

**RULES
OF
REFUGIO
GROUNDWATER
CONSERVATION
DISTRICT**

ADOPTED: July 27, 2004

EFFECTIVE: July 27, 2004

AMENDED: AUGUST 29, 2005

The rules of the Refugio Groundwater Conservation District were adopted on July 27, 2004.

In accordance with Section 59 of Article XVI of the Texas Constitution, S.B. 1911, Acts of the 76th Legislature and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the rules of this District. To the end that these objectives are attained, these rules will be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

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REFUGIO
GROUNDWATER CONSERVATION DISTRICT
DISTRICT RULES

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS OF TERMS:

In the administration of its duties, the Refugio Groundwater Conservation District follows the definitions of terms set forth in The District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

“Abandoned well or Deteriorated Well” shall mean a well or Borehole the condition of which is causing, or is likely to cause, pollution of groundwater in the District. The following are not considered Abandoned Wells or Deteriorated Wells under this definition:

- (A) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
- (B) a non-deteriorated well which has been capped; or
- (C) a non-deteriorated free-flowing artesian well used for a beneficial purpose

"Acre-foot" means the amount of water necessary to cover one acre of land one foot deep, or 325,851 U.S. gallons of water.

“Aggregate Withdrawal” - the amount of water withdrawn from two or more wells which are permitted for a total pumpage volume of all wells in the aggregate.

“Agricultural Use” - means any use or activity involving agriculture as defined in Texas Water Code Section 36.001, including but not limited to aquaculture; irrigation to cultivate the soil to produce crops; the practice of floriculture, viticulture, silviculture, and horticulture, including nursery grower operations; raising, feeding, or keeping animals for breeding or production of food or fiber or other products with a tangible value; planting cover crops, wildlife management; or raising or keeping equine animals.

“Applicant” means a person or entity that submits the required forms to the District and pays the required fees for authorization to drill and operate a Groundwater well, either by registration or by Permit.

“Aquifer” means the portions of the Chicot, Evangeline, or Jasper Aquifer located in the District or any other water bearing geologic formation.

“Aquifer Mining” –A condition where the average available recharge of an aquifer or portion of an aquifer is less than the annual production of groundwater from that aquifer or that portion of that aquifer.

“Artesian Well” - A well drilled through impermeable strata to reach water capable of rising to the surface by internal hydrostatic pressure.

"Authorized Well Site" shall be:

- (1) The location of a proposed well on an application duly filed with the District until such application is denied; or
- (2) The location of a proposed well on a valid Permit. (An authorized well site is not a Permit to drill); or
- (3) A well which produces in excess of 25,000 gallons (17.4 gpm) of water per day and which was in existence at the time the District was created or at the time the area was annexed into the District and is not considered to be an abandoned well or deteriorated well; or
- (4) A well drilled after the District was created or after an area was annexed into the District that has a properly completed Well Registration on file in the District office and such well has not been “abandoned” by the well owner.

“Baseflow or normal flow” - The portion of streamflow uninfluenced by recent rainfall or flood runoff and is comprised of springflow, seepage, discharge from artesian wells or other sources.

“Beneficial Use” shall mean the use of groundwater for:

- agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- sustaining natural environmental flows such as: downstream uses, water quality, aquatic and wildlife habitat, and/or freshwater inflows to bays and estuaries; and
- exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- any other purpose that is useful and does not constitute Waste.

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

“Commission” – refers to the Texas Commission on Environmental Quality.

“Conservation” - those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the

efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

"De-watering well" means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.

"District" means the Refugio Groundwater Conservation District.

"District Act" means H.B. 3231, 76th Legislature and the non-conflicting provisions of Chapter 36, Water Code.

"District office" means the office of the District as established by resolution of the Board.

"Domestic Use or Purpose" - means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; for watering of domestic animals; and for water recreation including aquatic and wildlife enjoyment. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Domestic use does not include use by or for a public water system

"Drilling Permit" means a Permit for a water well issued or to be issued by the District allowing a water well to be drilled.

"Environmental Flow" - are defined as the streamflow necessary to sustain habitats (including channel morphology and substrate), encourage spawning and the migration of fauna species to previously unpopulated habitats, enable the processes upon which succession and biodiversity depend, and maintain the desired nutrient structure within lakes, streams, wetlands and riparian areas. Environmental flows may comprise elements from the full range of flow conditions which describe long term average flows, variability of flows including low flows and irregular flooding events.

"Exempt Well" - a well exempted under Rule 5.2 for which the owner is not required to obtain a Permit but for which the owner is able to obtain a registration number by registering the well's use and location with the District, on a voluntary basis.

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

"Grandfathered" means to exempt all non-exempt wells drilled before January 1, 2002 from water use fees, and production limits.

"Groundwater" means water percolating below the surface of the earth within the District but does not include water produced with oil in the production of oil and gas.

"Hearing body" means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of the District Act.

"Hearing Examiner" means a person appointed by the Board of Directors to conduct a hearing or other proceeding.

"Injection well" includes:

An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;

A cooling water return flow well used to inject water previously used for cooling;

A drainage well used to drain surface fluid into a subsurface formation;

A recharge well used to replenish the water in an aquifer;

A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;

A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;

A subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; or

A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

"Landowner" means the person who bears ownership of the land surface.

"Modify" - to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

"Monitoring well or Observation Well" means a well installed to measure some property of the groundwater or aquifer it penetrates, and does not produce more than 5,000 gallons of groundwater per year.

"**New well application**" means an application for a Permit for a water well that has not yet been drilled.

"**Nonexempt Well**" - a well required to obtain an Operating Permit authorizing the production of groundwater from an existing or a new well.

"**Open meeting law**" means Chapter 551, Texas Government Code.

"**Operating Permit**" - the authorization issued by the District under which an owner, operator or lessee of the property may withdraw a specific amount of groundwater from a nonexempt well for a designated period of time.

"**Overpumping or Overproduction**" - to produce water from a well in excess of the amount authorized to be withdrawn under an Operating Permit issued by the District.

"**Owner**" - any person who has the right to produce water from the land, either by ownership, contract, lease, easement, or any other estate in the land.

