

LIPAN-KICKAPOO WATER CONSERVATION DISTRICT



>>> --- RULES --- <<<

P.O. BOX 67
VANCOURT, TEXAS 76955

Adopted August 4, 2004

[Amended November 1, 2006]

[Amended September 5, 2007]

**LIPAN-KICKAPOO
WATER CONSERVATION DISTRICT**

PREAMBLE

The purpose of this District is to provide for:

- 1) the conservation, preservation, protection, recharge, prevention of waste and pollution of the underground and surface water of the District ; and
- 2) the monitoring of the quality and quantity of the groundwater for the benefit of the citizens and economy of the District.

To carry out this purpose, these rules and regulations are passed, adopted and will be enforced among other things to minimize as far as practicable:

- 1) the draw down of the water table;
- 2) the depletion of the groundwater reservoirs and aquifers;
- 3) interference between wells;
- 4) the reduction of artesian pressure; and
- 5) to prevent the waste of groundwater and pollution or harmful alteration of the character of the groundwater and to extend the longevity of groundwater resources; and
- 6) to protect and conserve water supplies for all uses, and to manage the groundwater effectively based upon ecological and socio-economic systems unique to the aquifers within the Lipan-Kickapoo Water Conservation District.

The prevention of waste of groundwater and the promotion of water conservation to extend the longevity of the groundwater resource will be priorities.

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**RULES OF THE LIPAN-KICKAPOO
WATER CONSERVATION DISTRICT**

SECTION 1 - ADOPTION OF RULES

RULE 1.1 - The Rules of the Lipan-Kickapoo Water Conservation District as amended are hereby published as of the 4th day of August, 2004 and as amended November 1, 2006 and September 5, 2007.

In accordance with Section 59 of Article XVI of the Texas Constitution and with Acts of the 70th Legislature (1987), p.2010, Ch. 439, S.B. 1525, and Acts of the 77th Legislature (2001), H. B. 1909, Chapter 36, and Subchapters H & I, Chapter 49, or is contrary to the Texas Water Code, the following rules are hereby ratified and adopted as the rules of the District by its Board. All rules or parts of rules in conflict with these rules are hereby repealed. Each rule as worded herein has been in effect since the date of passage and may be hereafter amended.

RULE 1.2 - USE AND EFFECT OF RULES.

The rules, regulations, and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the water laws of the State and the rules of the District. To the end that these objectives be attained, these rules shall be so construed.

RULE 1.3 - AMENDING OF RULES.

The Board may, following proper notice and hearing, amend these Rules or adopt new rules from time to time.

RULE 1.4 - SUSPENSION OF, OR EXCEPTION TO, RULES.

Except for the Rules governing Transportation Permits, the Board may suspend, or grant an exception to any rule, in whole or in part, upon the showing of good cause or when, in the sole discretion of the Board, the particular facts or circumstances render such suspension of, or exception to the Rule appropriate in a given instance.

[Rule amended by Board Action - September 5, 2007]

RULE 1.5 - SEVERABILITY.

If any provision of any Rule or its application to any person or circumstance is held invalid, illegal, or unenforceable, the invalidity does not effect other provisions or applications of the Rule which can be given effect without the invalid provision or application, and to this end, the provisions of the Rule are severable.

RULE 1.6 - HEADING AND CAPTIONS.

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

SECTION 2. DEFINITIONS

RULE 2.1 - DEFINITIONS.

Unless the context hereof indicates a contrary meaning, the words hereinafter defined shall have the following meaning in these rules:

- (a) **“Abandoned Well”** means a well that has not been used for six consecutive months. A well is considered to be in use in the following cases:
 - (1) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
 - (2) a non-deteriorated well which has been properly capped.
- (b) **“Acre”** means the unit measure used to calculate the total land surface area under which the ownership of the water rights beneath the land surface are identical. An acre is equal to 43,560 sq. feet.
- (c) **“Acre-foot”** means the amount of water necessary to cover one acre of land one foot deep, or about 325,851 gallons of water.
- (d) **“Agent”** means the person authorized to act on behalf of the landowner with respect to transactions involving the Lipan-Kickapoo Water Conservation District.
- (e) **“Agricultural use”** means any use or activity involving agriculture, including irrigation.
- (f) **“Agricultural well”** means any well devoted solely to raising food for consumption by humans and animals, or fiber for clothing. If any part of the well production is used for any other purpose, including processing of food or fiber, the well does not qualify as an agricultural well.
- (g) **“Applicant”** means the owner of the land on which the well(s) or proposed well(s) are located, unless the landowner authorizes another person to act on his/her behalf with respect to transactions involving the Lipan-Kickapoo Water Conservation District.
- (h) **“Authorized Well Site”** shall be:
 - (1) The location of either a proposed non-exempt well on an application duly filed with the District until such application is denied or a proposed exempt well on a pre-registration form duly filed with the District (An authorized well site is not a permit to drill); or
 - (2) An exempt or non-exempt well that 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
 - (3) An exempt or non-exempt well drilled after the District was created or after the area was annexed into the District that has a properly completed Well Registration or Permit on file in the District office and such well has not been “abandoned” or “plugged” by the well owner.

- (i) **“Aquifer storage and recovery project”** means a process of storing water through injection wells or other means into a suitable aquifer for later recovery or retrieval.
- (j) **“Bentonite”** means a sodium hydrous aluminum silicate clay mineral (montmorillonite) commercially available in powdered, granular, or pellet form which may be mixed with potable water and used to provide a seal in the annular space between the well casing and borehole wall or used in the plugging of wells.
- (k) **“Beneficial use”** or **“Beneficial purpose”** shall mean use for:
 - (1) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
 - (2) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
 - (3) any other purpose that is useful and beneficial to the users that does not commit waste as defined in these rule.
- (l) **"Board"** means the Board of Directors of the Lipan-Kickapoo Water Conservation District, consisting of seven (7) duly elected members.
- (m) **“Capped Well”** means a well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.
- (n) **"Casing"** means a tubular structure installed in the excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving, and, along with cementing and/or bentonite grouting, prevent surface contaminant infiltration.
- (o) **"Cement"** means a neat Portland construction cement mixture of not more than seven (7) gallons of water per 94-pound sack of dry cement, or a cement slurry which contains cement along with bentonite, gypsum, or other additives.
- (p) **"Completion"** means sealing off the access of undesirable water to the well bore by proper casing and/or cementing procedures and adhering to State standards for completion.
- (q) **“Commission”** means the Texas Commission for Environmental Quality (TCEQ) or its successor.
- (r) **“Conservation”** shall mean:
 - (1) the development of water resources and the management of depletion of these resources as it relates to the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions; and
 - (2) those 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.

- (s) **“Deteriorated Well”** means a well, the condition of which will cause, or is likely to cause pollution of groundwater.
- (t) **“District”** means the Lipan-Kickapoo Water Conservation District.
- (u) **“District Office”** means the office of the District as established by the Board of Directors to which applications, reports, and other papers are required to be filed or sent.
- (v) **“Domestic Well”** or **“Domestic Use”** means a well that will produce water to be used solely to supply the needs of a single household. This includes the use of water for home landscapes and home gardening.
[Definition amended by Board Action - November 1, 2006.]
- (w) **“Drilling Permit”** means a permit issued by the District for the drilling of a properly spaced non-exempt well.
- (x) **“Drilled to Density”** means no more than a cumulative total of sixteen (16) non-exempt wells shall be permitted per survey section (640 acres).
- (y) **“Drought”** means:
 - (1) a long period of below normal rainfall resulting in a depletion in aquifer levels that has persisted for a period of a year or more following establishment of baseline water levels in the District; or
 - (2) a determination of drought conditions by an agency of the State or Federal Government.
- (z) **“Exempt Well”** means any well for which the District is prohibited from requiring a permit under Texas Water Code § 36.117. Wells used solely for domestic use or livestock or poultry on 10 acres or less are NOT exempt and must be permitted prior to drilling. For all purposes herein, an exempt well shall be exempt from permitting requirements, but shall not be exempt from either preregistration or registration requirements or spacing rules created hereunder.
[Definition amended by Board Action - November 1, 2006.]
- (aa) **“Groundwater”** means water percolating below the earth’s surface within the District, but does not include water produced with oil in the production of gas and oil.
- (bb) **“GPM”** means gallons per minute and is a measurement of the yield or production capabilities of an individual well or pump unit.
- (cc) **“HP”** means horsepower and is a unit of power.
- (dd) **“Installer”** means an individual who installs or repairs pumps and equipment for hire or compensation and holds a current pump installers license with the Texas Department of Licensing and Regulation or its successors.
- (ee) **“Licensed Water Well Driller”** shall mean any person who holds a license issued by the State of Texas

pursuant to the provisions of the Texas Water Well Drillers Act, as amended, and the substantive rules of the Texas Department of Licensing and Regulation or its successors.

