authorized for withdrawal, are minor amendments and may be made by the General Manager with the approval of the Board President. The General Manager, with approval from the Board President, is authorized to deny or grant in full or in part a minor permit amendment and may grant minor amendments without public notice and hearing. Such decision by the General Manager may be appealed to the Board. This appeal is a prerequisite to filing suit against the District to overturn the General Manager's decision. Any minor amendment sent to the Board for consideration shall be set on the Board's agenda and shall comply with the notice requirements of the Texas Open Meetings Act.

RULE 5.8 TEMPORARY OR EMERGENCY PERMITS:

a. **Basis for Temporary or Emergency Permit**: Upon application, the General Manager, with the Board President's approval, may grant a Temporary or Emergency Permit that authorizes the withdrawal of water from a well not currently drilled or permitted.

1. An application for a Temporary Permit must present sufficient evidence that:

   (i) no suitable alternative water supply is immediately available to the applicant; and
   (ii) the well usage will not impair the rights of any other owner of interest in groundwater.

2. An applicant for an Emergency Permit must present sufficient evidence that:

   (i) no suitable alternative water supply is immediately available to the applicant; and
   (ii) an emergency need for the groundwater exists.

b. **Action on Requests**: The General Manager, with the Board President's approval, may grant any application for a Temporary or Emergency Permit without notice, hearing, or further action by the Board. The General Manager may deny an application for a Temporary or Emergency Permit on any reasonable ground including, but not limited to, a determination that the applicant is currently in violation of the District Act or these rules, or that the applicant has a previous unresolved violation on record with the District. Notice of the General Manager's action will be served upon the applicant. Any affected party may appeal the General Manager's action by filing, within 20 days of that action, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting. The General Manager must inform the Board of any Temporary or Emergency Permits granted. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager.

c. **Term of Temporary or Emergency Permit**: No Temporary or Emergency Permit may be issued unless an application for a permit issued under Rule 5.1 has been filed with the District. The term of any Temporary or Emergency Permit granted by the General Manager under this Rule extends only until the Board makes a final decision on the application for the permit under Rule 5.3. Emergency permits for replacement wells may not require a hearing if there is substantial proof that the replacement well will have a reduced impact upon the aquifer than the well it is to replace.

RULE 5.9 HISTORIC USE PRODUCTION:

a. Production of groundwater within the boundaries of the District shall be authorized in an amount determined by the District Board after consideration of the evidence of historic use presented by a well owner who has timely filed a notice and application for a historic use permit as

provided in Subsection (b) of this Rule, subject to the sunsetting provisions of District Rule 5.4(h).

b. Any person may make a historic use claim by filing a notice and application for a historic use permit with the District stating the date the use began, the amount of groundwater that was put to a beneficial use during any consecutive 12-month period during the Historic Use Period ending on August 11, 2004, the purpose for which the groundwater was used, the method(s) used to produce and use the groundwater, and the method(s) of determining or measuring the historic use claim. A person that files a notice and application of historic use with the District may produce evidence of the maximum annual production during any consecutive 12-month period prior to August 11, 2004. Proof of production prior to November 6, 1978 shall be too remote to be considered for a claim of historic use. The notice and application for a historic use claim shall be filed with the District no later than September 30, 2011, or a claim to such historic use shall be waived, in which case the permitting requirements under Rule 5.3 shall apply.

RULE 5.10 METER CALIBRATION:

a. Recognizing that TCEQ's regulations impose a mandatory obligation on some well owners within the District to test their water meters at least once every three years to confirm meter accuracy, these well owners subject to TCEQ's regulations, as well as all other well owners within the District, shall report to the District at least once every three years the result of testing the accuracy of their meters.

b. The verification required by Subsection (a) of this Rule shall be made by submitting to the District a notarized affidavit certifying that the meter has been tested, providing the results of the meter test, disclosing the accuracy of the meter calibration, and providing any additional information that the General Manager determines is required to verify that the meter is satisfactorily calibrated and otherwise properly functioning.

c. All meters required by District rules must be calibrated to measure water withdrawals with an accuracy deviation of not more than five percent (+/- 5%).

d. Except as otherwise provided by Subsection (f) of this Rule, each verification, including all necessary testing and calibrating, is to be conducted at the expense of the permit holder.

e. At its expense, the District may at any time test any meter required by District rules for purposes of verifying whether a meter is calibrated in a manner that satisfies this rule and is otherwise properly functioning.

f. If the verification conducted by the District demonstrates that the meter is not measuring groundwater withdrawals with an accuracy deviation of not more than five percent (+/- 5%), the permit holder:

1. must reimburse the District for the costs it incurred in undertaking the verification, including staff time;

2. must immediately repair the meter so that it complies with this rule or immediately replace the device with a meter that complies with this rule; and

3. may be subject to a civil penalty for violation of this rule.

SECTION 6. OTHER DISTRICT ACTIONS AND DUTIES

RULE 6.1 DISTRICT MANAGEMENT PLAN:

a. **Adoption and Amendment**: The District Plan specifies the acts, procedures, and performance necessary to prevent waste and protect rights of owners of interests in groundwater, and forms the basis of permitting decisions and permit requirements imposed by the Board. The Board will review the plan as necessary and not later than the fifth anniversary from the TWDB's approval of any amended plan as well as within two years of the adoption of the Desired Future Conditions by the Groundwater Management Area, and when the Board considers a new plan necessary or desirable, a new plan will be adopted and submitted to TWDB to meet the statutory deadline for amendment. A plan, once adopted, remains in effect until the adoption of a new plan.

b. **Hearing**: The Presiding Officer must conduct a hearing to take public input on the draft Management Plan and in the manner the Presiding Officer deems most appropriate to obtain relevant information as conveniently, inexpensively, and expeditiously as possible. The Presiding Officer will prepare and keep a record of the hearing in the form of minutes, an audio or video recording, or a court reporter transcription at his or her discretion. At the conclusion of the hearing, the Board may take action on the subject matter of the hearing, take no action, or postpone action until a future meeting or hearing of the Board. When adopting, amending, or repealing the Management Plan, the District shall:

1. use the District's best available data and groundwater availability modeling information provided by the TWDB's Executive Administrator together with any available site-specific information that has been provided by the District to the TWDB's Executive Administrator for review and comment before being used in the plan;

2. address the management goals set forth in Section 36.1071, Texas Water Code; and

3. use and address objectives consistent with achieving the Desired Future Conditions as adopted during the joint planning process.

c. **Notice**: The notice of a hearing on any adoption or amendment of the Management Plan shall include the time, date, and place of the hearing, location or website at which a copy of the proposed plan may be reviewed or copied, and any other information deemed relevant by the General Manager or the Board. Not less than ten (10) calendar days prior to the date of the hearing, and subject to the notice requirements of the Texas Open Meetings Act, the General Manager shall:

1. post notice in a place readily accessible to the public at the District Office;

2. provide notice to the County Clerk of Guadalupe County; and

3. make available a copy of the proposed plan at a place accessible to the public during normal business hours, and post an electronic copy on the District's website.

RULE 6.2 NOTICE OF INTENT TO DRILL AND REGISTRATION OF NEW WELLS:

a. Prior to drilling any new well, exempt or nonexempt, the well owner, well operator, or well driller must file a completed Notice of Intent to Drill form with the District. The Notice of Intent to Drill form must be submitted by mail, email or hand delivery using the form provided by the District.

b. After receipt of a Notice of Intent to Drill, the District shall: (1) determine whether the well is exempt or nonexempt under the District's rules, (2) complete the District Use Only section on the Notice of Intent to Drill form, and (3) return a copy of the completed form to the applicant by email, or mail to the address provided on the form.

c. If the District's determination is that the well is exempt, drilling may begin immediately upon receiving the approved Notice of Intent to Drill.

d. If the District's determination is that the well is nonexempt, a Drilling Permit application must be filed and approved by the District before drilling may begin.

e. Persons who believe that their well will require a permit may skip the Notice of Intent to Drill process and directly file a Drilling Permit application with the District.

f. All new wells, exempt and nonexempt, must be registered upon completion by the well owner, well operator, or well driller. Registration may be by mail, email, or hand delivery, using a form provided by the District. Registration may also accompany the District-required Well Log.