"**Permit Amendment**" - a District approved change in a Permit, see also Special Provisions.

"**Pumping or Groundwater Production**" - all water withdrawn from the ground, measured at the wellhead.

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

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

"**Presiding officer**"- means the President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.

"**Registered well**"- shall mean a well registered with the District in accordance with Section 5 of the District Rules.

"**Remediation wells**"- wells intended for either extraction or injection of materials for the purpose of remediating or removing a subsurface contaminant

"**Rules**" means the rules of the District compiled in this document and as may be supplemented or amended from time to time.

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

"Section" means the number section of a survey or block as shown in "Texas Country Farm Plats," 1996 Edition, (Smith Publishing Co.).

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

"Texas Rule of Civil Procedure" and **"Texas Rules of Civil Evidence"** mean the civil procedure and evidence rules as amended and in effect at the time of the action or proceeding. Except as modified by the rules of the District, the rights, duties, and responsibilities of the presiding officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those rules.

“Transport of Groundwater” - pumping, transferring, or moving groundwater out of the District.

“Transport Permit” - an authorization issued by the District allowing the transfer or transporting of a specific amount of groundwater out of the District for a designated period of time.

“Waste” - :

- (1) The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- (2) The use of that amount of water in excess of that which is economically reasonable for an authorized purpose when reasonable intelligence and reasonable diligence are used in applying the water to that purpose constitutes waste.
- (3) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (4) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.

- (5) The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.
- (6) Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by Permit, rule, or order issued by the commission under Chapter 26 "Water Quality Control".
- (7) 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.
- (8) A person who allows an unreasonable loss of water through faulty design or negligent operation of any waterworks commits waste, and the commission may declare the waste to be a public nuisance. Faulty design or negligent operation shall include, but not be limited to, the design or operation of waterworks not in accordance with applicable state or federal law, commission rules, plumbing fixture codes or ordinances, or other applicable law or, in the absence of such law, not in accordance with commonly accepted industry standards, engineering principles, and best management practices.
- (9) Production of Groundwater from an Abandoned Well or a Deteriorated Well.

"Water meter" means a water flow measuring device that can accurately record the amount of groundwater produced during a measured time.

"Water Use Fee" - a fee based upon total annual pumpage imposed by the District on each well or aggregate system for which a Permit is issued. The terms "user fee" and "pumpage fee" are synonymous and used interchangeably with "water use fee".

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

"Well owner" or **"well operator"** means the person who owns the land upon which a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.

"Well Registration" - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for

notification to the well owner in cases of spills or accidents, data collection, record keeping, or future planning purposes.

"Well system" means a well *or* group of wells tied to the same distribution system.

"Withdraw" means extracting groundwater by pumping or by another method.

"Windmill" means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

RULE 1.2 PURPOSE OF RULES:

These rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging groundwater in the district, and these rules are adopted under the district's statutory authority to prevent waste and to protect the rights of owners of interests in groundwater. In fulfilling the stated purpose of these rules, the board will endeavor to maintain the aquifers in the district on a sustainable basis. For the purposes of these rules, "sustainability" is defined as development and use of groundwater in a manner that can be maintained in perpetuity.

RULE 1.3 USE AND EFFECT OF RULES:

The District uses these rules as guides 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 be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor 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, 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. They do not affect the meaning or interpretation of these rules in any way.

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, and Government Code.

RULE 1.7 METHODS OF SERVICE UNDER THE RULES:

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

RULE 1.8 SEVERABILITY:

If any one or more of the provisions contained in these rules are 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 must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2. BOARD

RULE 2.1 PURPOSE OF BOARD:

The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

RULE 2.2 BOARD STRUCTURE, OFFICERS:

The Board consists of the members elected and qualified as required by the District Act. The Board will elect one of its members to serve as Chairman, to preside over Board meetings and proceedings; one to serve as Vice Chairman to preside in the absence of the Chairman; and one to serve as Secretary to keep a true and complete account of all

meetings and proceedings of the Board. The Board may elect officers annually, but must elect officers at the first meeting following the election of board members. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.

RULE 2.3 MEETINGS:

The Board will hold a regular meeting once each quarter as the Board may establish from time to time by resolution. At the request of the Chairman, or by written request of at least three members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

RULE 2.4 COMMITTEES:

The Chairman may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the Chairman.

RULE 2.5 EX PARTE COMMUNICATIONS:

Board members may not communicate, directly or indirectly, about any issue of fact or law in any contested case before the board, with any agency, person, party or their representatives, except on notice and opportunity for all parties to participate. A Board member may communicate ex parte with other members of the Board. This rule does not apply to a Board member who abstains from voting on any matter in which ex parte communications have occurred.

SECTION 3. DISTRICT STAFF

RULE 3.1 GENERAL MANAGER:

The Board may employ or contract for a person to manage the District, and title this person general manager. The general manager will have no power, duty, or responsibility other than gathering information and performing Water District functions as determined by the Board. The Board will determine the salary and review the position of general manager each year at the beginning of the third quarter of every fiscal year

RULE 3.2 STAFFING OF THE DISTRICT:

The General Manager, with approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District. The General Manager shall recommend salaries for employees (other than his/her self), but said salaries must be

approved by the Board. The General Manager will review the position of each staff member as necessary.

SECTION 4. DISTRICT

RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT:

All documents, reports, records, and minutes of the District are available for public inspection and copying following the Texas Public Information Act. Upon written application of any person, the District will furnish copies of its public records, a copying charge pursuant to policies established by the District. A list of the charges for copies will be furnished by the District.

RULE 4.2 CERTIFIED COPIES:

Requests for certified copies must be in writing. Certified copies will be made under the direction of the Board of Directors. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of directors.

RULE 4.3 DISTRICT MANAGEMENT PLAN:

The District Management Plan specifies the acts, procedures, performance and avoidance necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the Rules of the District as one method of implementing the Management Plan. The Board will review the Plan at least every fifth year beginning in 2004. If the Board considers a new or amended plan necessary or desirable, based on evidence presented at hearing, a new plan or amendments to the plan may be adopted. A plan, once adopted, remains in effect until the adoption of a new or amended plan.