(ff) **“Manual of Hearings Procedures”** means the Lipan-Kickapoo WCD manual of hearings procedures as adopted by the District for:

- (1) addressing public complaints and informal hearings, and
- (2) adjudicative and rule making hearings.

These procedures may be amended from time to time by the District.

(gg) **“Monitor well”** is a well used to measure some property of the groundwater aquifer it penetrates.

(hh) **“Non-Exempt well”** means any well not specifically exempted by §36.117 of the Texas Water Code or these rules. This includes domestic and livestock wells on a tract of land that is 10 acres or less.

[Definition amended by Board Action - November 1, 2006.]

(ii) **“Notice of Intent to Drill”** means a preregistration form or other form that must be submitted to the District by the landowner or his agent prior to the drilling of an exempt well or monitor well.

(jj) **“Open or Uncovered Well”** means any artificial excavation drilled or dug for the purpose of producing groundwater and that is not capped or covered as required by the Texas Water Code.

(kk) **“Open Meetings Act”** means Chapter 551, Texas Government Code.

(ll) **“Open Records Act”** means Chapter 552, Texas Government Code.

(mm) **“Operator”** means and includes any person, firm, partnership, or corporation or other legal entity that has the right to produce water from the land either by ownership, contract, lease, easement or any other estate in the land.

(nn) **“Owner”** means and includes any person, firm, partnership, or corporation that has the right to produce water from the land either by ownership, contract, lease, easement or any other estate in the land.

(oo) **“Permitted Well”** means any artificial excavation drilled or dug for the purpose of producing groundwater that:

- (1) is not exempt by §36.117, Texas Water Code;
- (2) is properly registered with the District.; and
- (3) has been issued a permit by the District.

(pp) **“Person”** means any individual, partnership, firm, state governmental agency, political subdivision, corporation or other legal entity.

(qq) **“Plugging”** means an absolute sealing of the well bore.

(rr) **“Pollution”** means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination

of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

- (ss) **“Power of Attorney”** means the form signed by the owner of the land granting authority to another person to act on his/her behalf with respect to transactions involving the Lipan-Kickapoo Water Conservation District.
- (tt) **“Preregistration”** means the completion and submission of a preregistration form prior to the drilling of an exempt well and production of water.
- (uu) **“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.
- (vv) **“Production”** means water withdrawn from the ground, measured at the well head and reported as gallons per minute (GPM).
- (ww) **“Pump installation”** means the procedures employed in the placement, and preparation for operation, of equipment and materials used to obtain water from a well, including construction involved in establishing seals and safeguards as necessary to protect the water from contamination. The term includes repairs to an existing pump.
- (xx) **“Recharge Facility”** means any system for recharge, injection, storage, pressure maintenance, cycling or recycling of water, which includes one or more wells, spreading dams, or percolation basins, or any other surface or subsurface system engineered and designed for the purpose of recharging water into a groundwater reservoir.
- (yy) **“Registered Well”** means and includes any artificial excavation to produce or that is producing water for any purpose that has been properly recorded with the District.
- (zz) **“Rules”** are the rules of the District compiled herein, as may be amended or supplemented from time to time.
- (aaa) **“Sealing of Wells”** means the physical sealing and tagging of a well to indicate that the well has been sealed by the District pursuant to a court order that prohibits the withdrawing of groundwater from a well to ensure that it is not operating in violation of District Rules.
- (bbb) **“Texas Rules of Civil Procedure” and “Texas Rules of 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 and the Texas Rules of Evidence are the same as a court acting under those rules.
- (ccc) **“Transport Permit”** means an authorization issued by the District for the transfer or transport of a specific

amount of groundwater out of the District for a designated period of time for a designated purpose.

(ddd) "**Transportation facility**" is any system for transporting water, which may include a pipeline, channel, ditch, watercourse or other natural or artificial facilities, or any combination of such facilities, pertaining to any or all water which is produced from a well or wells located or to be located within the District, any or all of which is used or intended for use outside the boundaries of the District.

(eee) "**TCEQ**" means the Texas Commission for Environmental Quality, formerly, the Texas Natural Resource Conservation Commission.

(fff) "**Undesirable Water**" means water that is injurious to human health, to vegetation, to land, or to fresh water, or water that can cause pollution.

(ggg) "**Waste**" means any one or more of the following:

- (1) Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
- (2) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
- (3) The escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
- (4) The pollution or harmful alteration of groundwater in a groundwater reservoir by salt water or by other deleterious matter admitted from another stratum or from the surface of the ground;
- (5) Willfully or negligently causing, suffering, or permitting 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; or
- (6) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or
- (7) for water produced from an artesian well, "waste" has the meaning assigned by §11.205, Water Code.

(hhh) "**Water**" or "**Underground Water**" means groundwater.

(iii) "**Well**" or "**Water Well**" means and includes any artificial excavation constructed for the purpose of exploring for or producing groundwater.

(jjj) "**Well Owner or Well Operator**" means the Owner of the land upon which a well is located or is to be located

or the person who operates a well or water distribution system supplied by a well.

(kkk) **“Well Report” or “Driller’s Log”** means a record , made at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of any water bearing strata, depth, size and character of casing installed, together with any other data or information required by the State or this Board and recorded on forms prescribed either by the State regulatory agency with jurisdiction thereof or by this Board .

(lll) **“Well Status”** means either an Exempt Well or a Permitted Well.

(mmm) **“Well System”** means a well or group of wells tied to the same distribution system.

(nnn) **“Withdrawal”** means extracting groundwater by pumping or any other method.

SECTION 3. WASTE AND WATER CONSERVATION

RULE 3.1 - WASTE AND WATER CONSERVATION.

The following rules provide for the conservation, preservation, protection, and prevention of waste of groundwater as authorized in Texas Water Code Chapter 36.

(a) Groundwater shall not be produced within, or used within or without the District, in such a manner or under such conditions as to constitute waste as defined in Rule 2.1 hereof.

(b) Any person producing or using groundwater shall use every possible precaution, in accordance with reasonable methods, to stop and prevent waste of such water.

(c) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious substance admitted from some other stratum or strata or from the surface of the ground.

(d) In order to prevent waste and achieve water conservation, no person shall willfully or negligently cause, suffer, or allow groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Texas Commission on Environmental Quality under Chapter 26, Texas Water Code.

SECTION 4. GENERAL PROCEDURAL PROVISIONS

RULE 4.1 - COMPUTING TIME.

In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

RULE 4.2 - TIME LIMIT.

Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing at the District's office at Vancourt, Texas. The date of receipt and not the date of posting is determinative.

RULE 4.3 - MINUTES AND RECORDS OF THE DISTRICT.

All official documents, reports, records and minutes of the District are available for public inspection and copying in accordance with the Texas Open Records Act. Upon written application of any person, the District will furnish copies of its public records, subject to the Provisions of Chapter 552, Texas Government Code. Persons who are furnished copies may be assessed reproduction fees as provided in Chapter 552.

RULE 4.4 - PROCEDURES NOT OTHERWISE PROVIDED FOR.

If in connection with any hearing, the Board determines that there are no statutes or other applicable rules resolving particular procedural questions then before the Board, the Board will direct the parties to follow procedures consistent with the purpose of these Rules, and Chapters 36 and Subchapters H and I, Chapter 49 of the Texas Water Code.

SECTION 5. ENFORCEMENT OF RULES

RULE 5.1 - SHOW CAUSE ORDERS AND COMPLAINT.

The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating within the District to appear before it in a public hearing and require him or her to show cause why his or her operating authority or permit should not be suspended, canceled, or otherwise restricted and limited, for failure to comply with the Rules, orders or regulations of the Board or the relevant statutes of the State, or for failure to abide by the terms and provisions of the permit or operating authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these rules of procedures and practice.

