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# SOUTHEAST TEXAS GROUND WATER CONSERVATION DISTRICT

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## DISTRICT RULES



*Effective July 1, 2005*

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*November 9, 2023*

# SOUTHEAST TEXAS GROUNDWATER CONSERVATION DISTRICT

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# **RULES OF THE SOUTHEAST TEXAS GROUNDWATER CONSERVATION DISTRICT**

In accordance with Section 59 of Article 16 of the Texas Constitution and with the Acts of the 78<sup>th</sup> Legislature (2003), S.B. 1888 (the "District Act") and Chapter 36 of the Texas Water Code, Southeast Texas Groundwater Conservation District adopts the following rules as the Rules of the District. Each Rule as set out below has been in effect since the date of adoption and as may be amended.

The Rules, regulations, and modes of procedure contained below are and have been adopted for the purposes of achieving the goals of the District Act and the Management Plan, to prevent waste, and to protect rights of owners of interest in Groundwater while simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the Groundwater laws of the State and the Rules of this District. To the end that these objectives be attained, these Rules shall be so construed.

These Rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion of the Board, where such exists; nor shall they in any event be construed to deprive the Board of an exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information which may be required for the proper administration of the law. Any reference to the Texas Water Code includes the section referenced and any subsequent amendments.

## **RULE 1 - DEFINITIONS AND CONCEPTS**

1.1 Unless the context indicates a contrary meaning, the words defined below shall have the following meaning in these Rules:

- (a) "Agriculture" means any of the following activities:
  - (i) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
  - (ii) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;
  - (iii) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
  - (iv) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
  - (v) wildlife management; and
  - (vi) raising or keeping equine animals.
- (b) "Artesian Well" shall mean an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground. It is considered a flowing artesian well if the natural pressure is great enough to cause the water to rise to the surface without being pumped.

- (c) "Beneficial use" means:
  - (i) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
  - (ii) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
  - (iii) any other purposes that is useful and beneficial to the user and approved by the Board.
- (d) The "Board" shall mean the Board of Directors of the Southeast Texas Groundwater Conservation District, consisting of thirteen (13) members.
- (e) "Church" means the land, building, buildings, or other facilities used exclusively for religious purposes and which are exempt from ad valorem taxes.
- (f) "Dewatering Well" shall mean a well used to remove groundwater from a construction site or temporary excavation, or to relieve the hydrostatic uplift on Toledo Bend Dam. The Dewatering well shall not exceed 75 feet in depth unless approved by the District prior to drilling.
- (g) "District" shall mean Southeast Texas Groundwater Conservation District.
- (h) "District Office or Offices" shall mean the location or locations as may be established by resolution of the Board.
- (i) "Domestic Use" means the use of water at a single-family or duplex household to support domestic activities including drinking, washing, and sanitation. Domestic use does not include use for any commercial purpose or at any commercial establishment. Domestic use does not include a use at any commercial establishment with a single-family household.
- (j) "Drilling" includes drilling, equipping, or completing wells or modifying the size of wells or well pumps to change pumpage volume.
- (k) "Drilling Permit" means a permit issued by the District allowing a water well to be drilled.
- (l) "Exempt Well" shall mean any well for which the District is prohibited to require a permit under the District Act, Texas Water Code §36.117 or these District Rules including a well conditionally exempt under Rule 16. Exempt wells include wells used solely for domestic use, agriculture use or for providing water for livestock or poultry, or to provide Groundwater to a Church, or a well utilized by a local emergency management agency (these uses constitute "Exempt Purposes") that is either drilled, completed, or equipped so that it is incapable of producing more than 100,000 gallons per day, and certain wells for hydrocarbon production.

Wells to supply water for a subdivision of land for which plat approval is required by law or regulation are not exempt. For all purposes, an Exempt Well shall be exempt from permitting requirements and production fees but shall not be exempt from registration requirements.

Aquifer Storage and Recovery (ASR) wells shall be exempt unless the recovery well produces more groundwater than authorized by the Texas Commission on Environmental Quality (TCEQ). A permit for additional groundwater from the District will be required.

Any well, excluding a well utilized by a local emergency management agency or hydrocarbon exploration wells as defined in Chapter 36.117 of the Texas Water Code, that is capable of producing more than 100,000 gallons per day, shall be considered Non-Exempt and be required to be permitted as such.