RULE 6.3 LOCATION OF WELLS:

a. After an application for a well permit has been granted, the well, if drilled, must be drilled within thirty (30) feet of the location specified in the permit.

b. Location of ALL wells including those exempt under Rule 5.2, must meet specifications defined in Chapters 32 and 33 of the Texas Water Code, Administrative Rules of TDLR, 16, Texas Administrative Code Chapter 76, and the TCEQ.

RULE 6.4 MINIMUM STANDARDS OF WELL COMPLETION:

The minimum standards for well completion are to be those determined and defined by the State of Texas in Chapters 32 and 33 of the Texas Water Code, the Administrative Rules of TDLR, 16, Texas Administrative Code Chapter 76, and the TCEQ.

RULE 6.5 MINIMUM STANDARDS FOR SEALING, CAPPING, AND PLUGGING OF WELLS:

The minimum standards for sealing, capping, and plugging of wells are to be those determined by the State of Texas in Chapters 32 and 33 of the Texas Water Code, the Administrative Rules of the TDLR, 16, Texas Administrative Code Chapter 76, and the TCEQ.

RULE 6.6 DRILLER'S LOG, CASING AND PUMP DATA:

Complete records must be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled in the District. Such records must include an accurate Driller's log, any mechanical log that may have been made and a registration of the well correctly furnishing all available information required on the forms furnished by the District or on forms furnished by the Texas Department of Licensing and Regulation. Such reports must be filed within 60 days after completion of the well. Water well drillers shall send the District by mail, email, or hand delivery a copy of all driller reports filed with the TWDB's and TDLR's joint "Submitted Driller Report" Database within 60 days after completion of a well.

RULE 6.7 WELL MONITORING:

The District will place or lease a strategic number of monitoring / test wells throughout the District in order to monitor water levels and quality of the aquifers within the District. The District may from time to time use information from the monitoring wells to conserve water for pumping limits. The data from these monitoring wells will be used when making determinations on permit applications submitted for approval, during times of drought, when considering desired future conditions and amendments to the management plan, and to achieve the District's other statutory purposes.

RULE 6.8 AQUIFER STORAGE AND RECOVERY (ASR):

a. As a general matter, TCEQ has exclusive jurisdiction over the regulation and permitting of ASR Injection Wells. However, the District has concurrent jurisdiction over an ASR Injection Well that also functions as an ASR Recovery Well. The District is entitled to notice of and may seek to participate in an ASR permitting matter pending at TCEQ and, if the District qualifies as a party, in a contested hearing on an ASR application.

b. The provisions of District Rule 6.8 apply to an ASR recovery well that also functions as an ASR injection well.

c. A project operator shall:

    1. Register an ASR injection well and ASR recovery well associated with the aquifer storage and recovery project if a well is located in the District;

    2. Submit to the District the monthly report required to be provided to TCEQ under Section 27.155, Texas Water Code, at the same time the report is submitted to TCEQ; and

    3. Submit to the District the annual report required to be provided to TCEQ under Section 27.156, Texas Water Code, at the same time the report is submitted to TCEQ.

d. If an aquifer storage and recovery project recovers an amount of groundwater that exceeds the volume authorized by TCEQ to be recovered under the project, the project operator shall report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the report required by District Rule 6.8(c)(2).

e. Except as provided by District Rule 18.1(e), the District may not require a permit for the drilling, equipping, operation, or completion of an ASR injection well or an ASR recovery well that is authorized by TCEQ.

f. Each ASR recovery well that is associated with an aquifer storage and recovery project is subject to the permitting, spacing, and production requirements of the District if the amount of groundwater recovered from the wells exceeds the volume authorized by TCEQ to be recovered under the project. The requirements of the District apply only to the portion of the volume of groundwater recovered from the ASR recovery well that exceeds the volume authorized by TCEQ to be recovered.

g. A project operator may not recover groundwater from an aquifer storage and recovery project in an amount that exceeds the volume authorized by TCEQ to be recovered under the project unless the project operator complies with the applicable requirements of the District as described by this rule.

h. The District may not assess a production fee or export fee or surcharge for groundwater recovered from an ASR recovery well, except to the extent that the amount of groundwater recovered under the aquifer storage and recovery project exceeds the volume authorized by TCEQ to be recovered.

i. The District may assess a well registration fee or other administrative fee for an ASR recovery well in the same manner that the District assesses those fees under Section 10 of its rules.

j. The District may consider hydrogeologic conditions related to the injection and recovery of groundwater as part of an aquifer storage and recovery project in the planning for and monitoring of the achievement of a Desired Future Condition for the aquifer in which the wells associated with the project are located.

SECTION 7. HEARINGS

RULE 7.1 TYPES OF HEARINGS:

The District conducts seven types of hearings:

a. Permit hearings are governed by Rules 7.3 – 7.7 and 7.9 and Section 5 of the District's Rules as applicable to permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing.

b. Rulemaking hearings are governed by Rules 7.2 and 7.8 and involve matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District.

c. Hearings on the District Management Plan are governed by Rule 6.1.

d. Hearings to prevent waste, pollution, or degradation of the quality of groundwater under Section 8 of the District's Rules are governed by Rule 8.5.

e. Enforcement hearings are governed by Section 9 of the District's Rules.

f. Hearings on the Desired Future Conditions, including the appeal process of Desired Future Conditions, are governed by Rule 7.10.

g. All other hearings not described in this rule are governed by Rule 7.11.

RULE 7.2 NOTICE AND SCHEDULING OF RULEMAKING HEARINGS:

The General Manager, with the Board President's approval, is responsible for giving notice of all hearings in the following manner:

a. Not less than 20 days prior to the date of the hearing, the General Manager shall issue written notice of a hearing. The notice shall include a brief explanation of the subject of the hearing; the time, date, and location of the hearing; the location or Internet site at which a copy of the proposed rules may be reviewed or copied; and any other information deemed relevant by the General Manager or the Board. The notice shall be posted and distributed as follows:

1. notice posted in a place readily accessible to the public at the District office;
2. notice provided to the county clerk of Guadalupe County with instructions to post at the county courthouse;
3. notice published in one or more newspapers of general circulation in the District;
4. notice provided by mail or email to any person who has requested notice under Subsection (b) of this rule; and
5. notice provided by mail or email to the County and each water supply corporation, municipality, and all other retail public utilities within the District.

A copy of all proposed rules shall be made at a place accessible to the public during normal business hours, with an electronic copy posted on the District's Internet site.

b. A person may submit to the District a written request for notice of a rulemaking hearing. 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 rulemaking hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail or email to the person in accordance with the information provided by the person is proof that notice was provided by the District.

RULE 7.3 GENERAL PROCEDURES:

a. **Authority of Presiding Officer**: The Presiding Officer may conduct the hearing or other proceeding in the manner the Presiding Officer deems most appropriate for that particular proceeding. The Presiding Officer has the authority to:

1. set hearing dates, other than the initial hearing date for permit matters set by the General Manager in accordance with Rule 7.1;
2. convene the hearing at the time and place specified in the notice for public hearing;
3. establish the jurisdiction of the District concerning the subject matter under consideration;
4. rule on motions and on the admissibility of evidence and amendments to pleadings;
5. designate and align parties and establish reasonable time limits and the order for testimony and presentation of evidence;
6. administer oaths to all persons presenting testimony;
7. examine witnesses;
8. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
9. require the taking of depositions and compel other forms of discovery under these Rules;
10. ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
11. conduct public hearings in an orderly manner in accordance with these Rules;
12. recess any hearing from time to time and place to place;
13. reopen the record of a hearing for additional evidence when necessary to make the record more complete; and
14. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.

b. **Registration Forms**: Each individual attending a hearing or other proceeding of the District must submit a form providing the person's name and address, whether the person plans to testify; and any other information relevant to the hearing or other proceeding.