RULE 5.2 - INSTITUTION OF SUIT

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules, the District may institute and conduct a suit for enforcement of these rules through provisions of §36.102 of the Texas Water Code. Subject to §36.102 of the Texas Water Code as amended:

- (1) the District may enforce these rules by injunction, mandatory injunction, or other appropriate remedy in court;
- (2) the Board may set reasonable civil penalties for breach of any rule of the District not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.
- (3) a penalty under this rule is in addition to any other penalty provided by the law of this State; and

(4) if the District prevails in any suit to enforce its rules, the District may seek and the Court shall grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the Court. The amount of the attorney's fees shall be fixed by the court.

RULE 5.3 - SEALING OF PROHIBITED WELLS.

(a) Pursuant to a court order, the District may, upon orders from the judge of the courts, seal wells that are prohibited from withdrawing groundwater within the District, to ensure that a well is not operating 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 form has been filed for a permit to withdraw groundwater from an existing well which is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or
- (3) no application form has been filed for a change to a permit to withdraw groundwater from an existing well.
- (4) no permit has been issued prior to the operation of a non-exempt well; or
- (5) the Board has denied, canceled or revoked a drilling permit or the operating authority to produce groundwater from a well .

(b) 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.

(c) 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.

RULE 5.4 - CONTINUING RIGHT OF SUPERVISION.

All District permits are issued subject to the rules of the District and to the continuing right of the District to supervise the depletion of the aquifer within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended, provided that such regulation does not discriminate, based upon purpose or location of water use.

RULE 5.5 - RIGHT TO INSPECT, TEST, CAP, LOCATE, AND SEAL WELLS

(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) cap wells that are open in violation of §36.118, Texas Water Code, as amended, or §76.702, Texas Department of Licensing and Regulation, Water Well Drillers and Water Well Pump Installers Rules, as amended;
 - (7) determine the coordinates (location) of said well or wells using GPS or other available methods;
 - (8) 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; or
 - (9) seal wells as authorized by court order under Rule 5.3.
- (b) The operation of any well may be enjoined by the Board immediately upon refusal to permit the gathering of information as above provided from such well or wells.

SECTION 6. DEPOSITS AND FEES

RULE 6.1 - DEPOSITS.

- (a) Each application for a permit to drill a well shall be accompanied by a deposit in the amount determined by the Board by resolution, order, or rule that will be accepted by the District. Said deposit shall be returned to the applicant by the District if:
- (1) the application is denied;
 - (2) the application is granted, upon receipt of all drillers' well reports and plugging reports for all wells drilled under a drilling permit along with the following information, if available: the pump HP, pump discharge size, and pump yield (GPM) for the completed wells; or
 - (3) the permit location is abandoned without having been drilled, upon return and surrender of said permit marked **"Abandoned" or "Canceled"** by the applicant. In the event neither the registration forms and drillers' well report and/or plugging reports nor the permit marked **"Abandoned" or "Canceled"** is returned to said District within six **(6) months** after the approval date of the permit or the extension date thereof, the said deposit shall become the property of the District.

[Rule amended by Board Action - September 5, 2007]

RULE 6.2 - ADMINISTRATIVE FEES.

The District shall collect fees for:

- (1) all services provided outside of the District. The fees shall be established by the Board and be reviewed and revised as needed to cover the cost to the District; and
- (2) the District may establish and collect reasonable fees to cover costs incurred by the District for services and processing of applications. A schedule of fees sufficient to cover actual costs incurred by the District may be established by the Board and may be reviewed and amended as needed to cover the cost to the District.

SECTION 7. WELL REGISTRATION

RULE 7.1 - WELL REGISTRATION.

Well Registration is required for all existing and future wells in the District and shall be filed with the District on a form and in the manner required by the District.

- (a) All existing and future exempt and non-exempt wells drilled in the District shall be registered with the District and shall be known as Authorized Well Sites.
- (b) Registration shall include the following information, submitted on forms provided by the District:
 - (1) name and address of the well owner;
 - (2) legal description of the well location or proposed location;
 - (3) well use or proposed use; and
 - (4) well status - producing, abandoned, capped, or plugged.
- (c) Registration may include the following information:
 - (1) well description including:
 - (i) date drilled;
 - (ii) well depth;
 - (iii) casing type and size;
 - (iv) surface completion;
 - (v) pump type;
 - (vi) pump HP; and
 - (vii) gallons per minute (GPM) being produced.
 - (2) coordinates (Latitude/Longitude) for the well location;
 - (3) distance in feet to nearest well; and
 - (4) such additional data as may be required by the Board.

- (d) In order to provide for the registration of existing water wells that are subject to the rules and regulations of the District, it shall be the policy of this Board that District personnel and/or designated agents acting for the District may register wells drilled and equipped within the District which the land owner or his/her agent has not registered; provided that such wells were not drilled, equipped, and operated (pumped) in such a manner as to violate any rules and regulations of the District.
- (e) All Permitted Wells or Authorized Well Sites issued under these Rules are conditional, and the Board may revoke, suspend, or modify its authorization if the person to whom the authorization was issued does not comply with the Rules of the District; does not comply with the terms and conditions stated in the drilling permit; or abandons the well. The District shall provide reasonable notice and opportunity for hearing before revoking, suspending, or modifying the authorization.
- (f) Changes in permit conditions, i.e. use of the groundwater, increase in the amount of water produced, and replacement of the well are considered a forfeiture of grandfather status and the well owner must apply for a new permit before producing water.
- (g) If there is a change in well ownership and no other change to the well or authorized well site, the new well owner must submit a change of ownership notice to the District within ninety (90) days of the transfer of ownership.
- (h) It is a violation of the District Rules for any person or entity to produce groundwater from any well without first having:
 - (1) applied to and received approval for a new permit from the District; or
 - (2) submitted a notice of change of ownership to the District for existing wells or authorized well sites within ninety (90) days of the transfer of ownership.

RULE 7.2 - PREREGISTRATION REQUIRED FOR EXEMPT WELLS.

- (a) Completed Preregistration forms for the drilling, reworking, redrilling, or reequipping of an exempt well or monitor well must be filed with the District prior to proceeding with the work. Preregistration is required for all wells defined as exempt under Rule 2.1. It is a violation of the District Rules for any person or entity to drill, rework, redrill, or reequip an exempt well until a well preregistration form has been filed with and approved by the District.
[Rule amended by Board Action - November 1, 2006.]
- (b) Preregistration shall be submitted on forms provided by the District. Preregistration forms must be administratively complete to be considered by the District.
[Rule amended by Board Action - November 1, 2006.]
- (c) The application to drill, rework, redrill, or reequip an exempt well may be submitted to the district in person, by fax,

mail, or email by the owner of the land or his duly appointed agent, including a partner, operator, driller, or any other person who has the authority to construct the well and/or operate the well for the proposed use.

[Rule amended by Board Action - November 1, 2006.]

SECTION 8. DRILLING PERMITS

RULE 8.1 - DRILLING PERMIT REQUIRED FOR NON-EXEMPT WELLS.

- (a) No person shall begin to drill a well or increase the rate of production of an existing well without having first applied to the District and been issued a permit to do so, unless the well after drilling or after other modifications, will be exempt under Rule 2.1.
- (b) Domestic and livestock wells located on 10 acres or less are NOT exempt by Chapter 36, Texas Water Code, and a Drilling Permit must be applied for and approved by the District prior to drilling.

[Rule amended by Board Action - November 1, 2006.]

- (c) Drilling a well without a permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance.
- (d) It is a violation of the District Rules for a well owner, well operator, or water well driller to drill a non-exempt well until an application for a Drilling Permit has been filed with the District and approved. It is also a violation of the District Rules for a water well driller to fail to submit an approved copy of the Drilling Permit along with the Well Report that is required to be submitted to the District. A violation occurs on the first day the drilling, alteration, or operation begins and continues each day thereafter until the appropriate permits are approved.

RULE 8.2 - ISSUANCE OF DRILLING PERMITS FOR NON-EXEMPT WELLS.

- (a) The Board shall issue or cause to be issued a drilling permit for a properly spaced well upon proper application executed and filed by the owner or his/her agent with the District and accompanied by the required deposits or fees and containing the matters specified below. A drilling permit is required for each new non-exempt well. All applications shall be in writing, on forms provided by the District and contain the information called for in the application form and shall be prepared in accordance with all instructions which may have been issued by the Board with respect to the filing of an application. An application shall be considered properly filed when administratively complete, signed, and tendered to the District or to a person duly designated by the District to receive the same. Applications shall not be considered until the application is administratively complete.