- (m) "Fee or Fees" means the amount required to be paid as established by the Board of Directors.
- (n) "Groundwater" means water percolating below the surface of the earth.
- (o) "Hearing Body" means the Board, any committee of the Board, or a hearing examiner at any hearing held under the authority of the District Act.
- (p) "Hearing Examiner" means a person appointed by the Board pursuant to the District Rules for Hearing to conduct a hearing or other proceeding.
- (q) "Management Plan" means the plan for managing the Groundwater in the District, as it may be amended from time to time, adopted by the Board under Texas Water Code Section 36.1071, et seq.
- (r) "Monitor Well", means any well used for the sampling or measurement of any chemical or physical property of subsurface strata or their contained fluids.
- (s) "Non-Exempt Well" shall mean any well that does not fall within the exclusions or exemptions in 1.1(l).
- (t) "Nursery Grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
- (u) "Operating Permit" means a permit issued by the District for a water well, allowing Groundwater to be withdrawn from a water well for a designated period.
- (v) "Operator" shall mean the person who operates a well.
- (w) "Owner" shall mean and include any person that has the right to produce water from the land either by ownership, contract, lease or easement.
- (x) "Permit" shall mean the written authorization issued by the District to drill or operate a Well or to transfer Groundwater out of the District.
- (y) "Permittee" shall mean the person named in a Permit.
- (z) "Person" shall mean any individual, partnership, firm, or corporation, limited liability company, or other legal entity.
- (aa) "Production Fee" shall mean the fee established on the withdrawal of Groundwater as provided in Section 7(e) of the District Act and Texas Water Code Section 36.205(c) and as set in Rule 4 below.
- (bb) "Register, Registering, and Registration" means, as the use may indicate, a well registered in compliance with Rule 3 and 13 and as otherwise provided in these Rules.

- (cc) “Remediation Well” means any well used to produce contaminated water from a subsurface strata pursuant to a plan approved by the Texas Commission on Environmental Quality or other agency with applicable jurisdiction.
- (dd) “Rules” shall mean these Rules of the District and the Hearing Rules and Procedures as they may be supplemented or amended from time to time.
- (ee) “Rules for Hearings” means the “Rules for Hearings” setting out the rules and procedures for hearings and other matters of the District, as the may be supplemented or amended from time to time.
- (ff) “TDLR Rules” means the administrative rules, as may be amended from time to time, by the Texas Department of Licensing and Regulation for water well drillers and pump installers found at 16 Texas Administrative Code Chapter 76:  
([www.license.state.tx.us/wwd/wwdrules.utm](http://www.license.state.tx.us/wwd/wwdrules.utm))
- (gg) “Test Well” means a well that is drilled to determine subsurface conditions.
- (hh) “Waste” means any one or more of the following:
  - (i) withdrawal of Groundwater at a rate and in an amount that causes or threatens to cause intrusion into a reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
  - (ii) the flowing or producing of groundwater from a well if the water produced is not used for a Beneficial purpose;
  - (iii) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata not containing groundwater;
  - (iv) pollution or harmful alteration of Groundwater by saltwater or by other deleterious matter from another stratum or from the surface of the ground;
  - (v) willfully or negligently causing, suffering, or allowing Groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land unless such discharge is authorized by permit, rule, or order issued by the Commission under Chapter 26, Texas Water Code; Groundwater released on well startup or well development in order to improve water quality shall not constitute waste as defined above;
  - (vi) 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
  - (vii) for water produced from an artesian well, “waste” has the meaning assigned by Section 11.205, Texas Water Code.
- (ii) “Well” or “Water Well” shall mean and include any artificial excavation constructed for the purpose of exploring for or producing Groundwater.
- (jj) “Well Field” shall mean:
  - (a) two or more wells connected to a common piping or gathering system that are operated by one or more persons or entities for delivery to an end point.