c. **Appearance; Representative Capacity**: Only parties designated under Subsection (d) of this rule may formally participate in a hearing, although the Presiding Officer may allow sworn testimony or evidence to be submitted by a nonparty if the Presiding Officer determines that the testimony or evidence is relevant, noncumulative, and useful to the Presiding Officer's and Board's review and decision on the application. A party may appear in person or may be represented by counsel, engineer, or other representative, provided the representative is fully authorized to

speak and act for the party. A duly authorized partner may appear on behalf of the partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

d. **Determination of Party Status; Alignment of Parties; Number of Representatives Heard**: A person desiring to protest a permit application shall appear before the District at the initial, preliminary permit hearing and offer sworn testimony to demonstrate that the person is an Affected Person. The Board may take sworn testimony and shall deliberate and take official action at the hearing to determine whether the protestant has sufficiently demonstrated that they qualify as an Affected Person. If the Board finds that a person is not an Affected Person, then that person shall not be allowed to participate in the hearing as a party. The District's General Manager and applicant are automatically qualified as parties. Persons other than the General Manager or a person specifically named must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the Hearings Examiner or Presiding Officer, there exists good cause and the hearing will not be unreasonably delayed. Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The Presiding Officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.

e. **Appearance by Applicant or Movant**: The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the Presiding Officer deems it necessary in order to fully develop the record.

f. **Reporting**: Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the Presiding Officer, may be recorded by a certified shorthand reporter. The District does not prepare transcriptions for the public of hearings or other proceedings recorded on audio cassette tape on District equipment, but will arrange for a party in interest to have access to the recording. Subject to availability of space, any party at interest may, at its own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or

other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Rule 7.5(b). If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter. On the request of a party to a contested hearing, the Presiding Officer shall have the hearing transcribed by a court reporter. The Presiding Officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the Presiding Officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The Presiding Officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party. If a hearing is uncontested, the Presiding Officer may substitute minutes or the hearing report required under these rules and Section 36.410 of the Texas Water Code for a method of recording the hearing provided by Subsection 36.410(a).

g. **Continuance**: The Presiding Officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the Presiding Officer before it is recessed, a notice of any further setting of the hearing or other proceeding must be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 7.1, and any other person the Presiding Officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting. A continuance may not exceed the time limit for the issuance of a final decision under Section 36.4165, Texas Water Code.

h. **Filing of Documents; Time Limit**: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these Rules or by law must be received in hand at the District's Office within the time limit, if any, set by these Rules or by the Presiding Officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.

i. **Affidavit**: Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's

representative or counsel. This Rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

j. **Broadening the Issues**: No person will be allowed to appear in any hearing or other proceeding that in the opinion of the Presiding Officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

k. **Conduct and Decorum**: Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and will exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the Presiding Officer, a person is acting in violation of this provision, the Presiding Officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the Presiding Officer may exclude that person from the proceeding for such time and under such conditions as the Presiding Officer deems necessary.

RULE 7.4 UNCONTESTED PERMIT HEARINGS PROCEDURES:

a. **Informal Hearings**: Permit hearings may be conducted informally when, in the judgment of the Hearings Examiner or Presiding Officer, the conduct of a proceeding under informal procedures will result in a savings of time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.

b. **Agreement of Parties**: If all parties qualified to participate in a contested hearing reach a negotiated or agreed settlement that settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the General Manager will summarize the evidence, including findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.

c. **Decision to Proceed as Uncontested or Contested Case**: If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy, the Hearings Examiner or Presiding Officer may declare the case to be contested and convene a pre-hearing conference as set forth in Rule 7.5. The Hearings Examiner or Presiding Officer may also recommend issuance of a temporary permit for a period not to exceed four (4) months, with any special provisions the Hearings Examiner or Presiding Officer deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision will be an uncontested case.

d. **Board Action on Uncontested Permit Application:**

1. The Board may take action on any uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The board may issue a written order to:

   (i) grant the application;
   (ii) grant the application with special conditions; or
   (iii) deny the application.

2. An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order:

   (i) includes one or more special conditions that were not part of the application as finally submitted; or
   (ii) grants a maximum amount of groundwater production that is less than the amount requested in the application.

3. If, during a contested case hearing, all interested persons contesting the application withdraw their protests or are found by the Board not to have a justiciable interest affected by the application, or the parties reach a negotiated or agreed settlement which, in the judgment of the Board, settles the facts or issues in controversy, the proceeding will be considered an uncontested hearing and the Board may take any action authorized under District Rule 7.4(d).

RULE 7.5 CONTESTED PERMIT HEARINGS PROCEDURES:

a. **Request for SOAH hearing**: If an application is contested, any person designated as a party to the hearing may request that the District contract with SOAH to conduct further proceedings in the hearing. A request for a SOAH hearing under this rule must be made to the Board at the initial, preliminary hearing and is untimely if submitted after the conclusion of the initial, preliminary hearing.

b. **Pre-hearing Conference**: A pre-hearing conference may be held to consider any matter that may expedite the hearing or otherwise facilitate the hearing process.

1. **Matters Considered**: Matters that may be considered at a pre-hearing conference include, but are not limited to, (1) alignment of parties; (2) formulation and simplification of issues; (3) necessity or desirability of amending applications or other pleadings; (4) possibility of making admissions or stipulations; (5) scheduling

discovery; (6) identification of and specification of the number of witnesses; (7) filing and exchange of prepared testimony and exhibits; and (8) procedure at the hearing.

2. **Notice**: A pre-hearing conference may be held at a date, time, and place stated in a separate notice given in accordance with Rule 7.1, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the Hearings Examiner or Presiding Officer.

3. **Conference Action**: Action taken at a pre-hearing conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.

c. **Assessing Reporting and Transcription Costs**: Upon the timely request of any party, or at the discretion of the Hearings Examiner or Presiding Officer, the Hearings Examiner or Presiding Officer may assess reporting and transcription costs to one or more of the parties. The Hearings Examiner or Presiding Officer will consider the following factors in assessing reporting and transcription costs:

1. the party who requested the transcript;
2. the financial ability of the party to pay the costs;
3. the extent to which the party participated in the hearing;
4. the relative benefits to the various parties of having a transcript;
5. the budgetary constraints of a governmental entity participating in the proceeding; and
6. any other factor that is relevant to a just and reasonable assessment of costs.

In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearings Examiner or Presiding Officer will provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs will be included in the Hearings Examiner's or Presiding Officer's report to the Board.

d. **Rights of Designated Parties**: Subject to the direction and orders of the Hearings Examiner or Presiding Officer, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding, subject to the Presiding Officer's limitation of discovery procedures and time limits that will apply equally to all parties.

e. **Persons Not Designated Parties**: At the discretion of the Hearings Examiner or Presiding Officer, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the Hearings Examiner or Presiding Officer as evidence.

f. **Furnishing Copies of Pleadings**: After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.

g. **Interpreters for Deaf Parties and Witnesses**: If a party or subpoenaed witness in a contested case is deaf, the District will provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment that inhibits the person's comprehension of the proceedings or communication with others.

h. **Agreements to be in Writing**: No agreement between parties or their representatives affecting any pending matter will be considered by the Hearings Examiner or Presiding Officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered of record.

i. **Discovery**: Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearings Examiner or Presiding Officer. Unless specifically modified by these Rules or by order of the Hearings Examiner or Presiding Officer, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearings Examiner or Presiding Officer.

j. **Discovery Sanctions**: If the Hearings Examiner or Presiding Officer finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearings Examiner or Presiding Officer may:

1. suspend processing of the application for a permit if the applicant is the offending party;
2. disallow any further discovery of any kind or a particular kind by the offending party;

3. rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;
4. limit the offending party's participation in the proceeding;
5. disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and
6. recommend to the Board that the hearing be dismissed with or without prejudice.

k. **Ex Parte Communications**: The Hearings Examiner or Presiding Officer may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing in order to utilize the special skills and knowledge of the District in evaluating the evidence.

l. **Compelling Testimony; and Swearing Witnesses**: The Hearings Examiner or Presiding Officer may compel any person to testify who is necessary, helpful, or appropriate to the hearing. The Hearings Examiner or Presiding Officer shall administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

m. **Evidence**: Except as modified by these Rules and to the extent consistent with these Rules and Chapter 36 of the Texas Water Code and the District Act, the Texas Rules of Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

n. **Written Testimony**: When a proceeding will be expedited and the interests of the parties not substantially prejudiced, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.

o. **Requirements for Exhibits**: Exhibits of a documentary character must be of a size that will not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.