[Rule amended by Board Action - November 1, 2006.]

- (b) Rules for the filing of applications:
 - (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent.

The agent may be requested to present satisfactory evidence of his authority to represent the applicant.

- (2) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "a Partnership" and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.
- (3) In the case of a corporation, public district, county or municipality, or political sub-division of the State, the application shall be signed by a duly authorized official. A copy of the resolution or other authorization to make the application may be required by the officer or agent receiving the application.
- (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.

(c) Upon receipt of a properly completed drilling permit application and prior to the issuance of a permit, District staff may inspect the proposed well location to verify compliance with District rules. After inspection or upon verification of the information in the application, if the completed permit application does not comply with District rules, the application must be either amended to bring it into compliance with the rules or a properly completed application for an exception to the Rules must be filed with the District and presented to the Board so that, following notice and hearing, a ruling can be made on the permit application.

[Rule amended by Board Action - November 1, 2006.]

(d) The Board of Directors delegates to the general manager the authority to act on completed permit applications for which no hearing is required and that comply with District rules.

[Rule amended by Board Action - November 1, 2006.]

(e) Failure to abide by the rules of the district concerning drilling permits is a violation of the law and/or the rules of the district and subjects the land owner, the driller, and the pump installer to legal action by the district. A violation occurs on the first day the drilling, alteration, or operation of a well begins and continues each day thereafter until the appropriate permits are approved.

RULE 8.3 - PLACE OF DRILLING OF WELL.

After an application for a drilling permit has been granted, the well, if drilled, must be drilled in compliance with all District rules. If the well should be commenced or drilled at a different location greater than 30 feet from the location given on the drilling permit application, the drilling or operation of such well may be enjoined by the District pursuant to Chapter 36 , Texas Water Code, as amended and/or the District may initiate enforcement proceedings under Rules 5.1 and 5.2. The District shall have the right to confirm reported distances and inspect the wells or well locations.

RULE 8.4 - REWORKING OR REPLACING OF WELL.

(a) An existing well may be reworked, re-drilled, or re-equipped in a manner that will not change the status of the existing well as either an exempt well or a permitted (non-exempt) well. Preregistration is required when reworking, redrilling, or reequipping any existing well in the District. Subject to Rule 8.1, a drilling permit is required when reworking or redrilling an existing non-exempt well to increase the rate of production.

[Rule amended by Board Action - November 1, 2006.]

(b) No person shall rework, redrill, or reequip an exempt well in a manner that would change the status of the well without first having made an application to the Board, and having been granted a permit by the Board to do so. In the event the application to change the status of an existing exempt well meets the Minimum Spacing of Wells (Rule 9.1), the District may grant a permit without notice or hearing.

(c) A drilling permit must be applied for and granted by the District to replace an existing well with a replacement well. A replacement well must not be located toward any other well, authorized well site, or property line unless the new location complies with the minimum spacing requirements set out in Rule 9.1.

(1) If the new location cannot comply with the minimum spacing of wells, then the replacement well, in order to be considered as such, must be drilled within **thirty (30) feet** of the old well and not elsewhere. The new well shall not be drilled nearer the property line than the old existing well nor located toward any other well or authorized well site within **three hundred and thirty (330) feet** or within **six hundred and sixty (660) feet** along a property line unless the original well was "grandfathered" inside the spacing requirements of Rule 9.1.

(2) The location of the old well (the well being replaced) shall be protected in accordance with the spacing rules of the District until the replacement well is drilled and tested. The landowner or his agent must within **four (4) months** of the issuance of the permit declare in writing to the District which one of these two wells he desires to produce. If the landowner does not notify the District of his choice within this period, then it will be conclusively presumed that the new well is the well he desires to retain. Within 30 days after the four (4) month period or extension thereof and the determination of which well will be retained for production:

(i) if the tract of land is drilled to density, the well that is not to be produced shall be abandoned and plugged and a properly completed Plugging Report shall be submitted to the District;

(ii) If the tract of land is not drilled to density, the old permitted well shall be either:

(a) Abandoned and plugged; or

(b) Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water a day and used solely for domestic or livestock use; or

(c) Closed in accordance with Texas Health and Safety Code §756.01 et seq., as amended.

(iii) During the 4 month testing period, either the old well or the new well may be operated but not both.

RULE 8.5 - TIME LIMIT FOR DRILLING PERMITS.

Any drilling permit granted hereunder shall be valid if the work permitted shall have been completed within **four (4)** months from the filing date of the application. It shall thereafter be void. Provided, however, that the District, for good cause, may extend the life of such permit for an additional **four (4)** months if a written application for such extension shall have been made to the District during the first **four (4)** month period. Provided, further, that when it is made known to the District that a proposed project will take more time to complete, the District, upon receiving written application may grant such time as is reasonably necessary to complete such project.

RULE 8.6 - REQUIREMENT OF DRILLER'S WELL REPORT, CASING AND PUMP DATA.

- (a) Complete records shall be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled either by a licensed driller or an individual land owner. Such records shall include an accurate driller's log, any electric log which shall have been made, and such additional data concerning the description of the well, its potential, hereinafter referred to as "maximum rate of production" and its actual equipment as may be required by the District. Such records shall be filed with the District within sixty (60) days after the completion of the well.
- (b) Subject to the Water Well Drillers rules, every licensed well driller shall deliver either in person, by fax, email, or send by first-class mail, a photocopy of the State Well Report to the District within sixty (60) days from the completion or cessation of drilling, deepening, or otherwise altering a well.
- (c) No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller's log, any electric log which shall have been made, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

SECTION 9. WELL SPACING AND WELL DENSITY

RULE 9.1 - MINIMUM SPACING OF WELLS.

(a) **Distance Requirements:**

- (1) All wells shall be drilled at least three hundred and thirty (330) feet from the nearest well or authorized well site and at least fifty (50) feet from the nearest property line. However, for wells used solely for domestic and livestock use, this distance may be decreased to a minimum of ten (10) feet from any property line provided the annular space between the casing and the borehole wall is cemented from the land surface to the top of

the production layer.

[Rule amended by Board Action - September 5, 2007]

- (2) In the event the well is being drilled within two hundred and eighty (280) feet of a property line, then the distance between the wells or authorized well sites along the property line shall be at least six hundred and sixty (660) feet and at least fifty (50) feet from the nearest property line.
- (3) In the interest of protecting life and for the purpose of preventing waste and preventing confiscation of property, the Board reserves the right in particular subterranean water zones and/or reservoirs to enter special orders increasing or decreasing distances provided by this rule.

[Rule amended by Board Action - September 5, 2007]

RULE 9.2 - WELL DENSITY.

- (a) Subject to Rule 9.1, paragraph (a) (1) et seq. above, no more than a cumulative total of sixteen **16 non-exempt wells**, excluding non-exempt domestic or livestock wells located on 10 acres or less, whether drilled prior to or subsequent to enactment of this rule shall be permitted per survey section (640 acres) (hereinafter referred to as "drilled to density"). In the event the applicant owns less than a full section or the survey section contains more or less than 640 acres, then the number of wells permitted for said tract shall be proportionately increased or reduced so that the total number of wells permitted shall be established by dividing the number of acres owned by the number of acres in the section and multiplying by sixteen (16).

[Rule amended by Board Action - September 5, 2007]

- (b) In determining the total number of permitted wells allowed per tract over forty (40) acres, if the calculation indicates a fraction of a well up to and including 0.500 of a well, the number shall be rounded down to the last full well; if the calculation indicates a fraction of a well 0.501 of a well and above, the number shall be rounded up to the next full well. District personnel shall use the most current tax roll for obtaining the acreage involved. In the event, the acreage is not listed in the tax roll, then the acreage listed on the ownership map or other legal documentation provided by applicant shall be used.
- (c) In applying this rule, if the property is "Drilled to Density", and one of the existing non-exempt wells is incapable of producing in excess of 17.4 gpm, the District may issue an additional permit for that property. The land owner or his agent must within four **(4) months** of the issuance of the permit or extension date thereof declare in writing which well he desires to produce. Within thirty **(30) days** after determining which well will be retained for production, the well that is not to be produced shall be plugged and a properly completed Plugging Report shall be submitted to the District on forms supplied by the District. Failure to abide by the rules of the District concerning

the plugging of these wells is a violation of the law and/or the rules of the District and subjects the land owner to legal action by the District. A violation occurs at the end of the thirty (30) day period and continues each day thereafter until the appropriate action is taken to plug the well.