SECTION 5. REGISTRATION OF WELLS – DETERMINATION OF PERMITTING APPLICABILITY

RULE 5.1 Registration of Wells:

All existing exempt wells within the district can be registered on a voluntary basis if the well does not require a Permit. **There is no fee for registering existing wells.** Registration is required for all new wells drilled in the District.

All new wells must submit an application, upon receipt of a completed application the District will determine if the well is exempt or nonexempt. All wells registered with the District shall be classified, by the District, according to use. Use classifications include:

domestic, municipal, agricultural, irrigation, injection, remediation, scientific monitor wells, and water table drawdown wells.

a) It is a violation of these Rules for a well owner, well operator, or water well driller to drill any well without first filing with the District an application for registration or permitting of the well. Exempt wells must be registered with the District prior to being drilled. Non-exempt wells must receive a Permit from the District prior to drilling and operation.

b) All new wells must be registered or permitted by the well owner, well operator, or water well driller prior to being drilled. The District staff will review each application for a Drilling Permit and make a preliminary determination on whether the well meets the exclusions or exemptions provided in Rule 5.2. Providing the District finds during preliminary determination that the well is classified as an Exempt Well, the Applicant may begin drilling immediately upon receiving the approved registration of the well.

RULE 5.1.1 Well Activity

No Person shall hereafter begin to drill or drill a Well, or increase the size of a Well, or Well pump, without having first registered the Well or applied to the District and received a Permit to do so, unless the drilling and operation of the Well is exempt by law or by these Rules.

RULE 5.1.2 Registration and Application Forms

Registration shall include the following information, submitted on forms provided by the District, and any other information the General Manager may determine to be of need.

(a) the exact location of the well to be drilled, as provided in the application, including the county, section, block, survey and township; and the exact number of feet to the nearest public road, property line, or other legal description;

(b) proposed use of the well to be drilled;

(c) the size of the pump and the estimated gallons per minute production,

(d) an agreement by the applicant that a completed well completion report and drillers log will be furnished to the District, upon completion of this well and prior to the production of water there from,

(e) the latitude and longitude-

(f) the name and address of the Applicant and owner of the land upon which the well is located; and as well as documentation establishing the authority of the Applicant to drill or operate the well if the Applicant is not the owner of the land; and

(g) the name and address of the well driller or contractor, if applicable.

Rule 5.2 Exempt Well

An “Exempt Well” is a well that does not require a Permit and is used solely for domestic purposes or for providing water for livestock, poultry or environmental flows that is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons (17.4 gpm) of groundwater per day;

Any existing operational well that is not an Abandoned Well, a Deteriorated Well, nor a Non- Exempt Well and in existence prior to January 1, 2002 is considered grandfathered and will automatically be granted an Operating Permit upon completion of the well validation procedure as provided in Rule 16. These grandfathered wells will not be assessed a registration or Permit fee if the procedure is completed by January 1, 2008 and the owner or operator provides all the information requested by the District. The production allowed by a Grandfathered Permit shall be limited to past production of the well. All nonexempt grandfathered wells are subject to RULE 6.2 Operating Permit Provisions.

SECTION 6. PERMITS

RULE 6.1 GENERAL PERMITTING POLICIES AND PROCEDURES:

A permit confers only the right to use the permit under the provisions of these Rules and according to its terms. A permit’s terms may be modified or amended pursuant to the provisions of these Rules.

RULE 6.1.1 Drilling Permit Requirement:

The well owner, well operator, or any other person acting on behalf of the well owner, must file a completed application for registration or permitting before a well may be drilled. Providing the application for a Drilling Permit meets all the guidelines of these Rules, including a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells and their use(s) on the subject tract, the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well. Once the Drilling Permit is

issued the Applicant may thereupon proceed at his own risk to drill such well. All wells drilled after receiving a Drilling Permit are subject to the completion and location requirements set forth in Section 12 of these Rules. A Drilling Permit application is subject to approval by the General Manager of the District, or the well owner, operator, or any other person acting on behalf of the well owner may request a public hearing and the approval of the Permit by the Board.

- a) **Drilling Permits:** Unless specified otherwise by the Board or these Rules, Permits are effective for a term ending 120 calendar days after the date the Permit was approved. Failure of the well owner, well operator, or any other person acting on behalf of the well owner, to provide evidence of the drilling and completion of the permitted well within the designated time frame will render the permit void and production is strictly prohibited. Provided, however, that the Board, for good cause, may extend the time for drilling and completion. If an extension is granted and the well owner, well operator, or any other person acting on behalf of the well owner, fails to provide the General Manager evidence of the drilling and completion within the allowable designated by the Board, the permit is void and production there from is strictly prohibited.
- b) **Applicants for Drilling Permits** for wells with pumps capable of producing greater than 360,000 gpd must submit the following information upon completion of the well:
 1. All known existing, abandoned, and inoperative wells within 1500 feet of the well site.
 2. Location of Permitted Well, and monitoring wells, depth, and screened intervals
 3. Aquifer Identification, stratigraphy of geologic formations, lithology of the geologic strata, geologic structure, characteristics of the aquifer and their hydraulic relationships, recharge to the aquifer, and movement and discharge of groundwater from aquifer, and the ambient quality of water in the aquifer
 4. Wells capable of producing greater than 360,000 gpd will be limited to producing or screening to a depth of at least 100 feet below the Chicot Aquifer or the Stratigraphic equivalent as defined by Baker, 1979.
 5. Appropriate hydrogeological information will be required to prove that producing from a depth of 100 feet below the Chicot Aquifer will have no significant impact on shallow wells drilled and completed in the Chicot Aquifer outside the permitted property.

RULE 6.1.2 Operating Permit Requirement:

A completed Operating Permit application must be approved by the district prior to operating the well. In addition to the information required on the District's

application form, the Applicant may provide other information including a water conservation plan, drought management plan, determination of groundwater availability.

a.) Determination of groundwater availability. To the extent available, the Applicant shall provide the following aquifer parameters:

- rate of yield and drawdown;
- specific capacity
- efficiency of the pumped (test) well;
- transmissivity;
- coefficient of storage
- hydraulic conductivity
- recharge or barrier boundaries, if any are present; and
- thickness of the aquifer

b.) Using the information and data identified, Application shall include the following calculations.