p. **Abstracts of Documents**: When documents are numerous, the Hearings Examiner or Presiding Officer may receive in evidence only those that are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

q. **Introduction and Copies of Exhibits**: Each exhibit offered shall be tendered for identification and placed in the record. Copies must be furnished to the Hearings Examiner or Presiding Officer and to each of the parties, unless the Hearings Examiner or Presiding Officer rules otherwise.

r. **Excluding Exhibits**: In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit shall be included in the record for the purpose of preserving the objection to excluding the exhibit.

s. **Official Notice**: The Hearings Examiner or Presiding Officer may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

t. **Documents in District Files**: Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

u. **Oral Argument**: At the discretion of the Hearings Examiner or Presiding Officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearings Examiner or Presiding Officer may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

RULE 7.6 CONCLUSION OF THE HEARING; PROPOSAL FOR DECISION:

a. **Closing the Record; Final Report**: At the conclusion of the presentation of evidence and any oral argument, the Hearings Examiner or Presiding Officer may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearings Examiner or Presiding Officer. After the record is closed, the Hearings Examiner or Presiding Officer shall prepare and submit a PFD to the Board, applicant, and each person who

provided comments or each designated party not later than the 30th day after the date a hearing is concluded. The PFD will include a summary of the evidence, together with the Hearings Examiner's or Presiding Officer's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearings Examiner's or Presiding Officer's PFD, a copy will be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties will be by certified mail. If the hearing was conducted by a quorum of the board and if the Presiding Officer prepared a record of the hearing as provided by Texas Water Code Section 36.408(a), the Presiding Officer shall determine whether to prepare and submit a PFD under this section, but shall not be required to prepare a PFD.

b. **Exceptions to the Hearings Examiner's or Presiding Officer's Proposal for Decision in a Contested Case; Reopening the Record**: The applicant and any designated party may submit to the Board written exceptions to the PFD. The Board shall consider the PFD at a final hearing. Additional evidence may not be presented during this final hearing, however the parties may present oral argument to summarize the evidence, present legal argument, or argue an exception to the PFD. A final hearing may be continued in accordance with Rule 7.3(g) and Section 36.409, Texas Water Code.

c. **Time for Board Action on Certain Permit Matters**: In the case of hearings involving original permit applications, or applications for permit renewals or amendments, any requisite Hearings Examiner's or Presiding Officer's PFD should be submitted, and the Board should act, within 60 days after the close of the hearing record or receipt of SOAH's PFD.

RULE 7.7 SOAH HEARING:

a. **Deadline, Location**: If timely requested by the applicant or other party to a contested hearing, the District shall contract with SOAH to conduct the hearing on the application. The Board shall determine whether the SOAH hearing will be held in Travis County or at the District Office or other regular meeting place of the Board, after considering the interests and convenience of the parties, and the expense of a SOAH contract.

b. **Costs, Deposit**: The party requesting that the hearing be conducted by SOAH shall pay all costs associated with the contract for the hearing and shall make a deposit with the District in an amount that is sufficient to pay the estimated SOAH contract amount before the Presiding Officer refers the hearing to SOAH. If the total cost for the contract exceeds the amount deposited by the paying party at the conclusion of the hearing, the party that requested the hearing shall pay the remaining amount due to pay the final price of the contract. If there are unused funds remaining from the

deposit at the conclusion of the hearing, the unused funds shall be refunded to the paying party.

c. **Referral**: Upon execution of a contract with SOAH and receipt of the deposit from the appropriate party or parties, the District's Presiding Officer shall refer the application to SOAH. The Presiding Officer's referral to SOAH shall be in writing and shall include procedures established by the Presiding Officer under Rule 7.7(d) below; a copy of the permit application, all evidence admitted at the preliminary hearing, the District's rules and other relevant policies and precedents, the District Management Plan, and the District Act; and guidance and the District's interpretation regarding its regulations, permitting criteria, and other relevant law to be addressed in a Proposal for Decision and Findings of Fact and Conclusions of Law to be prepared by SOAH. The District or Presiding Officer may not attempt to influence the Finding of Facts or the Administrative Law Judge's application of the law in a contested case except by proper evidence and legal argument. SOAH may certify one or more questions to the District's Board seeking the District Board's guidance on District precedent or the District Board's interpretation of its regulations or other relevant law, in which case the District's Board shall reply to SOAH in writing.

d. **Procedure before SOAH**: A hearing conducted by SOAH is governed by SOAH's procedural rules; Subchapters C, D, and F, Chapter 2001, Texas Government Code; and, to the extent, not inconsistent with these provisions, any procedures established by the Presiding Officer under District Rule 7.3(a).

e. **District's Receipt of SOAH's Proposal for Decision and Findings of Fact and Conclusions of Law**: The District's Board shall conduct a hearing within 45 days of receipt of SOAH's Proposal for Decision and Findings of Fact and Conclusions of Law, and shall act on the application at this hearing or no later than 60 days after the date that the Board's final hearing on the application is concluded in a manner consistent with Section 2001.058, Texas Government Code. At least 10 days prior to this hearing, the Presiding Officer shall provide written notice to the parties of the time and place of the Board's hearing under this subsection by mail and email, for each party with an email address. The Presiding Officer shall exercise his or her authority under Rule 7.3(a) in conducting this hearing.

f. The Board may (i) remand an issue germane to the application or the proposed findings of fact and conclusions of law, (ii) change a finding of fact or conclusion of law made by the Administrative Law Judge, or (iii) vacate or modify an order issued by the Administrative Law Judge, only if the Board determines:

1. that the Administrative Law Judge did not properly apply or interpret applicable law, District rules, written policies, or prior administrative decisions;
2. that a prior administrative decision on which the Administrative Law Judge relied is incorrect or should be changed; or
3. that a technical error in a finding of fact should be changed.

g. **Final Decision in Writing:** A final decision issued by the Board must be in writing and must either adopt the findings of fact and conclusions of law as proposed by the administrative law judge or include revised findings of fact and conclusions of law consistent with Rule 7.7(f).

h. **Deadline for Issuance of a Final Decision**: Notwithstanding any other rule, for hearings conducted by the State Office of Administrative Hearings, the Board shall issue a final decision not later than the 180th calendar day after the date of receipt of the final proposal for decision from State Office of Administrative Hearings. The deadline may be extended if all parties agree to the extension.

i. **Deadline for Issuance of a Final Decision if a Motion for Rehearing is Filed and Granted**: Notwithstanding any other rule, if a motion for rehearing is filed and granted by the Board under Section 36.412 of the Texas Water Code, the Board shall make a final decision on the application not later than the 90th calendar day after the date of the decision by the Board that was subject to the motion for rehearing.

j. **Adoption of Proposal for Decision**: Notwithstanding any other Rule, the Board is considered to have adopted the final proposal for decision of the administrative law judge as a final order on the 181st calendar day after the date the administrative law judge issued the final proposal for decision if the Board has not issued a final decision by:

1. adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or

2. issuing revised findings of fact and conclusions of law as set forth in this Rule and the Texas Water Code.

k. A proposed final decision adopted under Rule 7.7(j) is final, immediately appealable, and not subject to a request for rehearing.

RULE 7.8 RULEMAKING HEARINGS PROCEDURES:

a. **General Procedures**: The Presiding Officer will conduct the rulemaking hearing in the manner the Presiding Officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as

conveniently, inexpensively, and expeditiously as possible. The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

b. **Submission of Documents**: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with Rule 7.2; provided, however, that the Presiding Officer may grant additional time for the submission of documents.

c. **Oral Presentations**: Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The Presiding Officer will establish the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the Presiding Officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

d. **Conclusion of the Hearing; Closing the Record**: At the conclusion of the testimony, and after the receipt of all documents, the Presiding Officer may either close the record, or keep it open to allow the submission of additional information.

e. **Petition to Adopt or Modify a District rule:** A person with a real property interest in groundwater located within the District's jurisdictional boundaries may file a petition with the District to request the adoption or modification of a rule.