(d) In the event the tract of land is less than forty (40) acres, subject to (a)(1) et seq. above, the district may issue a drilling permit for a well that shall be:

- (1) properly completed with 5 inch or smaller casing; and
- (2) equipped to produce 25 gallons per minute or less (maximum 1½ HP pump).

[Rule amended by Board Action - November 1, 2006.]

A land owner desiring a permit under this section must:

- (1) Indicate this request on the drilling permit application; and
- (2) Present well and pump data to District for approval of pump equipment prior to the equipping of the well and production of water.

RULE 9.3 - EXCEPTION TO SPACING AND DENSITY RULES.

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

(b) If an exception to such spacing and well density regulations is desired, the application shall be submitted by the applicant in writing to the Board at its District Office on forms furnished by the District. Such application and plat shall be signed and certified by some person actually acquainted with the facts who shall state that all the facts therein are true and correct. Incomplete applications will not be accepted by the District.

[Rule amended by Board Action - September 5, 2007]

(c) If the application is for an exception to the spacing requirements of Rule 9.1:

- (1) for a well subject to Rule 8.1, other than a domestic or livestock well located on 10 acres or less, the application shall explain the circumstances justifying an exception to the spacing and well density provisions. The application shall be accompanied by a plat or sketch, drawn to scale of one (1) inch equaling six hundred and sixty (660) feet. The plat or sketch shall show thereon the property lines of the tract on which the proposed well is to be located and shall show accurately to scale all wells within (¼) mile of the proposed well site . The application shall also contain the names and addresses of all property owners adjoining the tract on which the well is to be located and all owners of wells within (¼) mile of the

proposed well location. Written notice of the application shall be given by the District to any landowner whose property line is within 50 feet of the proposed well site and any well owner whose well is located within 330 feet of the proposed well site.

- (2) for a domestic or livestock well subject to Rule 8.1(b) located on 10 acres or less, the application shall explain the circumstances justifying an exception to the spacing and well density provisions and shall be accompanied by a plat or sketch showing the property lines of the tract and the footage of the proposed well site to the property line and to all wells located on adjoining property. The application shall be reviewed by the District board of directors who shall either approve or deny the application at a properly noticed meeting, open to the public, without holding a hearing.

[Rule amended by Board Action - September 5, 2007]

- (d) If the application is for an exception to the density requirements of Rule 9.2, then the plat or sketch shall show thereon the property lines of the tract on which the proposed well is to be located and the property lines of all other tracts within the survey section. The application shall also contain the names and addresses of all landowners within the survey section. Written notice of the application shall be given by the District to each landowner within the survey section.

[Rule amended by Board Action - November 1, 2006.]

- (e) No sooner than ten (10) days after written notice has been given to the applicant and each landowner or well owner required to be notified under Paragraph (c) (1) or (d) above, the Board shall hold a public hearing at which all affected parties may appear and be heard. Following the hearing, the Board shall decide whether or not an exception should be granted. Provided, however, that if the Applicant presents waivers signed by the landowners or well owners required to be notified under Paragraph (c) (1) or (d) above stating that they have no objection to the proposed location of the well site, then the Board may thereupon proceed to decide upon the granting or refusing of such application without holding a hearing.

[Rule amended by Board Action - September 5, 2007]

- (f) In deciding to grant an exception, the board may add such conditions or restrictions to the permit application as it deems necessary to prevent waste, or to protect the aquifers. Such conditions or restrictions may include, but are not limited to, the use of the groundwater, the amount of water that can be produced, metering, annual production reports, or other conditions as deemed necessary and prudent by the board.

[Rule added by Board Action - September 5, 2007]

- (g) Any changes desired by a landowner to conditions placed on the original permit must be resubmitted to the

board by the permittee for a new exception prior to making any change. Failure to file a request for a new exception is a violation of the District Rules and subjects the land owner to legal action by the district. A violation occurs on the first day the alteration or operation of the well begins and continues each day thereafter until the appropriate permits are approved.

[Rule added by Board Action - September 5, 2007]

SECTION 10. CAPPING AND PLUGGING OF WELLS

RULE 10.1 - OPEN WELLS TO BE CLOSED OR CAPPED.

Every owner or operator of any land within the District, upon which is located any open or uncovered well is, and shall be, required to close or cap the same as set forth below and in accordance with Chapter 36, Texas Water Code and subsequent changes thereto:

- (a) The District may require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement.
- (b) Officers, agents and employees of the District are authorized to serve or cause to be served notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well with a covering in compliance herewith.

RULE 10.2 - PLUGGING OF ABANDONED OR DETERIORATED WELLS.

It is the responsibility of the landowner to plug or have plugged a well that is deteriorated or abandoned.

- (a) If a well that does not penetrate any undesirable water zone(s) is deteriorated or abandoned, all removable casing shall be removed from the well and the entire well pressure filled with cement to the land surface. In lieu of filling the entire well with cement to the land surface, one of the following procedures may be followed:
 - (1) The well may be filled with mud, as defined herein, followed by a cement plug not less than ten (10) feet in length, extending down from the land surface;
 - (2) The cement plug may be started from a depth of three (3) feet below land surface and extended not less than ten (10) feet in length; or
 - (3) Wells in potable water formations may be filled with rock or gravel through the water bearing formation, then filled with mud to a level thirteen (13) feet below land surface, followed by a cement plug not less than ten (10) feet in length and three (3) feet below land surface. Dirt or topsoil shall be filled to the surface of the well. Hand dug wells may be filled with rock or gravel through the water bearing formation, then filled with clay soil or caliche

other suitable material to a level six (6) feet below ground level, then filled with dirt to the surface of the well.

- (b) The person that plugs an abandoned or deteriorated well shall, within sixty (60) days after plugging is complete, submit a copy of the plugging report (on forms furnished by the District) to the District.
- (c) Officers, agents and employees of the District are authorized to serve or cause to be served notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to plug such well permanently with a covering in compliance herewith.

RULE 10.3 - FAILURE TO COMPLY WITH CAPPING OR PLUGGING RULES.

- (a) In the event any owner or operator fails to comply with the request to either cap or plug a well(s) within thirty (30) days, a written notice shall be delivered to the owner of said well or wells either by certified mail or by priority mail with confirmation of delivery requesting compliance with the rule within ten (10) days of receipt of the written notice. If, after the ten (10) day period, an inspection of the well or wells reveals that the landowner has not complied with the request or refuses to plug or cap a well, any employee, person, firm, or corporation employed by the District may go upon said land and plug or cap said well in a manner complying with this rule and the Well Drillers and Water Well Pump Installers Rules and all expenditures thereby incurred shall constitute a lien upon the land where such well is located.. Any officer, agent, or employee of the District, is authorized to perfect said lien by the filing of the affidavit authorized by §36.118 of the Texas Water Code as amended. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

SECTION 11. CHEMICAL INJECTION AND FOREIGN SUBSTANCE SYSTEMS

RULE 11.1 - EQUIPMENT REQUIREMENTS FOR THE PROTECTION OF GROUNDWATER QUALITY.

All irrigation distribution systems or water distribution systems into which any type of chemical (except disinfecting agents) or other foreign substances will be injected into the water pumped from water wells shall be equipped with an in-line, automatic quick-closing check valve capable of preventing pollution of the groundwater. The required equipment shall be installed on all systems whenever a pump is installed or repaired or at the time of a chemical injection, chemigation or foreign substance unit is added to a water delivery system. The type of check valve installed shall meet the specifications detailed in the provisions of the Texas Department of Licensing and Regulation, §76.1007. Technical Requirements - Chemical Injection, Chemigation, and Foreign Substance Systems.

SECTION 12. WELL DRILLERS AND PUMP INSTALLERS

RULE 12.1 - PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS.

Only persons who are licensed water well drillers and/or licensed commercial pump installers, in good standing with the

Department of Licensing and Regulation Texas Water Well Drillers Board, or persons exempt under §76.300 of the Texas Administrative Code, are allowed to either drill water wells or perform work on pumps or irrigation systems within the District. Individual landowners who are not required to be licensed may drill water wells on their property provided that:

- (1) the wells are completed according to State and District completion requirements;
- (2) well reports are completed and submitted to the District within sixty (60) days of completion of the well; and
- (3) well registration forms are properly completed and filed with the District.