1.) Time-drawdown. The amount drawdown at the pumped well (s) and at the property boundaries for the time frames of ten and thirty years.

2.) Distance-drawdown. The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames of ten and thirty years

3.) Well interference. For multiple wells in a well field, calculations shall be made to determine how pumpage from multiple wells will affect drawdown in individual wells for the time frames of ten and thirty years.

c.) Based upon the information developed and the water quality examination as documented in Rule 6.2.4b, permit conditions for groundwater availability and usability may be imposed by the District.

d.) An **Operating Permit** shall specify and authorize the annual maximum groundwater production from the well (in gallons per year or acre feet per year), the date the Permit is issued by the District, the term of the Permit, the person or entity receiving the Permit, permit and well number, the type of use permitted, and any special Permit conditions. When two or more wells are owned and operated by the permittee as a multi-well system, the District may issue an Operating Permit for an Aggregate Withdrawal. An Operating Permit for an Aggregate

Withdrawal shall allow groundwater to be produced from any well of the aggregate system up to the permitted rate and volume. The number, location and designation of the aggregate wells shall be listed on the Permit.

e.) **Operating Permits:** issued by the District shall be valid for a term set by the District, which shall not exceed five years from the date of issuance. Renewal Applications, provided by the District upon request, shall be submitted to the District no later than 60 days prior to the date of expiration of the Permit. The General Manager may rule on any renewal application without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems desirable or necessary under the circumstances. The General Manager may deny an application for Permit renewal on any reasonable ground, including, but not limited to, a determination that the Applicant is currently in violation of these Rules or Chapter 36, Texas Water Code, or that the Applicant has a previously unresolved violation on record with the District. Any Applicant may appeal the General Manager's ruling by filing, within ten business days of the General Manager's ruling, 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 shall inform the Board of any renewal applications granted on behalf of the District. The Board may overrule the action of the General Manager. The General Manager may authorize an Applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under these Rules, or the District's Management Plan, for any period in which the renewal application is the subject of a contested case hearing.

RULE 6.1.3 Permit Applications:

Each application for a water well Drilling Permit, Operating Permit, Transport Permit, Permit renewal or Permit ownership transfer requires a separate application. Application forms will be provided by the District and furnished to the applicant upon request.

RULE 6.1.4 Notice of Permit Hearing:

Once the District has received a completed original application for a water well Drilling Permit, Operating Permit, Transport Permit or an Operating Permit renewal, the General Manager, will issue written notice indicating a date and time for a hearing on the application in accordance with these Rules. The District may schedule a hearing and action on as many applications at one hearing as deemed necessary and appropriate.

RULE 6.1.5 Decision and Issuance of Permit:

In deciding whether or not to issue a Permit, and in setting the terms of the Permit, the Board will consider the District Management Plan and Rules, and all other relevant factors. The Board will also consider additional information and data provided by the Applicant and other interested parties. If no person or the General Manager contests the application, the General Manager will present the application directly to the Board for a final decision. The Board may issue the application or refer the application to a Hearing Examiner for a hearing.

Based upon information presented at the contested case hearing or on its own motion, the Board may deny any permit for good cause, including, but not limited to, effects upon neighboring properties, excessive drawdown of the water table or artesian pressure, intrusion of salt water, loss of flow in the Mission river or other good cause.

RULE 6.1.6 Aggregation of Withdrawal:

In issuing an Operating Permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. District Rule 5 & 6, will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate. This will allow an Applicant, with a number of water wells which supply a single well system, to apply for an Operating Permit for the well system; consequently, the Applicant will not be required to apply for a separate Operating Permit for each individual well.

RULE 6.1.7 Effect of Acceptance of Permit:

Acceptance of the Permit by the Applicant constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions in the Permit.

RULE 6.2 PERMIT PROVISIONS:

All Permits are granted subject to these Rules, the District 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 must contain the following standard Permit provisions:

1. Permits are granted in accordance with the provisions of the Rules of the District, and acceptance of a Permit constitutes an acknowledgment and agreement that the Permittee will comply with the Rules of the District.

2. An Operating Permit confers only the right to operate the well under the provisions of Rule 6.12, and its terms may be modified or amended pursuant to the provisions of that Rule. Within 10 business days after the date of transfer of a well or well system, the Operating Permit holder must notify the District in writing of the name of the new owner. Any person who becomes the owner of a permitted well must, within 20 calendar days from the date of the change in ownership, file with the District an application for a Permit amendment to affect a transfer of the Permit.

3. The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.

4. Withdrawals of water from all non-exempt wells must be measured by the owner or operator using a device or method that is accurate within plus or minus 10%. Measured water use shall be reported to the District quarterly, and at that time the Permittee shall pay to the District fees in accordance with the fee schedule of the District and the requirements of these Rules. Grandfathered wells are not subject to these fees.

a.) Wells or well systems producing more than 360,000 gallons of water per day (gpd) must provide monthly water levels from a minimum of two monitoring wells in the same aquifer or aquifers located at a distance to be determined in the drilling permit from the permitted well or well system. This monitoring well information will be submitted by the Permittee with the quarterly water use report. Any required monitoring wells must be completed as provided for in the terms and conditions in the Operating Permit for the producing well or well system.

b.) Wells or well systems producing more than 360,000 gpd must also provide annual data on the following water quality parameters: pH, Total Dissolved Solids, Temperature, Turbidity, Alkalinity, Nitrate, Nitrite, Ammonia, Total Phosphorus, Chloride, Sulfate, Sulfite, Total Suspended Solids, and Total Hardness. These data will be collected from any monitoring wells required in the Permit. These Water Quality measurements shall be reported annually to the District in September.

5. 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 the District representatives.

6. The application pursuant to which a Permit has been issued is incorporated in the Permit, and the Permit is granted on the basis of and is contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the Permit.

7. Violation of the Permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal, is punishable by civil penalties as provided by the District Rule 15.3.

