

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 ($\frac{1}{2}$) 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 from 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 (½) 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 (½) 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.