RULE 12.2 - RESPONSIBILITY TO COVER OR CAP NEWLY DRILLED WELL.

- (a) It shall be the responsibility of the driller of a newly drilled well to place a cover or cap over the boring or casing, that is not easily removable, if the well is to be left unattended without a pump installed. It shall be the responsibility of the pump installer to place a cap over the casing that is not easily removable if the well is to be left unattended with the pump removed.
- (b) Any licensed person who knowingly violates this rule, the State Statutes, or the Water Well Drillers and Pump Installers rules, may be subject to an administrative penalty, reprimand, or suspension or revocation of their license by the Texas Commission of Licensing and Regulation or any subsequent agency with jurisdiction thereof.

RULE 12.3 - RESPONSIBILITY TO SUBMIT APPROVED DRILLING PERMIT AND WELL REPORT.

- (a) It shall be the responsibility of the well driller to submit an approved copy of the Drilling Permit along with the completed Well Report to the District within 60 days of completing a non-exempt well.
- (b) Any licensed person who violates this rule is subject to enforcement of these rules as stated in Section 5 - Enforcement of Rules.

SECTION 13. WATER WELL DRILLING, COMPLETING, CAPPING, AND PLUGGING

RULE 13.1 - WELL DRILLING, COMPLETION, CAPPING AND PLUGGING.

(a) Responsibilities of the Well Driller and Landowner.

All well drillers, landowners drilling their own wells, and persons having a well drilled, deepened, or altered shall adhere to the provisions of Texas Department of Licensing and Regulation, Title 16, Texas Administrative Code §76.702, Well Drilling, Completion, Capping and Plugging as contained in the State Water Well Drillers and Water Well Pump Installers Rules, as amended, prescribing the location of wells and proper drilling, completion, capping, and plugging of wells.

(b) Location and Standards of Completion for Wells.

Wells shall be located and completed in accordance with the provisions of Texas Department of Licensing and

Regulation, §76.1000, Locations and Standards of Completion for Wells, as amended.

(c) Reporting Undesirable Water or Constituents.

All well drillers including landowners drilling their own wells shall adhere to the provisions of the State Water Well Drillers and Pump Installers Rules, Texas Department of Licensing and Regulation, §76.701 and any subsequent changes or amendments, when reporting any undesirable water or constituents that have been encountered.

(d) Standards of Completion for Water Wells Encountering Undesirable Water or Constituents.

If a water well driller or landowner drilling his/her own well knowingly encounters undesirable water or constituents and the well is not plugged or made into a completed monitoring well, the driller shall complete the well in accordance with Texas Department of Licensing and Regulation, §76.1001, Standards of Completion for Water Wells Encountering Undesirable Water or Constituents, as amended.

(e) Standards for Wells Producing Undesirable Water or Constituents.

Wells completed to produce undesirable water shall be completed in accordance with Texas Department of Licensing and Regulation, §76.1002, Standards for Wells Producing Undesirable Water or Constituents, as amended.

(f) Re-completions.

The landowner shall have the continuing responsibility of insuring the integrity of the well in accordance with Texas Department of Licensing and Regulation, §76.1003, Re-completions, as amended.

(g) Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones.

Wells must be capped and plugged in accordance with Texas Department of Licensing and Regulation, §76.1004, Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones, as amended.

(h) Standards for Water Wells (drilled before June 1, 1983). Wells drilled prior to June 1, 1983, unless abandoned, shall be grandfathered without further modification unless the well is found to be a threat to public health and safety or to water quality as described in the provisions of the Texas Department of Licensing and Regulation, §76.1005, Standards for Water Wells (drilled before June 1, 1983), as amended.

SECTION 14. AQUIFER STORAGE AND RECOVERY PROJECTS

RULE 14.1 - PERMIT REQUIRED.

- (a) No injection well may be drilled in any applicable aquifer for the purpose of storing surface water or groundwater without first obtaining a permit from the District.

(b) The permit may be for any term proscribed by the Board and may be renewed at the end of the term.

(c) The permit will be processed in accordance with these Rules.

RULE 14.2 - APPLICATION.

(a) application for an Aquifer Storage and Recovery injection well must include the following:

- (1) all information required for an application for a Class V injection well before the Texas Commission on Environmental Quality;
- (2) a map or plat showing the injection facility and the aquifer in which the water will be stored; and
- (3) a map or plat showing the location of all water wells completed to the same aquifer within a five-mile radius of the proposed injection site.

(b) applicable application fee must accompany the application

RULE 14.3 - BOARD CONSIDERATION.

(a) The Board shall consider the following:

- (1) whether the introduction of water into the aquifer will alter the physical, chemical, or biological quality of native groundwater to a degree that would render the groundwater produced from the aquifer harmful or detrimental to people, animals, vegetation, or property, or require treatment prior to beneficial use; and
- (2) whether the water stored can be successfully harvested without causing undue hardship to the aquifer or any user thereof.

(b) The Board may consider all relevant facts including the following:

- (1) the location and depth of the aquifer in which the stored water will be located;
- (2) the nature and extent of the surface development and activity above the stored water; and
- (3) the ability of the permittee to determine the compatibility of the stored water with the resident water and monitor the impact on the receiving aquifer.

RULE 14.4 - PERMIT CONDITIONS.

(a) The Board may include any permit conditions necessary to ensure the safety, quality, and quantity of groundwater available for withdrawal by other well owners.

(b) Violation of any permit condition may result in cancellation of the permit, civil penalties, or both.

SECTION 15. RECHARGE FACILITIES

RULE 15.1 - APPLICATION AND PERMITTING REQUIREMENTS.

Applications shall be made to and permits must be obtained from the Board before installing and/or operating a recharge facility as defined herein. Such applications shall be on forms provided by the District and shall be in accordance with

and contain the information called for in the form of application.

RULE 15.2 - RULES FOR FILING APPLICATIONS.

The application shall be executed by a party having knowledge of the facts called for on the form.

RULE 15.3 - INFORMATION TO BE PROVIDED IN APPLICATION.

The following information will be provided in or must be submitted with the application, along with any applicable application fee:

- (1) the name and address of the applicant;
- (2) the name and address of the fee owner(s) of the land upon which the recharged facility will be located;
- (3) the legal description of the exact proposed location of the recharge facility;
- (4) the time schedule for construction and/or operation of the facility;
- (5) the names and addresses of the property owners within one-half (1/2) mile of the proposed recharge facility location, and the location of any wells on those properties;
- (6) a complete construction and operations plan that will include, but is not limited to, information as to:
 - (i) a technical description of the facility to be used for recharge;
 - (ii) the source of the water to be recharged;
 - (iii) the quality of the water to be recharged;
 - (iv) the volume of water to be recharged;
 - (v) the rate at which the water will be recharged; and
 - (vi) the formation into which water will be recharged;
- (7) scientific evidence showing that the proposed operation will not:
 - (i) endanger the structural characteristics of the formation receiving the recharged water;
 - (ii) cause pollution; or
 - (iii) cause waste; and
- (8) any additional information that may be required by the Board.

RULE 15.4 - NOTICE OF HEARING.

(a) Not less than thirty (30) days before the date set for District consideration of an application, the District shall mail notice by first-class mail, postage prepaid to:

- (1) the applicant, the records of whose application has been filed with the District; and
- (2) the property owners within one-half (1/2) mile of the proposed recharge facility location.

(b) Because of the potential to impact areas outside a one-half (1/2) mile radius, notice of the application shall be

published by the District in a newspaper of general circulation in the District.

(c) The notice shall contain the following:

- (1) the name and address of the applicant;
- (2) the date on which the application was filed;
- (3) the time and place of the hearing;
- (4) the location of the proposed recharge facility; and
- (5) a brief summary of the information included in the application.

RULE 15.5 - HEARING

A hearing on an application may be heard without the necessity of issuing further notice other than the time and place where the Board meeting is to take place. Hearings shall be conducted in accordance with provisions stipulated in these Rules.

RULE 15.6 - MONITORING AND REPORTING.