1. Petitions under this rule must be submitted in writing on the Petition to Adopt or Modify Rules Form appended to these rules to the District office and must comply with the following requirements:

(i) a separate petition must be filed for each general topic proposed to be addressed by a rule modification or change;

(ii) each petition must be signed and state the full name of each person signing the petition and the person's contact information, including phone number, physical address, mailing address, and email address, if any;

2. Each petition must include:

(i) proof that the person submitting the petition has a real property interest in groundwater located within the District's jurisdictional boundaries;

(ii) a written explanation of the proposed rule or rule modification's intended purpose;

(iii) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and

(iv) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

3. If a person is unable to comply with any procedures required under this rule, then the person must submit to the District, on the same day that the person submits a petition under this rule, a written explanation as to why compliance with the required procedure(s) is not possible and must submit a written request that the Board waive the specific procedure(s) at issue. Upon receipt of a written explanation and request as described herein, the Board may, at its sole discretion, waive any procedure set forth under this rule. A petition may be denied for failure to comply with the requirements under this rule.

4. Notice of the Board's consideration of and action on a petition shall be included on a Board agenda with three (3) calendar days' notice compliant with the Texas Open Meetings Act.

5. Any person desiring to testify on a petition during a hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, and the time period for oral presentations. In addition, the Presiding Officer may limit or exclude question and cumulative, irrelevant, or unduly repetitious presentations.

6. Within 90 (ninety) calendar days after submission of a petition that complies with this section, the Board shall consider the petition at a Board meeting and either:

(i) grant the petition in part or in its entirety and initiate rulemaking proceedings on the subject matter identified in the granted petition in accordance with the rulemaking procedure set forth in these rules; or

(ii) deny the petition in part or in its entirety and provide an explanation for denial in the minutes of the Board meeting or in a separate written statement to be kept in the District's records.

7. Nothing in this rule may be construed to create a private cause of action for a decision to accept or deny a petition filed under this rule.

RULE 7.9 FINAL DECISION; APPEAL:

Board Action: After the record is closed and the matter is submitted to the Board, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.

The Board shall evaluate each application for a permit and permit amendment under the criteria in Rule 5.3(d).

a. **Requests for Written Findings and Conclusions**: An applicant in a contested or uncontested hearing on an application, or a party to a contested hearing, may administratively appeal a decision of the board on a permit or permit amendment application by requesting written findings of facts and conclusions of law not later than the 20th day after the date of the board's decision. On receipt of a timely written request, the board shall make written findings of fact and conclusions of law regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, no later than the 35th day after the date the board receives the request.

b. **Requests for Rehearing**: A party to a contested hearing may request a rehearing not later than the 20th day after the date the board issues the findings of facts and conclusions of law. A party to a contested hearing must first make a request for written findings and conclusions under Rule 7.8(b) before submitting a request for rehearing under this rule.

1. A request for rehearing must be filed in the District office and must state the grounds for the request. The party requesting a rehearing must provide copies of the request to all parties to the hearing.

2. 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.

3. 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.

4. An applicant or party to a contested hearing may not file suit against the District if a request for rehearing was not timely filed under this rule.

5. The Board shall consolidate requests filed by multiple parties to the contested case hearing but only one rehearing may be considered per matter.

c. **Requests for Reconsideration**: Any decision of the District, including any determinations made by the General Manager, on a matter not covered under any other section of these rules may be appealed to the Board by requesting reconsideration of the decision within 20 days of the decision. Such a request for reconsideration must be filed at the District Office in writing and must state clear and concise grounds for the request. If the request is granted by the Board, the Board will make a decision within 45 days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for reconsideration within 45 days of submission will be deemed to be a denial of the request.

RULE 7.10 DESIRED FUTURE CONDITIONS; PUBLIC COMMENT, NOTICE, HEARING, ADOPTION AND APPEAL:

a. **Public Comment**: Upon receipt of proposed Desired Future Conditions from the Groundwater Management Area's district representatives, a public comment period of 90 (ninety) calendar days commences, during which the District will receive written public comments and conduct at least one hearing to allow public comment on the proposed Desired Future Conditions relevant to the District. The District will make available at the District office a copy of the proposed Desired Future Conditions and any supporting materials, such as the documentation of factors considered under Subsection 36.108(d) and groundwater availability model run results. After the public hearing required by Subsection (c) of this Rule below, the District shall compile for consideration at the next joint planning meeting of the Groundwater Management Area's district representatives a summary of relevant public comments received, any suggested revisions to the proposed Desired Future Conditions, and the basis for any suggested revisions.

b. **Public Notices**: At least ten (10) calendar days before a hearing or meeting under this Rule, the Board must post notice that includes:

1. the proposed Desired Future Conditions and a list of any other agenda items;
2. the date, time, and location of the hearing;
3. the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;
4. the names of the other districts in the District's management area; and
5. information on how the public may submit comments.

Except as provided by this subsection (b), the hearing and meeting notice must be provided in the manner prescribed for a rulemaking hearing under Subsection 36.101(d) of the Texas Water Code.

c. **Hearing**: The District shall hold a public hearing to accept public comments using procedures prescribed in Rule 7.8.

d. **Adoption**: As soon as possible after the District receives the Desired Future Conditions resolution and explanatory report from the Groundwater Management Area's district representatives pursuant to Subsection 36.108(d-3), the Board shall adopt the Desired Future Conditions in the resolution and explanatory report that apply to the District. The Board shall issue notice of its meeting at which it will take action on the Desired Future Conditions in accordance with Subsection (b) of this Rule.

e. **Appeal**: Not later than 120 days after the date on which the District adopts a Desired Future Condition under Subsection 36.108(d-4), Texas Water Code, a person determined by the District to be an "affected person" may file a petition appealing the reasonableness of a Desired Future Condition. The petition must include:

1. evidence that the petition is an affected person;
2. a request that the District contract with SOAH to conduct a hearing on the petitioner's appeal of the reasonableness of the Desired Future Condition;
3. evidence that the districts did not establish a reasonable Desired Future Condition of the groundwater resources within the relevant Groundwater Management Area.

Not later than 10 days after receiving a petition described by Subsection (e), the District's Presiding Officer shall determine whether the petition was timely filed and meets the requirements of this Subsection (e) and, if so, shall submit a copy of the petition to the TWDB. If the petition was untimely or did not meet the requirements of this Subsection (e), the District's Presiding Officer shall return the petition to the petitioner advising of the defectiveness of the petition.

Not later than 60 days after receiving a petition under this Subsection (e), the District shall:

1. contract with SOAH to conduct the requested hearing; and
2. submit to SOAH a copy of any petitions related to the hearing requested under Rule 7.10(e) and received by the District.

A hearing under District this Subsection (e) must be held:

1. at the District office or Guadalupe County Courthouse unless the District's Board provides for a different location; and
2. in accordance with Chapter 2001, Texas Government Code, and SOAH's rules.

Not less than 10 days prior to the date of the hearing, notice may be provided by regular mail to landowners who, in the discretion of the General Manager, may be affected by the application.

f. Not less than 10 days prior to the date of the SOAH hearing under this rule, notice shall be issued by the District and meet the following requirements:

1. state the subject matter, time, date and location of the hearing;
2. be posted at a place readily accessible to the public at the District's office;

3. be provided to the County Clerk of Guadalupe County, whereupon the County Clerk shall post the notice on a bulletin board at a place convenient to the public in the County Courthouse; and
4. be sent to the following individuals and entities by certified mail, return receipt requested, hand delivery, first class mail, email, FedEx, UPS, or any other type of public or private courier or delivery service;

   (i) the petitioner;
   (ii) any person who has requested notice in writing to the District;
   (iii) each nonparty district and regional water planning group located within the same Groundwater Management Area as a district named in the petition;
   (iv) TWDB's Executive Administrator; and
   (v) TCEQ's Executive Director.