- (b) two or more wells used on the same tract of land for the same purpose that are capable of a combined total of more than 100,000 gallons per day and that are less than 330 feet apart.
- 1.2 Definitions. The definitions contained in Texas Water Code Section 36.001 shall also be included to the extent that they are used in these Rules.
- 1.3 Purpose of Rules. The Rules are the foundation for achieving the goals of the District Act and Management Plan.
- 1.4 Use and Effect of Rules. The District uses these Rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act and Management Plan.
- 1.5 Amendment of Rules. The Board may amend these Rules or adopt new Rules from time to time in accordance with Texas Water Code Section 36.101. Any such amendment must be approved by a majority of the duly appointed and qualified members of the Board.
- 1.6 Headings and Captions. The section and other headings and captions contained in these Rules are for reference purposes only. They do not affect the meaning or interpretation of these Rules in any way.
- 1.7 Construction. A reference to a title, chapter or section without further identification is a reference to a title, chapter, or section of the Water Code. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code.
- 1.8 Method of Service under these Rules.
  - (a) Except as otherwise expressly provided in these Rules, any notice or documents required by these Rules to be served or delivered may be delivered to the recipient or the recipient's authorized representative by First Class U.S. Mail. Service may also be completed by electronic transfer, if the recipient has filed their electronic data address with the District in the form of a facsimile ("fax") number or email address.
  - (b) Service by mail is deemed complete three days after deposit in a post office or other official depository of the United States Postal Service. Service by electronic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day.
  - (c) If the District prepares a newspaper notice that is required by these Rules and the applicant does not cause the notice to be published within 30 days of receipt of the notice from the District, the District may cause the notice to be published and the applicant shall reimburse the District for the cost of publication within 30 days of publication.
  - (d) When these Rules require an applicant to publish notice, the applicant must file a publisher's affidavit with the District certifying the facts that constitute compliance with the requirement. The deadline to file the affidavit is the day of the public meeting for notice of public meeting, two days before a public hearing for notice of a public hearing, and 30 days after the last publication for other published notices. For notice of a public meeting, the applicant must also submit the publisher's affidavit to the General Manager no later than the day of the public meeting. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice.

- (e) When these Rules require notice to be published according to this subsection, the applicant shall publish notice in a newspaper of the largest general circulation that is published in the county in which the facility is located or proposed to be located.
- (f) When notice by publication or by mail is required by these Rules, the text of the notice must include:
  - (i) the name and address of the District;
  - (ii) the name and address of the applicant and, if different, the location of the facility or activity to be regulated by the permit;
  - (iii) a brief description of the business conducted at the facility or activity described in the application or the draft permit;
  - (iv) for notices of public meetings or hearings, the date, time, and place of the meeting or hearing, and a brief description of the nature and purpose of the meeting or hearing, including the applicable rules and procedures; and
  - (v) the application or permit number.
- (g) When these Rules require mailed notice under this section, the District shall mail notice to:
  - (i) the landowners or well owners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map;
  - (ii) any other person the District may elect to include; and
  - (iii) persons who filed public comment or hearing requests on or before the deadline for filing public comment or hearing requests.
- (h) The applicant shall pay the costs of mailing and publishing all notices.

1.9 Severability. If any one or more of the provisions contained in these Rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other Rules or provisions of these Rules, and these Rules must be construed as if such invalid, illegal or unenforceable Rule(s) or provision had never been contained in these Rules.

1.10 Burden of Proof. In all matters regarding applications for permits, exceptions, and other matters for which District approval is required, the burden shall be upon the applicant or other persons seeking a permit, exception, or other authority to establish that all conditions, criteria, standards, or prerequisites have been met.

## **RULE 2 - WASTE**

2.1 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 1.1 (hh).

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

2.3 No person shall pollute or harmfully alter the character of Groundwater of the District by means of salt water or other deleterious matter admitted from other stratum or strata or from the surface of the ground.



2.4 No person shall commit waste as that term is defined by Rule 1.1 (hh).

### **RULE 3 - PERMIT AND REGISTRATION REQUIRED**

3.1 No person shall drill, modify, complete, change type of use, plug, abandon, or alter the size of a well within the District without first Registering the well with the District, or making application for a new well even though the well may be exempt from the requirement of a permit under Texas Water Code Section 36.117 or Rule 1.1 (l).

3.2 The District staff will review the application for Registration Permitting and make a preliminary determination on whether the well meets the requirements, exclusions, or exemptions.