8. Whenever special Permit terms and conditions are inconsistent with other Permit provisions or these Rules, the special terms and conditions will prevail.

RULE 6. 3 OPERATING PERMIT LIMITATIONS:

a) Maximum Authorized Withdrawal: It is a violation of these rules to pump any amount of water over the authorized Permit.

b) Operating Permit Required: It is violation of these rules to pump a well without an Operating Permit application being filed with the District and approved by the Board of Directors.

c) Operating Permit Limitations: The Board in its discretion may require special conditions to permits for individual wells with a pump capacity equal to or greater than 360,000 gallons per day or to a well field/groundwater development project with an aggregate size of greater than 500 contiguous acres. The Board may require special conditions in order to ensure that it follows its mission to manage, protect and preserve the groundwater resources of Refugio County, Texas while protecting private property rights and promoting constructive sustainable development in Refugio County, and follows the goal in pursuing its mission of sustainability of the groundwater resources. The Board shall consider, in requiring special conditions, the total managed available groundwater supplies of the Refugio Groundwater Conservation District as recorded in the Management Plan. If these special permit conditions are not met, the Board may revoke or modify the permit after the opportunity for a hearing is afforded the Permittee.

At a minimum the following policies shall be applied in the determination of the permit:

1. The Permittee must demonstrate through the utilization of field monitoring wells that the maximum drawdown of the water table or Artesian pressure in either the Evangeline or Chicot Aquifers from this permit will not exceed five feet at the property line. The monitoring required by Rule 6.2.4 may at the discretion of the District be utilized to prove compliance with its special condition.

2. The Permittee must demonstrate that the well or well field will not cause or contribute to the intrusion of saltwater into the freshwater aquifers by causing the interface between salt and freshwater in the subsurface to migrate inland. The monitoring required by Rule 6.2.4 may at the discretion of the District be utilized to prove compliance with this condition.

3. The Permittee must demonstrate that water flow gradients are maintained during drought conditions in the Mission river and other designated water bodies by the District. This demonstration shall show the relationship of water level declines in the Chicot Aquifer within the project area relative to surface elevations and the continued viability of seep and springs. This may be accomplished by an appropriate system of monitoring wells and stream level gauges as specified in the permit.

RULE 6.4 EXCLUSIONS AND EXEMPTIONS:

The Permit requirements in this Section 6 do not apply to:

- a) wells used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres drilled or equipped such that it is incapable of producing more than 25,000 gallons (17.4 gpm) of groundwater per day; or
- b) wells used to supply water for hydrocarbon production activities associated with any oil or gas well permitted by the Railroad Commission of Texas.

RULE 6.5 WATER TABLE DRAWDOWN WELLS

A system of two or more wells tied together in order to supply water must provide two or more monitoring wells as required in Rule 6.2 above. One of the monitoring wells may be designated in the Permit as a water table drawdown well. When the water level in a water table drawdown well reaches a depth designated in the Permit, production from the well system must be reduced or cease until the water level in the water table drawdown well again reaches the depth designated in the Permit.

SECTION 7. WELL SPACING AND PRODUCTION LIMITS

In order to accomplish the purposes of Chapter 36, Texas Water Code, and achieve the goals of the District's groundwater management plan, including managing the sustainability of the aquifer, the District shall establish production limitations.

OWNERSHIP OF GROUNDWATER. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in these rules shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by the Refugio Groundwater Conservation District as stated in Chapter 36.002 of the Texas Water Code.

The following rule establishes production and spacing requirements in order to minimize, as far as practicable, the drawdown of the water table or reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, to control

subsidence and to prevent waste in accordance with Chapter 36.116 of the Texas Water Code.

RULE 7.1 PRODUCTION LIMITS

1. A Non-exempt well or well system may only be permitted to be drilled and/or equipped for the production of a cumulative total of up to **5 gallons per minute (gpm)** per contiguous acre controlled by applicant.
2. The amount of the annual maximum groundwater production specified in the Operating Permit for a non-exempt well or well field, issued under Rule 6.1.2(d), shall be **one-half (1/2) acre-foot per contiguous surface acre** owned or controlled by the Applicant **up to 500 acres**, unless the Applicant requests a smaller amount be authorized. The production limit on any property greater than 500 contiguous acres owned or controlled by the Applicant is subject to Board determination. Applicants may request that greater amounts of groundwater production per surface acre per annum be authorized provided they submit information, under Rule 6.1.2(a) and meet operating permit limitations specified in Rule 6.3, sufficient for the District to determine, and the District does determine, that local hydrogeologic conditions will allow the withdrawal of a greater amount of groundwater per annum without negatively affecting water levels at adjoining property lines or otherwise interfering with an adjacent landowner's ability to withdraw and use groundwater.
3. A person's right to continue to produce a well or wells under this rule is dependent upon maintaining the ownership of water rights sufficient to produce the volume of groundwater specified in the permit or permits and other Rules of the District. A conveyance of any portion of the water rights could result in non-compliance with Rules of the District.
4. Production permit applications for new wells shall be accompanied by well registration application(s) for any unregistered exempt well(s), and/or production permit application(s) for any non-exempt, un-permitted well(s) that currently exist on the same tract of land or adjoining tracts of land owned by the applicant for the new permit(s).
5. The Board may, if good cause is shown by clear and convincing evidence, authorize increased production amounts. Operating Permits authorizing amounts of production in excess of one-half acre-foot per surface acre per annum shall contain specific monitoring and permit conditions, under Rule 6.1.2, Rule 6.2,

Rule 6.3 and the operating permit, appropriate to demonstrating that such well or well field can be operated so as not to (1) cause well interference on adjoining properties; (2) impact the usability of the groundwater; or (3) otherwise have a negative impact on groundwater availability and use outside the applicant's property.

6. Exception to Production Requirements:

- a) If the Applicant present waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed drawdown at the adjoining landowner(s) well site or property line, the production requirements may be altered if approved by the District.
- b) Providing the Application can show, by clear and convincing evidence, good cause why a new well should be allowed to cause greater drawdown, the issue of drawdown criteria will be considered during the permitting process. If the Board chooses to grant a Permit to drill a well in an area where aquifer conditions are not favorable, the Board may limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.