   If the District is unable to provide notice by any of these forms of notice, the District may tape the notice on the door of the person's office or home, or post notice in the newspaper of general circulation in the District and within the county in which the person resides or which the person's office is located.

g. Before a hearing is conducted under this rule, SOAH shall hold a prehearing conference to determine preliminary matters, including:

1. whether the petition should be dismissed for failure to state a claim on which relief can be granted;
2. whether a person seeking to participate in the hearing is an affected person who is eligible to participate; and
3. which affected persons shall be named as parties to the hearing.

h. The petitioner shall pay the costs associated with the contract for the hearing conducted by SOAH under this rule. The petitioner shall deposit with the District an amount sufficient to pay the contract amount before the hearing begins. After the hearing, SOAH may assess costs to one or more of the parties participating in the hearing and the District shall refund any money exceeding actual hearing costs to the petitioner. SOAH shall consider the following in apportioning costs of the hearing:

1. the party who requested the hearing;
2. the party who prevailed in the hearing;
3. the financial ability of the party to pay the costs;
4. the extent to which the party participated in the hearing; and
5. any other factor relevant to a just and reasonable assessment of costs.

i. On receipt of the SOAH Administrative Law Judge's findings of fact and conclusions of law in a proposal for decision, which may include a dismissal of a petition, the District shall issue a final order stating the District's decision on the contested matter and the District's findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by the Administrative Law Judge, or may vacate or modify an order issued by the Administrative Law Judge, as provided by Section 2001.058(e), Texas Government Code.

j. If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with the Administrative Law Judge's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the District's decision.

k. If the District in its final order finds that a Desired Future Condition is unreasonable, not later than the 60th calendar day after the date of the final order, the District shall coordinate with the districts in the Groundwater Management Area at issue to reconvene in a joint planning meeting for the purpose of revising the Desired Future Condition found to be unreasonable in accordance with the procedures in Section 36.108, Texas Water Code.

l. The Administrative Law Judge may consolidate hearings requested under this rule that affect two or more districts. The Administrative Law Judge shall prepare separate findings of fact and conclusions of law for each district included as a party in a multidistrict hearing.

RULE 7.11 HEARINGS ON OTHER MATTERS

A public hearing may be held on any matter within the jurisdiction of the District beyond permitting; rulemaking; the District Management Plan; the prevention of waste, pollution, or degradation; enforcement; and Desired Future Conditions; provided, however, the Board must deem the hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District. Not less than ten (10) calendar days prior to the date of a public hearing under this Rule, the Board shall publish notice of the subject matter of the hearing, the time, date, and place of the hearing, in a newspaper of general circulation in the District, in addition to posting the notice in the manner provided by the Texas Open Meetings Act.

SECTION 8. GROUNDWATER QUALITY

RULE 8.1 SOLID, HAZARDOUS OR RADIOACTIVE WASTE:

All persons generating, transporting, disposing, applying, or otherwise managing substances defined under state or federal law as solid, hazardous, or radioactive waste, or as sludge, must follow any and all applicable federal, state, and local environmental statues, requirements, and regulations, including, but not limited to those imposed under the Solid Waste Disposal Act (RCRA), the Public Health Service Act (the Safe Drinking Water Act), the Federal Water Pollution Control Act (the Clean Water Act), the National Environmental Policy Act, the Atomic Energy Act and the Low-Level Radioactive Waste Policy Act, as those statues, requirements or regulations are administered by the appropriate agency, including but not limited to the Texas Railroad Commission, the Texas Commission on Environmental Quality , the Texas Department of Health, or their successors, and the Environmental Protection Agency. In the event that applicable statutes, requirements, or regulations require that the person generating, transporting, applying, disposing or otherwise managing a waste or a sludge obtain a permit from an agency, and where those activities occur within the boundaries of the District, notice of the application must be provided to the District by the applicant within ten days of the date of application. In no event may waste or sludge be permitted to be applied in any manner in any outcrop area of any aquifer within the Guadalupe County Groundwater Conservation District.

RULE 8.2 RECHARGE FACILITIES:

A permit must be obtained before installing or operating a recharge facility. The following information must be provided on, or submitted with, the application:

a. The name and address of the applicant.

b. The name and address of the fee owner(s) of the land upon which the recharge facility will be located.

c. The legal description of the exact proposed location of the recharge facility.

d. The time schedule for construction and/or operation of the facility.

e. The names and addresses of the property owners within one-half (1/2) mile of the proposed recharge facility location, and the location of any wells on those properties.

f. A complete construction and operations plan that will include, but is not limited to, information as to:

(i) a technical description of the facility to be used for recharge.
(ii) the source of the water to be recharged.
(iii) the quality of the water to be recharged.
(iv) the volume of water to be recharged.
(v) the rate at which the water will be recharged.
(vi) the formation into which waters will be recharged.

g. Scientific evidence showing that the proposed operation will not:

(i) endanger the structural characteristics of the formation receiving the recharged water.
(ii) cause pollution, as defined in Rule 1, of underground water.
(iii) cause waste, as defined in Rule 1.

h. Any additional information that may be required by the Board.

RULE 8.3 WASTEFUL USE OR PRODUCTION:

a. No person shall intentionally or negligently commit waste.

b. Groundwater shall not be produced within, or used within or without the District in such a manner as to constitute waste.

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

RULE 8.4 POLLUTION OR DEGREDATION OF QUALITY OF GROUNDWATER:

a. No person shall cause pollution or harmfully alter the character of groundwater within the District by means of salt water or other deleterious

matter admitted from another stratum or strata or from the surface of the ground, or from the operation of a well.

b. No person shall cause pollution or harmfully alter the character of groundwater within the District by activities on the surface of the ground which cause or allow pollutants to enter the groundwater through recharge features, whether natural or manmade.

c. No person shall cause degradation of the quality of groundwater.

RULE 8.5 ORDER TO PREVENT WASTE, POLLUTION, AND/OR DEGRADATION OF QUALITY OF GROUNDWATER:

a. After issuance of 15 (fifteen) calendar days' notice to the person(s) who appear to be causing waste, pollution, and/or degradation of the quality of groundwater, and an opportunity for an evidentiary hearing, the Board may adopt orders to prohibit and prevent waste, pollution, and/or degradation of the quality of groundwater. This notice shall be issued by certified mail return receipt requested, hand delivery, first class mail, email, FedEx, UPS, or any other type of public or private courier or delivery service. If the District is unable to provide notice to the alleged violator by any of these forms of notice, the District may tape the notice on the door of the office or home of each person entitled to notice, or post notice in the newspaper of general circulation in the District and within the county in which each such person resides or in which each person's office is located.

b. If the Board President or his or her designee 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, he or she may enter a temporary order without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of 15 (fifteen) calendar days or until a hearing can be conducted. In such an emergency, the Board President or his or her designee is also authorized, without notice or hearing to pursue a temporary restraining order, injunctive, and other appropriate relief in a court of competent jurisdiction.

SECTION 9. INVESTIGATIONS AND ENFORCEMENT

RULE 9.1 NOTICE AND ACCESS TO PROPERTY:

Board Members, the General Manager, and District agents and employees are entitled to access to all property within the District to carry out technical and other investigations necessary to the implementation of the District Act and these Rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access shall give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the well owner or lessee, as determined by information contained

in the application or other information on file with the District. Notice is not required if prior permission has been granted to enter without notice. Inhibiting or prohibiting access to any Board Member, the General Manager, or District agents or employees who are attempting to conduct an investigation under the District Act or these Rules shall constitute a violation and shall subject the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the District Act.

RULE 9.2 LIMITATIONS OF DISTRICT EMPLOYEE ACTIVITIES:

District employees may not gather information not specifically related to the purposes of the District, the District Act, these Rules, or District policy.

RULE 9.3 CONDUCT OF INVESTIGATION:

Where investigations require entrance upon property, such investigations will be conducted at reasonable times, and will be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must notify any occupant or management of their presence and identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the property. Investigations will be limited to inspecting and investigating conditions relating to the groundwater quality or compliance with any rule, regulation, permit, or other order of the District.

RULE 9.4 REQUEST FOR INJUNCTIVE RELIEF AND ASSESSMENT OF PENALTIES:

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Act or any Board order, rule or permit, the Board may authorize the General Manager to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty in an amount set by the Board in accordance with this Section of the Rules, or for both injunctive relief and civil penalties. Any suit shall be filed in a court of competent jurisdiction in Guadalupe County. If the District prevails in any suit to enforce its Rules, the District may seek, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

RULE 9.5 ENFORCEMENT; HEARING; ASSESSMENT OF PENALTIES:

a. The District may afford an opportunity to cure an apparent, alleged violation of any District rule, order or permit, through informal communication, coordination and negotiation with the District. In the event that an apparent, alleged violation is not addressed to the satisfaction of the District's General Manager and Board President, a hearing shall be set for further action by the District's Board. If, after 10 days' notice and a hearing, the Board determines that a person has violated any provision of the Rules or any term of a District order or permit, the Board may pursue legal remedies, including but not limited to assessment of a penalty against

that person that does not exceed the penalty amounts listed below. Notice of this hearing shall include the following information:

(1) the time, date, and place for the hearing;
(2) the basis of each alleged violation;
(3) the permit, rule and/or order that the District believes has been violated or is currently being violated; and
(4) a request that the person duly appear and show cause of the reasons an enforcement action should not be pursued.