3.3 No permit shall be required for a well incapable of producing more than 25,000 gallon of groundwater a day (17.36 gallons per minute) if the well owner or operator complies with Rule 16 below and submits the following information:

- (a) Maximum capability of the well as equipped;
- (b) A statement of acknowledgement by the well owner that the well's capability cannot be altered so that it is capable of more than 25,000 gallons of groundwater a day (17.36 gallons per minute) without first applying to the District for an Operating Permit; and
- (c) a statement that the well owner will adhere to the District Management Plan, District Rules and Plugging guidelines as established by the District and State of Texas.

3.4 No permit shall be required for the drilling of wells exempt by Texas Water Code §36.117 or Rule 1.1(l).

3.5 Exempted Wells shall be registered with the District before drilling. All exempt wells shall be equipped and maintained so as to conform to the District's Rules requiring installation of casing, pipe and fittings to prevent the escape of Groundwater from a Groundwater reservoir to any reservoir not containing Groundwater and to prevent the pollution or harmful alteration of the character of the water in any Groundwater reservoir. Forms for Registrations and applications for permits shall be provided by the District.

3.6 Non-exempt well grandfathering into district. – *No longer applicable.*

3.7 A water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas is exempt from District Fees provided (1) the person holding the Railroad Commission permit is responsible for drilling and operating the water well and (2) the well is located on the same lease with the drilling rig.

3.8 A well exempted under provision of Rule 1.1(l) above must either be plugged or be permitted and comply with all Rules within 30 days of the change in well status if:

- (a) the purpose of the well is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas;
- (b) the withdrawals are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code;
- (c) the water from the well is no longer solely used for an Exempt use;
- (d) the drilling or completion rig is removed from the lease; or

(e) the exempt well is part of a "Well Field" as defined in Rule 1.1(jj).

3.9 All Permits are granted subject to these Rules, Orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the Permit, each Permit is issued subject to the following standard Permit provisions:

(a) The acceptance of the Permit constitutes an acknowledgment and agreement that the Permittee will comply with the Rules, Orders of the Board, and the laws of the State of Texas.

(b) The Permit confers only the right to operate and its terms may be modified or amended. To protect the Permittee from the illegal use by a new landowner, within 30 days after the date of sale, transfer, lease, assignment or other change in the use or possession of the Permitted Well, the Operating Permit holder must notify the District in writing with the name of the new owner or operator of a Permitted Well. Any person who becomes the owner or operator of a Permitted Well must, within 45 calendar days from the date of the change in ownership or operation, file an application for a permit amendment to effect a transfer of the Permit. Until the District has issued a new Permit, the Permittee remains responsible for compliance with all applicable Rules and laws.

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

(d) Violation of a Permit's terms, conditions, requirements, or special provisions is punishable by civil penalties as provided by the District Rules and by law.

(e) The Permit may also contain provisions relating to the means and methods of transportation of water produced within the District.

3.10 Except as provided below, a Permit is not required for a Monitor Well or a Remediation Well. A copy of the Driller's Report must be filed with the District within thirty (30) days. If the use of Monitor Well or Remediation Well is changed to produce non-contaminated water, it then becomes subject to the permitting or registration requirements of these Rules depending upon use and volume.

3.11 The General Manager may, without notice or board action, issue a permit to drill a Test Well after an application for it has been submitted and all fees, if any, paid. If the General Manager denies a permit for a test well, then the matter shall be processed as otherwise provided in these rules.

A test well shall be plugged within 60 days from the commencement of drilling unless the permittee has applied for an "Operating Permit". The authorization of a "Test Well" does not constitute a Drilling or Operating Permit nor does it guarantee that an Operating Permit will be granted when applied for.

3.12 Temporary Dewatering wells used for construction or excavation shall not be required to be registered if the well is less than 75 feet in depth. Any temporary Dewatering well shall be closed no less than 30 days after the completion of the construction or excavation project unless approved by the District.

Any permanent Dewatering well, as defined in 1.1(f), shall be exempt from permitting requirements and production fees but shall not be exempt from registration requirements. The owner of permanent Dewatering well shall report to the District annually the total amount of water produced from the well.