RULE 7.2 WELL SPACING

In order to minimize the drawdown of the water table or the reduction in artesian pressure, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, provided that agricultural, municipal, and natural resources are protected, the District may regulate the spacing of water wells.

1. For exempt domestic wells incapable of producing more than 25,000 GPD, a new well may not be drilled within 100 feet from the property line. For Non-exempt wells, the minimum distance from the property line shall be a minimum of 150 feet.
2. Minimum distance from any existing or proposed septic system whether on owner's property or adjacent property, must meet county and state standards.
3. Spacing Requirements for Permitted Wells is 2 feet for every gallon per minute (gpm) of the Permitted Flow from nearest Existing Well or Authorized Well Site.
4. Exception to spacing Requirements:
 - a) If the Applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements may be altered to suit the Applicant's request.

- b) Providing the Applicant can show, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the required spacing 100 feet, the issue of spacing requirements will be considered during the contested case process. If the Board chooses to grant a Permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.
- c) The Board may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

SECTION 8. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

RULE 8.1 PERMIT REQUIRED:

Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner or operator a transport Permit.

RULE 8.2 APPLICABILITY:

A groundwater **Transport Permit** is not required for transportation of groundwater that is part of a manufactured product, or if the groundwater is to be used on property that straddles the District boundary line as of the date of these Rules.

RULE 8.3 APPLICATION:

An application for a **Transport Permit** must be filed in the District office and must include the following information:

- a) The name and mailing address of the Applicant;
- b) A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
- c) A water-conservation plan;
- d) The location of the well(s) and rates of withdrawal;
- e) Any additional information that the Applicant feels is relevant to the District's decision related to the issuance of a **Transport Permit**; and

f) Proof of notification of all landowners adjacent to the property where the well or wells are to be located and all well owners within one-half mile radius of any of the proposed production wells.

RULE 8.4 HEARING AND PERMIT ISSUANCE:

a) Applications for **Transport Permits** are subject to the hearing procedures provided by these Rules.

b) In determining whether to issue a Permit to transport groundwater out of the District, the Board shall consider:

1) availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;

2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing Permit holders and other groundwater users within the District; and

3) the state water plan, and the approved District Management Plan;

SECTION 9. DEPOSITS FOR WELL DRILLING PERMITS

RULE 9.1 DEPOSITS:

Each application for a Permit to drill a well must be accompanied by a **\$50.00** deposit which will be accepted and deposited by the District staff. The deposit will be returned to the applicant by the District if: (1) the application is denied; (2) if the application is granted, upon the receipt of correctly completed driller's log of the well; or (3) if the Permit location is abandoned without having been drilled or results in a dry hole, upon return and surrender of the Permit marked "abandoned" by the applicant.

In the event that neither the driller's log of the well nor the Permit marked "abandoned" is returned to the District office within eight (8) months after application date of the Permit, the deposit becomes the property of the District.

SECTION 10. FEES

RULE 10.1 OPERATING PERMIT APPLICATION FEE

Operating Permit application fees:

Wells > 25,000 gpd \$1000.00 per well

RULE 10.2 TRANSPORT APPLICATION FEE

Transport Permit application fees:

Wells <25,000 gpd	\$200.00 per well
Wells > 25,000 gpd	\$1000.00 per well

RULE 10.3 EXPORT OR TRANSPORT FEE

In accordance with Section 36.122 of the Texas Water Code the District imposes an export or transport fee of \$0.025 per 1000 gal, in addition to the production fee for water transported out of the District. The reporting and payment provisions of Rule 10.4 apply to this Section.

RULE 10.4 PRODUCTION FEE

In accordance with Section 36.205 of the Texas Water Code, the Board assesses a production fee of \$10 per acre-foot for water authorized to be withdrawn from a well for nonexempt wells or well systems except agricultural wells. Operators of nonexempt wells shall provide payment to the District each quarter. Nonexempt wells used for agricultural purposes are assessed a fee of \$ 0.50 per acre foot.

RULE 10.4.1

Payment shall be due within thirty (30) days of the last day of March, June, September, and December with their quarterly reports. Operators shall provide monthly production records to document payment amount. The payment shall be accompanied by the report form specified by the Board.

RULE 10.4.2

Each day that a payment remains unpaid after it is due shall constitute a separate violation of these Rules. A late payment charge equal to one percent per month following the due date shall be assessed on past due production fees.

RULE 10.4.3

An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized 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.

SECTION 11. REWORKING AND REPLACING A WELL

RULE 11.1 PROCEDURES:

- a) An existing well may be reworked, re-drilled, or re-equipped without authorization from District if such work is done in a manner that will not change the existing well status.
- b) A permit must be applied for and the District will consider approving the application, if a party wishes to increase the maximum allowable production of an existing well to the point of increasing the size of the column pipe and gpm rate by reworking, re-equipping, or re-drilling such well.
- c) A Permit must be applied for and granted by the District if a well owner or operator wishes to replace an existing well with a replacement well. In the event the application meets spacing (Rule 7.2) and production (Rule 7.1) requirements, the District may grant such application without further notice.
- d) A replacement well, in order to be considered such, must be drilled within 100 feet of the existing well and shall not be drilled nearer the property line provided the original well was "grandfathered" inside the spacing requirements of Rule 7.2.
- e) In the event the application meets spacing (Rule 7.2) and production (Rule 7.1) requirements, the board may grant such application without further notice.

SECTION 12. WELL LOCATION AND COMPLETION

RULE 12.1 RESPONSIBILITY:

After an application for a well Permit has been granted, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location specified in the Permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code. As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of the rule prescribing the location of wells and proper completion.

RULE 12.2 LOCATION OF DOMESTIC, INDUSTRIAL, INJECTION, AND IRRIGATION WELLS:

- a) A well must be located a minimum horizontal distance of **100 feet** from any water-tight sewage collection system or liquid-waste collection facility.

b) A well must be located a minimum horizontal distance of **100 feet** from any potential source of contamination, such as existing or proposed livestock or poultry yards, privies, and septic system absorption fields.

c) A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary well seal and steel casing extending a minimum of **24 inches** above the known flood level.

d) No well may be located within five-hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or effluent from sewage treatment systems.