This hearing notice shall be provided by certified mail, return receipt requested; hand delivery; first class mail; email; FedEx; UPS; or any other type of public or private courier or delivery service. If the District is unable to provide notice to the alleged violator by any of these forms of notice, the District may tape the notice on the door of the alleged violator's office or home, or post notice in the newspaper of general circulation in the District and within the county in which the alleged violator resides or in which the alleged violator's office is located.

The District may pursue immediate enforcement action if the person identified in this hearing notice fails to appear and show cause of the reasons an enforcement action should not be pursued. After conclusion of this hearing, the District may commence suit and pursue civil penalties, injunctive relief and all other legal remedies. Any suit shall be filed in a court of competent jurisdiction in Guadalupe County. If the District prevails in a suit brought under this Section, the District may seek and the court shall grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

Nothing in this rule shall constrain the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time, regardless of whether the District decides to hold a hearing under this Section. If the Board President or his or her designee determines that an emergency exists requiring the immediate entry of an order to prohibit waste or pollution or protect the public health, safety, and welfare on matters within the District's jurisdiction, he or she may enter a temporary order without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of 30 days or until a hearing by the District's Board can be conducted. In such an emergency, the Board President or his or her designee is also authorized, without notice or hearing, to pursue a temporary restraining order, injunctive, and other appropriate relief in a court of competent jurisdiction.

b. A civil penalty for a violation of these Rules is set in an amount not to exceed $10,000 per day per violation and will be determined by the Board upon consideration of the following factors:

1. the violator's compliance history;
2. efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;
3. the penalty amount necessary to ensure future compliance and deter future noncompliance;
4. any enforcement costs related to the violation; and
5. any other matters deemed necessary and relevant to the violation by the Board.

Each day of a continuing violation constitutes a separate violation.

c. The District shall collect all past due fees and civil penalties accrued that the District is entitled to collect under the Rules. Any person in violation of these Rules is subject to all past due fees and civil penalties along with all fees and penalties occurring as a result of any violations that ensue after the District provides written notice of a violation. Failure to pay required fees will result in a violation of the Rules and such failure is subject to civil penalties. The Board delegates to the General Manager authority to implement this Subsection, and delegates to the General Manager the authority to cure a minor violation through coordination, negotiation, and execution of a compliance agreement with the party in violation of the Rules, in lieu of the Board setting a penalty. Provided, however, the General Manager may in his or her discretion, refer any enforcement matter to the Board.

SECTION 10. FEES AND PAYMENT OF FEES

RULE 10.1 PERMIT FEES:

The District shall assess fees for the annual authorized withdrawal under a permit issued by the District of one dollar ($1.00) per acre foot for water permitted for agricultural use, and ten cents ($0.10) per thousand (1,000) gallons for all other uses for a beneficial purpose. One (1) acre foot of water is equivalent to 325,851 gallons.

RULE 10.2 APPLICATION AND OTHER FEES:

A fee of five hundred dollars ($500.00) shall be paid by an applicant for a permit at the time the application is submitted to the District. These fees shall cover administrative acts of the District, including the District's cost of reviewing and processing permit and permit amendment applications and the cost of hearings on applications, and shall not unreasonably exceed the cost to the District for performing such administrative acts. If the costs described in this rule exceed $500.00, the District may invoice the applicant for these additional costs, and the applicant shall pay the invoiced amount.

RULE 10.3 FEES FOR EXPORT OF GROUNDWATER OUT OF THE DISTRICT:

a. The District may impose a reasonable fee or surcharge for the export of groundwater out of the District using one of the following methods:

1. a fee negotiated between the District and the exporter; or

2. a rate not to exceed 20 (twenty) cents for each thousand gallons of water exported from the District or a fifty percent export surcharge, in addition to the District's production fee, for water exported out of the District.

b. Effective January 1, 2024, the maximum allowable rate the District may impose for an export fee under Rule 10.3(a)(2) shall increase each calendar year in accordance with Section 36.122(e-1) of the Texas Water Code. An increase in the export fee is not valid unless it is approved by the Board after a public hearing. The District may only use funds obtained from the rate increase under this subsection for costs related to assessing and addressing impacts associated with groundwater development as provided by Section 36.207 of the Texas Water Code Section, including:

1. maintaining operability of wells significantly affected by groundwater development;

2. developing or distributing alternative water supplies; and

3. conducting aquifer monitoring, data collection, and aquifer science.

RULE 10.4 RETURNED CHECK FEE:

A fee in the amount of $25 shall be paid to the District for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository.

RULE 10.5 FEE PAYMENTS:

Payments are due on the 15th day of each calendar month. In the event that the 15th calendar day is a weekend or holiday, the payment deadline will fall on the immediately following business day. Payments for fees not received by the last business day of each calendar month shall be subject to a late payment penalty of the greater of the following:

a. $25.00; or

b. ten percent (10%) of the total amount of annual water use fees due and owing to the District.

Permit fees shall be due monthly in equal monthly amounts based upon the effective rate set forth in Rule 10.1. Export fees shall be due on a monthly basis in an amount based on application of the fifty percent surcharge assessed on actual withdrawals or the amount negotiated.

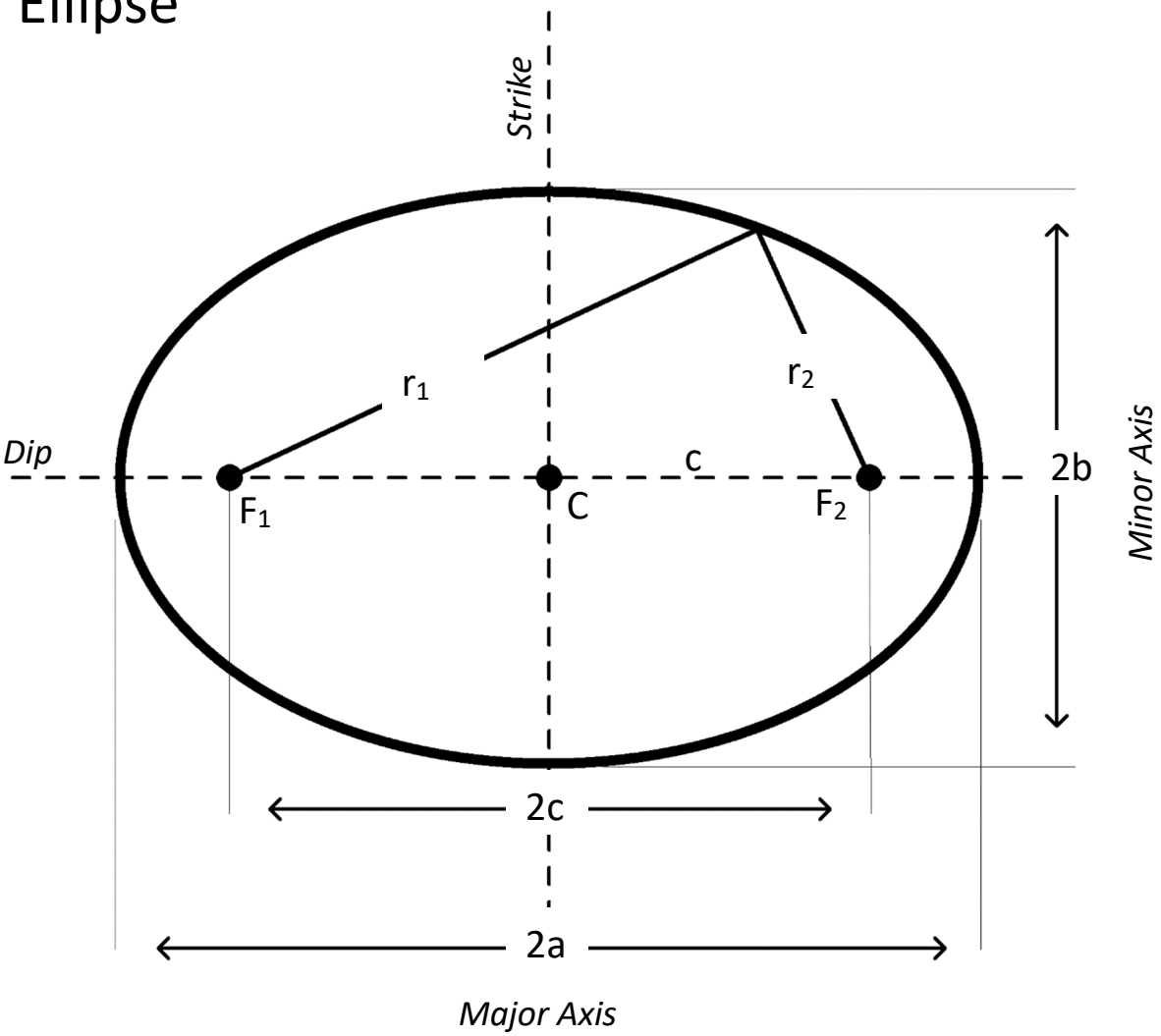
The District will distribute invoices seeking payment for fees as provided in this rule.