## **RULE 4 - FEES AND REPORTS**

4.1 In accordance with the District Act and Section 36.205 of the Texas Water Code, and except as provided below, the Board shall, from time to time, adopt a schedule of fees for water use, production, export, registrations, permits and administrative functions, and any other lawful purpose or business of the District. The fees, rates and charges will be established in a schedule of fees and charges adopted by the Board, and each such schedule of fees and charges shall thereafter be and remain in effect until amended by the Board.

4.2 The Production Fee is payable on water produced on or after January 1, 2005, except the increase in fees for Recreational Use is payable for Groundwater produced after December 31, 2008. Operators of non-exempt wells shall provide payment to the District each quarter. Payment shall be due within ninety (90) days of the last day of March, June, September, and December with their quarterly reports. Operators shall provide monthly production records to document payment amount. The payment shall be accompanied by the report form specified by the District.

If the total amount of water pumped for a non-exempt well exceeds the permitted amount, the fee for the amount that exceeds the permitted annual production rate shall be charged at the District's maximum production fee. The District may also assess penalties for non-compliance with District Rules for failure to comply with the conditions of the permit issued by the District.

Owners of wells subject to the production fees as described above are not required to pay the production fee if the annual amount of groundwater produced from the well is less than 1,500,000 gallons per year. Owners of wells not required to pay the production fees under this provision are required to comply with the reporting requirement and must provide the District monthly production records after the end of each calendar quarter.

4.3 In accordance with Section 36.122 of the Texas Water Code, the District may impose a reasonable fee or surcharge for all water exported out of the District using one of the following methods:

1. A fee negotiated between the District and the permittee.
2. A rate not to exceed the greater of 20 cents per 1,000 gallons or a 50% surcharge, in addition to the District's production fee for water exported from the District.
3. The maximum allowable rate the District may impose for an export fee or surcharge under this section may be increased by 3% each calendar year.

4.4 Each application for a Permit to drill and operate a new Non-Exempt well shall be accompanied by the fee or fees as established herein or by resolution of the Board. An application processing fee, sufficient to cover all reasonable and necessary costs to the District of processing the application, will be charged. The application must be accompanied by the Fee. If the Fee is determined by the General Manager or the Board to be insufficient to cover anticipated costs of processing the application, the applicant may be required to post a deposit in an amount determined by the General Manager or the Board's representative to be sufficient to cover anticipated processing costs. As costs are incurred by the District in processing the application, those costs may be reimbursed from funds deposited by the applicant. The applicant shall be provided with a monthly accounting of billings against the application processing deposit. Any funds remaining on deposit after the conclusion of application processing shall be returned to the applicant. If initially deposited funds are determined by the General Manager to be insufficient to cover costs incurred by the District in processing the application, an additional deposit may be required. If the applicant fails to deposit funds as required by the District, the application may be dismissed.

4.5 Each day that a payment remains unpaid after it is due shall constitute a separate violation of these Rules. The violator shall be subject to a civil penalty as provided in Rule 15, calculated in the District's Penalty Matrix, with a \$50 base penalty.

- 4.6 An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized the drilling of a water well shall report monthly to the District:
- (a) the total amount of water withdrawn during the month;
  - (b) the quantity of water necessary for mining activities; and
  - (c) the quantity of water withdrawn for other purposes.

#### **RULE 5 - ISSUANCE OF PERMITS**

- 5.1 Every person who drills a water well after the effective date of these Rules, other than an Exempt Well, must file an Application for Permit on a form approved by the District. Each permit application must be accompanied by the fee. An Exempt Well must be registered with the District prior to it being drilled.
- 5.2 Drilling Permit Requirement. The well owner, well operator, or any other person acting on behalf of the well owner including, but not limited to, the water well driller, must obtain a drilling permit from the District prior to drilling a new water well other than an exempt well.
- 5.3 Operating Permit Requirement. The well owner, well operator, or any other person acting on behalf of the well owner including, but not limited to, the water well driller, must obtain a operating permit from the District prior to drilling a new water well other than an exempt well.
- 5.4 Permit Applications. Each original application for a water well drilling permit, operating permit, transport permit, and permit amendment requires a separate application and payment of the associated fee. Application forms will be provided by the District and furnished to the applicant upon request.