RULE 12.3 STANDARDS OF COMPLETION FOR DOMESTIC, MUNICIPAL, INDUSTRIAL, INJECTION, AND IRRIGATION WELLS:

Water well drillers must indicate the method of completion performed on the Well Report (TNRCC-0199) Section 10 Surface Completion. Domestic, municipal, industrial, injection, and irrigation wells must be completed in accordance with the following specifications and in compliance with local county or incorporated city ordinances:

a) The annular space between the borehole and the casing shall be filled from the ground level to the top of the water bearing strata or 100 feet below the land surface or well head with cement slurry, or bentonite grout.

b) All wells shall have a concrete slab or sealing block above the cement slurry around the well at the ground surface.

c) The slab or block shall extend at least **two (2) feet** from the well in all directions and have a minimum thickness of **four inches** and shall be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

d) The surface of the slab shall be sloped to drain away from the well.

In all wells:

The casing shall extend a minimum of one foot above the original ground surface; and

A slab or block as described in Paragraph (2) (a) is required above the cement slurry except when a pitless adapter is used. Pitless adapters may be used in such wells provided that:

Pitless adapter is welded to the casing or fitted with another suitably effective seal; and

The annular space between the borehole and the casing is filled with cement to a depth not less than **15 feet** below the adapter connection.

f) All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or zone.

g) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.

RULE 12.4 RE-COMPLETIONS:

a) The well owner or operator shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.

b) If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.

c) The District may direct the well owner or operator to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water.

SECTION 13. WASTE AND BENEFICIAL USE

RULE 13.1 WASTE PREVENTION:

a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 1, Section (1) hereof.

b) No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata from the surface of the ground.

c) No person shall commit waste as that term is defined in Section 1.

SECTION 14. HEARINGS

RULE 14.1 TYPES OF HEARINGS:

The District conducts two general types of hearings: hearings involving Permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and rulemaking hearings involving 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. Any matter designated for hearing before the District may be referred by the Board for hearing before a Hearing Examiner.

a) **Permit Hearings:**

1) **Permit Applications, Amendments and Revocations:** The District will hold hearings on water well Drilling Permits, Operating Permits, Transport Permit, Permit renewals or amendments and Permit revocations or suspensions. Hearings involving Permit matters may be scheduled before a Hearing Examiner.

2) **Hearings on Motions for Rehearing:** Motions for Rehearing will be heard by the Board pursuant to Rule 14.8(b).

b) **Rule-making Hearings:**

1) **District Management Plan:** At its discretion, the Board may hold a hearing to consider adoption of a new District Management Plan.

2) **Other Matters:** A public hearing may be held on any matter within the jurisdiction of the District, if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.

RULE 14.2 NOTICE AND SCHEDULING OF HEARINGS:

The General Manager, as instructed by the Board, is responsible for giving notice of all hearings in the following manner:

a) Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in subsection (b), and any other person the Board of Directors deem appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing.

Notice of hearing will be published at least once in a newspaper of general circulation in the District. The date of publication may not be less than ten calendar days before the date set for the hearing.

A copy of the notice will be posted at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.

In addition to the notices required above, when a hearing involves an Operating Permit, or Transport Permit matter, notice of the date, time, and location of the hearing will be given to the Applicant at least ten calendar days before the day of the hearing.

In addition to the notice required above, when a hearing involves designation of a Production Limitation Management Area, a copy of the notice must be provided to each landowner, well owner, well operator and known groundwater permit holder in the proposed management area.

b) Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing to the District. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure to provide written notice under this section does not invalidate any action taken by the District.

c) Hearings may be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. Permit hearings will normally be held at the District Office. However, the Board may from time to time change or schedule additional dates, times, and places for Permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving Permit matters at such dates, times, and places set forth above for Permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

RULE 14.3 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 the 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 District in accordance with Rule 14.2(c);

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 the order for 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) **Hearing Registration Forms:** Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.

c) **Appearance; Representative Capacity:** Any interested person 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 principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any 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) **Alignment of Parties; Number of Representatives Heard:** 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 transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. Subject to availability of space, any party may, at their 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 14.5(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.

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 will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 14.2(b), 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.

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) **Computing Time:** In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

j) **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.

k) **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.

l) **Conduct and Decorum:** Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must 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 14.4 UNCONTESTED PERMIT HEARINGS PROCEDURES:

a) **Written Notice of Intent to Contest:** Any person who intends to contest a Permit application must provide written notice of that intent to the District office located at 808 Commerce St. Refugio County Courthouse least five calendar days prior to the date of the hearing. If the Board of Directors intend to contest a Permit application, the District must provide the Applicant written notice of that intent at least five calendar days prior to the date of the hearing. If no notice of intent to contest is received five calendar days prior to the hearing, the District will cancel the hearing and the Board will consider the Permit at the next regular board meeting.

b) **Informal Hearings:** Permit hearings may be conducted informally when, in the judgment of the Hearing Examiner, the conduct of a proceeding under informal procedures will save 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.

c) **Agreement of Parties:** If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgment of the Hearing Examiner, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the Hearing Examiner will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.

d) **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 or if any party contests a staff recommendation, and the Hearing Examiner determines these issues will require extensive discovery proceedings, the Hearing Examiner will declare the case to be contested and convene a prehearing conference as set forth in Rule 14.5. The Hearing Examiner may also recommend issuance of a temporary Permit for a period not to exceed 4 months, with any special provisions the Hearing Examiner deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the Hearing Examiner will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

RULE 14.5 CONTESTED PERMIT HEARINGS PROCEDURES:

a) **Prehearing Conference:** A prehearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.

1) **Matters Considered:** Matters which may be considered at a prehearing conference include, but are not limited to, (1) the designation of parties; (2) the formulation and simplification of issues; (3) the necessity or desirability of amending applications or other pleadings; (4) the possibility of making admissions or stipulations; (5) the scheduling of discovery; (6) the identification of and specification of the number of witnesses; (7) the filing and exchange of prepared testimony and exhibits; and (8) the procedure at the hearing.