The operator of a recharge facility shall be required to keep records and make reports to the District regarding the operation of the recharge facility. Reports to the District shall be made on a monthly basis, beginning at the time a permit to operate is issued. Such reports shall include, but are not limited to:

- (1) volumes of water recharged through the recharge facility;
- (2) the source of the water recharged through the recharge facility;
- (3) the quality of the water recharged through the recharge facility; and
- (4) additional information as may be specifically required by a permit to operate a recharge facility.

RULE 15.7 - RESPONSIBILITY

The owner of a recharge facility shall assume and shall be charged with strict liability for the prevention of pollution and waste, as these terms are defined herein, from such facility, as well as damage to the recharged formation by reason of the operation of said facility.

SECTION 16. TRANSPORTATION OF WATER FROM THE DISTRICT

RULE 16.1 - PERMIT REQUIRED.

In order to conserve, preserve, protect, and prevent waste of the groundwater in the District, and to thereby insure the continuing health, welfare, and safety of the citizens of this District, all persons or entities desiring to transport groundwater outside of the boundaries of the District must make application and obtain permits from the District before installing and/or operating a transportation facility and/or pipeline and or equipment.

RULE 16.2 - EXCEPTIONS.

A groundwater transportation permit is not required for transfers of groundwater from the District in the following cases:

- (1) transfers of groundwater from the District from any well currently in operation located within the District prior to the effective date of this Rule provided that amount of water transported from such well annually shall not exceed the greatest amount of water transported in any one of the previous three (3) calendar years;
- (2) transfers of groundwater from the District which are incidental to beneficial use or which take place only sporadically; or,
- (3) transfers of groundwater from the District of less than twenty-five (25) acre feet per year.

RULE 16.3 - APPLICATION.

Applications shall be made and permits must be obtained from the District before installing and/or operating a transportation facility. Such applications shall be on forms provided by the District and shall be in accordance with and contain the information called for in the form of application. Otherwise, the application will not be considered. Water wells to be used for the transportation of water out of the District shall be subject to spacing and production requirements as described herein. The Board reserves the right to approve a transportation permit application at a reduced rate. Due to the unpredictable nature of aquifer recharge in the District, the Board reserves the right to reduce the production limits of the well(s) when the water levels in the well(s) drop to fifty percent (50%) of their original static water levels. Construction of a transportation facility must commence within two (2) years of the issuance of the permit, or the permit will be invalid.

Application Requirements: The permit provided for herein must be applied for and filed with the District on the form or forms promulgated by the District hereunder and such permit must be obtained from the District prior to the proposed transporting of water, all in accordance with the provisions of this rule. The application shall be in writing and sworn to and executed by a party having knowledge of the facts called for on the form. Knowingly or unknowingly falsifying information on a permit application will invalidate the application and the permit. The following information shall be provided in or be submitted with an application :

- (1) the name, post office address and place of residence or principal office of the applicant;
- (2) the name and address of the property owner(s) and the legal description of the land upon which the well(s) are or will be located to produce water to be transported;
- (3) the coordinates (latitude and longitude) of the well(s) from which water is to be produced for transport outside the District;
- (4) the names and addresses of the property owners within one-half (½) mile of the location of the well(s) from

- which water is to be transported and the location of any wells on those properties;
- (5) the nature and purposes of the proposed use and the amount of water to be used for each purpose;
 - (6) the time schedule for construction and/or operation of the facility;
 - (7) a complete construction and operations plan that includes, but not limited to, information as to:
 - (i) a technical description of the proposed well(s) and production facility, including the depth of the well(s) the casing diameter, type and setting of the casing, the perforation interval of the casing, cementing information, and the size of the pump(s);
 - (ii) a technical description of the facilities to be used for the transportation of the water;
 - (8) the volume of water to be transported annually;
 - (9) scientific evidence showing that the proposed operation will not:
 - (i) cause pollution; or cause waste;
 - (ii) cause a significant decline in the water levels.
 - (10) provide information showing the effect of the proposed transportation on the quantity and quality of water available within the District;
 - (11) identify any other possible sources which could be used for the stated purposes, including quality and quantity of such alternate sources;
 - (12) identify any other liquids that could be substituted for the fresh ground water and possible sources of such liquid including quantity and quality.
 - (13) a water conservation plan and a drought management plan;
 - (14) the application must be accompanied by a map or plat drawn on a scale not less than one inch equals 4,000 feet, showing substantially:
 - (i) the location of the existing or proposed well; and
 - (ii) the location of the existing or proposed water transporting facilities; and
 - (iii) the location of the proposed or increased use or uses.
 - (15) static water levels of existing well(s) shall be obtained either form original drillers reports or by measurement of District personnel and be included in the application;
 - (16) additional information that may be required by the Board;
 - (17) the application must be accompanied by an initial application fee in the amount of five hundred dollars **(\$500.00)**. The application fee may be amended as may be determined by the Board to cover all reasonable costs for processing the application.

(18) the District shall determine whether the application, maps, and other materials comply with the requirements of this Act. The District may require amendment of the application, maps, or other materials to achieve necessary compliance.

RULE 16.4 - HEARING AND APPLICATION EVALUATION.

(a) **Notice of Hearing:** Within 30 days after the date the administratively complete application is submitted, the District shall set a date for a hearing on the application. A hearing shall be held within 35 days after the setting of the date and the district shall act on the application within 35 days after the date of the hearing. Notice of the hearing shall be given by:

(1) first-class mail not less than thirty (30) days before the date set for District consideration of the transportation permit application. Notice shall be mailed to:

- (i) the applicant, whose application has been filed with the District;
- (ii) the property owners within one-half($\frac{1}{2}$) mile of the location of the well(s) from which water is to be produced and transported; and
- (iii) due to the potential impact to wells in areas outside a one-half ($\frac{1}{2}$) mile radius, notice of the hearing on the application shall be published by the District in a newspaper of general circulation in the District.

(2) The notice shall include:

- (i) the name and address of the applicant;
- (ii) the date the application was filed;
- (iii) the location, purpose, and proposed use of the well from which the water to be transported is produced or to be produced;
- (iv) the amount of water to be transported monthly ;
- (v) a description of the transportation facility;
- (vi) the time and place of the hearing; and
- (vii) any additional information the District considers necessary.

(b) **Hearing:** At the time and place stated in the notice, the District shall hold a hearing on the application. The hearing may be held in conjunction with any regular or special meeting of the District, or a special meeting may be called for the purpose of holding a hearing. Any person may appear at the hearing, in person or by attorney, or may enter his appearance in writing. Any person who appears may present evidence, orally or by affidavit, in support or in opposition to the issuance of the permit, and it may hear arguments.

(1) After the hearing, the District shall make a written decision granting or denying the application. The application

may be granted in whole or in part. Any decision to grant a permit, in whole or in part, shall require a majority vote of Directors present.

- (2) Pursuant to Water Code §36.122, before approving any permit for transport of groundwater outside of the District boundaries, the District shall consider the following:
 - (i) the availability of water within the district and in the proposed receiving area during the period for which the water supply is requested;
 - (ii) the availability of feasible and practical alternative supplies to the applicant;
 - (iii) the amount and purposes of use in the proposed receiving areas of the water supply;
 - (iv) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and
 - (v) the approved regional water plan and certified district management plans.
- (3) Such application shall not be approved unless the Board of Directors finds and determines that:
 - (i) the transporting of water for use outside the District applied for will not substantially affect the quantity and quality of water available to any person or property within the District;
 - (ii) that all other feasible sources of water, available to the person or entity requesting a permit have been developed and used to the fullest;
 - (iii) that no other liquid could be feasibly substituted for the fresh groundwater; and
 - (iv) that the proposed use, of any part of the proposed use, will not constitute waste as defined under the laws of the State of Texas.
- (4) In evaluating the application, the District shall consider:
 - (i) the quantity of water proposed to be transported; the term for which the transporting is requested;
 - (ii) the safety of the proposed transportation facilities with respect to the contamination of the aquifer;
 - (iii) the nature of the proposed use; whether the amount of withdrawal of the groundwater requested is reasonable;
 - (iv) whether withdrawal of such an amount is contrary to the conservation and use of groundwater;
 - (v) whether the withdrawal is not otherwise detrimental to the public welfare; and
 - (vi) such other factors as are consistent with the purposes of the District.

RULE 16.5 - PERMIT PROVISIONS AND FEES.