* * * * *

DEPICTIONS

Depiction #1

Ellipse



EXAMPLE

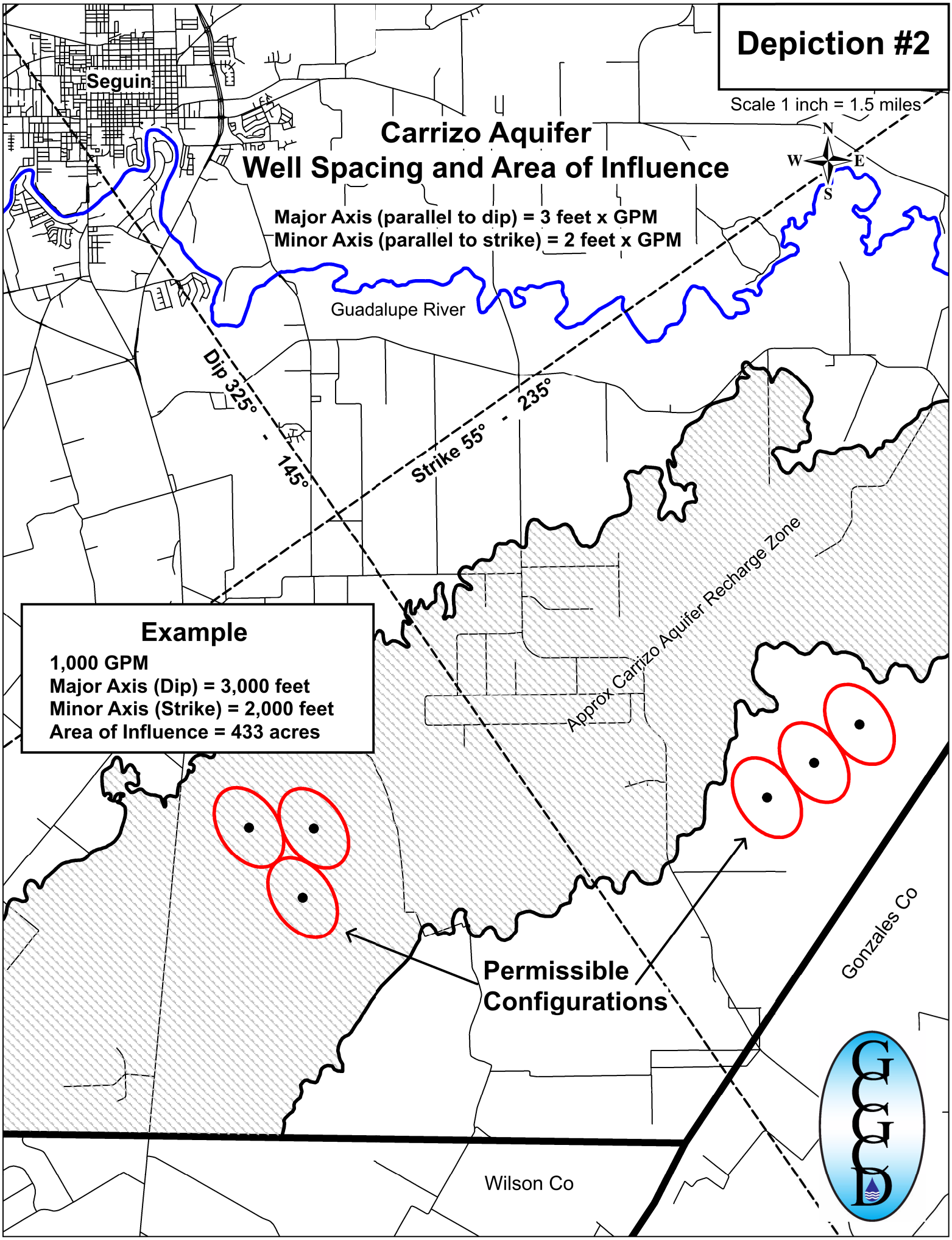
1,000 gpm Well Located at C

a = 3,000 ft and b = 2,000 ft

$r_1 + r_2 = 2a = 6{,}000$ ft

c = 2,236 ft and 2c = 4,472 ft

The ratio of these numbers will work for any size well. The major axis (long) of the ellipse is oriented along the dip, and the minor axis (short) is oriented along the strike.


Depiction #2
Scale 1 inch = 1.5 miles
Carrizo Aquifer
Well Spacing and Area of Influence
Major Axis (parallel to dip) = 3 feet x GPM
Minor Axis (parallel to strike) = 2 feet x GPM
N
W
E
S
Seguin
Guadalupe River
Dip 325° - 145°
Strike 55° - 235°
Approx Carrizo Aquifer Recharge Zone
Example
1,000 GPM
Major Axis (Dip) = 3,000 feet
Minor Axis (Strike) = 2,000 feet
Area of Influence = 433 acres
Permissible Configurations
Gonzales Co
Wilson Co
GCGCD

APPENDIX

GUADALUPE COUNTY
Groundwater Conservation District
P. O. Box 1221, Seguin, Texas 78156
200 North Austin Street, Suite #301,
Seguin, Texas 78155
Phone: 830/379-5969
Email: District.GCGCD@gmail.com

PETITION TO ADOPT OR MODIFY A DISTRICT RULE

Instructions: This Petition to Adopt or Modify a District Rule form must be completed as required by District Rule 7.8 and filed at the District office. Each rule adoption or modification requested must be submitted on a separate Petition to Adopt or Modify a District Rule form.

A person unable to comply with any procedures under District Rule 7.8, or to provide the information required by this form, may file a written explanation as to why compliance with the required procedure(s) is not possible along with a written request that the District waive the specific procedure(s). The written explanation and written request must be submitted to the District Office at the same time as this Form.

Additional information may be attached to this form.

1. **Text of Proposed Rule or Rule Modification** (underline words proposed to be added to the text of the current rules and strike through words proposed to be deleted from the text of the current rules):

2. **Written Explanation of the Intended Purpose of the Proposed Rule or Rule Modification:**

3. **Allegation of Injury or Inequity that could Result from Failure to Adopt Proposed Rule or to Modify Current Rule:**

4. **Description of Petitioner(s) Real Property Interest in Groundwater in the District** (attach proof of real property interest in groundwater located within the District for each petitioner):

Petitioner(s) Information (Please include information for additional petitioners as appropriate).

Petitioner #1:

First Name | Last Name | Phone Number | Email Address

Physical Address | City | State | Zip code

Mailing Address | City | State | Zip code

Signature | *Date*

Petitioner #2:

First Name | Last Name | Phone Number | Email Address

Physical Address | City | State | Zip code

Mailing Address | City | State | Zip code

Signature | *Date*

Petitioner #3:

First Name | Last Name | Phone Number | Email Address

Physical Address | City | State | Zip code

Mailing Address | City | State | Zip code

Signature | *Date*

Additional information may be attached to this form.