2) **Notice:** A prehearing conference may be held at a date, time, and place stated in a separate notice given in accordance with Rule 14.2, 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 Hearing Examiner.

3) **Conference Action:** Action taken at a prehearing 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.

b) **Assessing Reporting and Transcription Costs:** Upon the timely request of any party, or at the discretion of the Hearing Examiner, the Hearing Examiner may assess reporting

and transcription costs to one or more of the parties. The Hearing Examiner must consider the following factors in assessing reporting and transcription costs:

1. the party in which 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;
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 Hearing Examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Examiner's report to the Board.

c) **Designation of Parties:** Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Examiner determines. The Board of Directors and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties 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 Hearing Examiner, there exists good cause and the hearing will not be unreasonably delayed.

d) **Rights of Designated Parties:** Subject to the direction and orders of the Hearing Examiner, 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.

e) **Persons Not Designated Parties:** At the discretion of the Hearing Examiner, 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 Hearing Examiner 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 must 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 Hearing Examiner unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered as record.

i) **Discovery:** Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Examiner. Unless specifically modified by these rules or by order of the Hearing Examiner, 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 Hearing Examiner.

j) **Discovery Sanctions:** If the Hearing Examiner finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Examiner 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 Hearing Examiner 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 of an agency other than the District not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.

l) **Compelling Testimony; Swearing Witnesses and Subpoena Power:** The Hearing Examiner may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

m) **Evidence:** Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil 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 interest of the parties will not be prejudiced substantially, 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 sized to 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 Hearing Examiner may receive in evidence only those which 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 must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Examiner and to each of the parties, unless the Hearing Examiner 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 will be included in the record for the purpose of preserving the objection to excluding the exhibit.

s) **Official Notice:** The Hearing Examiner 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 Hearing Examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Examiner 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 14.6 CONCLUSION OF THE HEARING; REPORT:

a) **Closing the Record; Final Report:** At the conclusion of the presentation of evidence and any oral argument, the Hearing Examiner 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 Hearing Examiner. After the record is closed, the Hearing Examiner will prepare a report to the Board. The report must include a summary of the evidence, together with the Hearing Examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the District and delivered to each party to the proceeding. In a contested case, delivery to the parties must be by certified mail.

b) **Exceptions to the Hearing Examiner's Report; Reopening the Record:** Prior to Board action any party in a contested case may file written exceptions to the Hearing Examiner's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Examiner for further proceedings.

c) **Time for Board Action on Certain Permit Matters:** In the case of hearings involving new Permit applications, original applications for existing wells, or

applications for Permit renewals or amendments, the Hearing Examiner's report should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record.

RULE 14.7 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 may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.

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 14.2; 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 establishes 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; Hearing Examiner's Report:** 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. If the presiding officer is a Hearing Examiner, the Hearing Examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Examiner's recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

e) **Exceptions to the Hearing Examiner's Report; Reopening the Record:** Any interested person may make exceptions to the Hearing Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 14.6(b).

RULE 14.8 FINAL DECISION; APPEAL:

a) **Board Action:** After the record is closed and the matter is submitted to the District, 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.

b) **Requests for Rehearing:** Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

SECTION 15. INVESTIGATIONS AND ENFORCEMENT

RULE 15.1 NOTICE AND ACCESS TO PROPERTY:

Board Members 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 Rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee of the well owner or operator, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District agents or employees who are attempting to conduct an investigation under the District Rules constitutes a violation and subjects 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 Texas Water Code Chapter 36.102.

RULE 15.1.1 RIGHT TO INSPECT, TEST, AND LOCATE WELLS

Upon notice as provided for in Rule 15.1, and in accordance with provisions of Rule 15.2 (a) Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon the lands on which a well or wells may be located within the boundaries of the District to:

(1) inspect such well or wells;

- (2) read or interpret any meter, weir box or other instrument for the purpose of measuring production of water from said well or wells;
 - (3) determine the pumping capacity of said well or wells;
 - (4) measure the water level or obtain water samples for determining the water quality of said well or wells;
 - (5) test the pump and the power unit of the well or wells;
 - (6) determine the coordinates (location) of said well or wells using GPS or other available methods; or
 - (7) make any other reasonable and necessary inspection and / or test that may be required or necessary for the information or enforcement of the rules and regulations of the District.
- (b) The operation of any well may be enjoined by the Board immediately upon refusal to permit the gathering of information as provided from such well or wells.

RULE 15.2 CONDUCT OF INVESTIGATION:

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.

RULE 15.3 RULE ENFORCEMENT:

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules the Board of Directors may institute and conduct a suit in the name of the District for enforcement of rules through the provisions of Chapter 36.102 Texas Water Code.

RULE 15.4 SEALING OF WELLS:

Following due-process, the District may, upon orders from a court, seal wells that are prohibited from withdrawing groundwater within the District by the District Rules to ensure that a well is not operated in violation of the District Rules. A well may be sealed when: (1) no application has been made for a Permit to drill a new water well which is not excluded or exempted; or (2) no application has been made for an Operating Permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a Permit be obtained in order to lawfully withdraw groundwater; or (3) the Board has denied, canceled or revoked a drilling Permit or an Operating Permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

SECTION 16. WELL VALIDATION

In order to provide for the “grandfathering” of existing non exempt water wells, a certification of validation for a well can be issued only after the location of the well and the wellhead equipment of the well has been determined by field survey by District personnel, and/or designated agents acting for the District. A well owner or agent may apply to the District for validation. The costs to the well owner or the well owner’s agent shall be set by the Board. The Board on its own initiative may cause to be issued a validation certificate for wells drilled and equipped within the District for which the landowner or his agent has not applied for a Permit or for wells not otherwise properly permitted, provided that such wells were not drilled, equipped and operated (pumped) in such a manner as to violate any other Rules and regulations of the District. To the extent available, the well owner shall provide all of the information required in Rules 5 and 6 and as may otherwise be requested by the District.