- (a) **Permits:** On approval of an application, the District shall issue a permit to the applicant. The applicant's right to transport shall be limited to the extent and purposes stated in the permit. A permit shall not be transferable except

as provided in Rule 16.7.

The permit shall be in writing and signed by the Board President and attested by the Board Secretary and it shall contain substantially the following information:

- (1) the name of the person to whom the permit is issued;
 - (2) the location of the well(s) from which water is to be transported;
 - (3) the date the permit is issued;
 - (4) the term for which the permit is issued, not to exceed five years from the issue date if construction of a conveyance system has not been initiated prior to issuance of the permit, and not to exceed 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit;
 - (5) the date the original application was filed;
 - (6) the destination and use or purpose for which the water is to be transported;
 - (7) the maximum quantity of water to be transported monthly ;
 - (8) a requirement that the water withdrawn under the transport permit be put to beneficial use at all times;
 - (9) any restrictions on the rate or amount of withdrawal;
 - (10) the time within which construction or work on the well transportation facilities, including conveyance facilities and equipment, must begin and the time within which it must be completed;
 - (11) a statement that the permittee will comply with all well closure and plugging guidelines of the District;
 - (12) a statement that the permittee will comply with any drought contingency plan prescribed by the District; and
 - (13) any other information the District prescribes.
- (b) The District may set and collect fees for the transport of water out of the District. In order to monitor and maintain the quality of the groundwater and to investigate the feasibility of enhanced recharge projects to increase the amount of available groundwater for use by all well owners, fees of one dollar (\$1.00) per acre foot for water used in agriculture, and seventeen cents (\$0.17) per thousand (1,000) gallons for all other uses, may be assessed by the District. Fees are due the first of each month, and are to be included with the monthly pumping report.
- These fees may also be used to:
- (1) pay expenses related to enforcement of Chapter 36, TWC and District rules;
 - (2) mitigate the economic impact and other detriments that will result from the use of water to service interests outside the District; and
 - (3) for any other use as allowed by Chapter 36, TWC and District rules.
- (c) A transportation permit shall be valid for a period of up to five (5) years, if construction of a conveyance system has

not been initiated prior to issuance of the permit, and not to exceed thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit. If construction of a conveyance system is begun before the expiration of the initial term, the term shall automatically be extended to the terms not to exceed thirty (30) years; and shall contain such other standard and special provisions as are set out by the District.

- (d) The District shall assess and the applicant shall pay a fee for costs incurred by the District for hydrological and hydrogeological studies including but not limited to, groundwater modeling conducted by the District to process an application for the transportation of water from the District.

RULE 16.6 - MONITORING AND REPORTING.

- (a) All transporting facilities for wells subject to registration and permitting shall be equipped with flow monitoring devices approved by the District and shall be available for inspection by District personnel at all reasonable times.
- (b) The operator of a transportation facility shall be required to keep records and make reports to the District as to the operation of the transportation facility.
- (c) Permitted groundwater transportation facilities shall submit reports to the District on a monthly basis, beginning at the time a permit is issued to operate. Such reports shall include, but are not limited to, the volume of water transported during the preceding month.

RULE 16.7 - PERMIT EXTENSIONS, TRANSFERS, AND REVOCATION.

- (a) A permittee may apply for an extension of any permit granted under this subsection or for transfer of a permit to another person. The District shall consider and grant or deny such application for extension or transfer of a permit in the same manner as is provided herein for the application for a permit.
- (b) Any permit granted under this subsection shall be subject to revocation for non use or waste by the permittee, or for substantial deviation from the purposes or other terms stated in the permit. Revocation of a permit for non use shall require that no water is transported under the permit for a period of five (5) years.
- (c) The owner of the transportation facility shall be held strictly liable for the prevention of pollution and waste, by reason of the operations of said facility.

SECTION 17. PUBLIC COMPLAINTS AND INFORMAL HEARINGS

RULE 17.1 - PUBLIC COMPLAINTS.

Members of the public having complaints regarding the District's policies, procedures, or operations may present their complaints or concerns to the Board pursuant to the procedures set forth in the District's Manual of Hearings Procedures. The Board intends that, whenever feasible, complaints shall be resolved at the lowest possible administrative level.

RULE 17.2 - CLOSED MEETING.

If a complaint involves concerns or charges regarding an employee, it shall be heard by the Board in a closed meeting unless the employee to whom the complaint pertains requests that it be heard in public.

SECTION 18. HEARINGS

RULE 18.1 - TYPES OF HEARINGS

The District conducts two general types of hearings: adjudicative and rule making.

- (a) **ADJUDICATIVE.** Adjudicative hearings are conducted in accordance with the Lipan Kickapoo Water Conservation District Manual of Hearing Procedures.
- (1) Permit hearings: Applications, Amendments and Revocations, Exceptions to Spacing Rules. Permit hearings involve permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; and
- (2) Other matters. A public hearing may be held on any matter within the jurisdiction of the duties and responsibilities of the Board, 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. Any matter designated for hearing before the Board may be referred by the Board for hearing before a Hearings Examiner.
- (b) **RULE MAKING.** Rule making hearings involve matters of general applicability that implement, interpret, or prescribe the law or District policy. Rule making hearings are conducted in accordance with §36.101, Texas Water Code.

RULE 18.2 - GENERAL PROVISIONS.

- (a) **COMPUTING TIME.** If the day on which compliance is due under the terms and provisions of these Hearing Procedures is a Saturday, Sunday, or legal holiday, then compliance will be due the next day that is not a Saturday, Sunday, or legal Holiday.
- (b) **NOTICE AND SCHEDULING OF HEARINGS.** The General Manager is responsible for giving notice of all hearings and public meetings of the District in the following manner:
- (1) Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in subsection (3), and any other person the General Manager or Board of Directors deems appropriate. The date of delivery or mailing of notice may not be less than ten (10) calendar days before the date set for the hearing.
- (2) A copy of the notice must be posted at the District's office and the county courthouse of each county within the District in the place where notices are usually posted. The date of posting shall not be less than 10 business days before the date of the hearing.

(3) Any person having an interest in the subject matter of a hearing(s) may receive written notice of such hearing(s) by submitting a request in writing. The request must identify with as much specificity as possible the hearing(s) 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 Board.

(4) After giving proper notice, hearings may be held in conjunction with any Regular or Special called meeting of the Board or hearings may be scheduled at other times as deemed appropriate by the Board. All hearings will be held at the District office unless the Board determines that another location would be more appropriate for a specific hearing.

(c) **CONDUCT OF HEARINGS.**

(1) Hearings will be conducted in such a manner as the Board deems most suitable to the particular case. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either applicants or contestants.

(2) All hearings will be conducted in conformance with the Lipan-Kickapoo Water Conservation District Manual of Hearings Procedures, the Texas Rules of Civil Procedure and the Texas Rules of Evidence. Where there is a conflict between the District's Manual of Hearings Procedures and the Texas Rules of Civil Procedure and the Texas Rules of Evidence, the procedures set forth in the Manual of Hearings Procedures will prevail.

(d) **CHANGED CONDITIONS.**

The decision of the Board on any matter contained herein may be reconsidered by it of its own motion or upon motion showing changed conditions, or upon the discovery of new and different conditions or facts after the hearing or decision of such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having finally granted or denied an application, it shall give notice to persons who were proper parties to the original action and such persons shall be entitled to a hearing thereon if they file a request therefor within fifteen (15) days from the date of the mailing of such notice.

SECTION 19. FINAL ORDERS OF THE BOARD

RULE 19.1 - FINAL ORDERS OF THE BOARD.

The orders of the Board in any non-contested application or proceeding shall become the final order of the Board on the day it is entered by the Board. All orders of the Board in contested applications, appeals or other proceedings shall contain a statement that the same was contested. In such event the order will become final after fifteen (15) days from the entry thereof and be binding on the parties thereto unless a Motion for Rehearing is filed under Sections 17 and 18 hereof.

REPEAL OF PRIOR REGULATIONS

All of the previous rules and regulations of the District have been revised and amended; and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with or is contrary to these rules is hereby repealed.

LIPAN-KICKAPOO WATER CONSERVATION DISTRICT

Adopted August 4, 2004

Michael Hoelscher, *Secretary*

A.H. Denis, III, *President*

Amended November 1, 2006

Leon Braden, *Secretary*

Michael Hoelscher, *President*

Amended September 5, 2007

Leon Braden, *Secretary*

Michael Hoelscher, *President*