The application for a Permit shall be in writing and sworn to, and shall include the following:

- (a) the name and mailing address of the applicant and the owner of the land on which the well will be located;
- (b) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;
- (c) the location of each well and the estimated rate at which water will be withdrawn;
- (d) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
- (e) a map showing the location of all existing wells known to the applicant and any wells in the Texas Water Development Board's Submitted Drillers Reports (SDR) database within a one quarter (1/4) mile radius of the proposed well or the existing well to be modified if requested by the District;
- (f) a map from the county appraisal District indicating the location of the proposed well or the existing well to be modified, the subject property, all properties within a one quarter (1/4) mile radius identified with either the applicable appraisal district account number or property id, and the physical addresses and mailing addresses of any person owning property within a one quarter (1/4) mile radius of the well or wells for which the application is filed;
- (g) notice of any application to the Texas Commission on Environmental Quality to obtain or modify a Certificate of Convenience and Necessity to provide water or wastewater service with water obtained pursuant to the requested permit;

- (h) a declaration that the applicant will comply with the District's Rules and all Groundwater use permits and plans promulgated pursuant to the District's Rules;
- (i) a water conservation plan or a declaration that the applicant will comply with the Management Plan;
- (j) a water well closure plan or a declaration that the applicant will comply with all Rules and/or TDLR Rules for well plugging and capping guidelines and report closure to the District;
- (k) a hydrogeological report addressing the area of influence, draw down, recovery time, and other pertinent information required by the District (see Appendix A "Guidelines for Hydrogeologic Report") shall be required for the following:
  - (i) Requests to drill a well(s) or well field with a daily maximum capacity of more than 250,000 gallons; and
  - (l) additional information or documentation that may be requested by the District.

Items 5.4(e), (f), and (k) are waived for Non-Exempt wells requesting an Operating Permit for less than 36,500,000 gallons per year, provided that the well is located no less than 100 feet from the nearest property line, and for replacement wells with a valid Operating Permit in good standing.

#### 5.5 Action on Application.

- (a) To the extent possible, the District shall issue permits to achieve applicable desired future conditions. In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:
  - (i). The modeled available groundwater determined by the executive administrator as defined by Texas Water Code Sec. 36.001(25);
  - (ii). The executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by District Rules and Section 36.117;
  - (iii). The amount of groundwater authorized under permits previously issued by the District;
  - (iv). A reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and,
  - (v). Yearly precipitation.
- (b) Once the District has received a completed original application for a water well drilling permit, operating permit, or a permit amendment which the General Manager determines to be administratively complete as provided in subsection (c) below, and all associated fees including the costs of giving notice have been paid, the General Manager will issue written notice indicating a date and time for a hearing on the application in accordance with these Rules. The District may schedule as many applications at one hearing as deemed necessary. If the application is for an amount exceeding 36,500,000 gallons per year, at least twenty (20) days prior to the hearing, written notice will be given to any person who, according to the application or the District's records, owns a well within one quarter (1/4) mile of the well that is the subject of the application. Notice shall include at least the following information:

- (i) the name and address of the applicant;
  - (ii) the date the application was filed;
  - (iii) the time and place of the hearing;
  - (iv) the location of the proposed well(s) from which water to be transported is to be produced;
  - (v) a description of the production facility; and
  - (vi) a brief summary of the information in the application.
- (c) If the application is for a well that does not exceed 91,250,000 gallons per year, the General Manager may issue the permit without Board action if:
- (i) there is no one who is entitled to the notice required under Rule 5.5(b) or if a "waiver of right to hearing" is obtained from all persons entitled to notice. The District shall promulgate the form and content of the waiver to be used; and,
  - (ii) the well will comply with all District Rules including but not limited to those concerning spacing and waste; and,
  - (iii) the General Manager makes an inspection of the proposed well location and verifies that the information in the application is correct, and there is no known well owner within one quarter (1/4) mile of the proposed location that is due notice; and,
  - (iv) the General Manager signs a written report stating the details of the inspection and all other criteria to document the findings under this subsection.
- (d) If the General Manager determines that an application is not complete, that the information in it is incorrect, or that the proper fees have not been paid, the application will not be considered administratively complete. Within ten (10) days of determining that an application is not administratively complete, the General Manager shall advise the applicant in writing of the deficiencies. If the applicant does not cure the deficiencies within twenty (20) days, the application will be returned to the applicant. Any fees paid will be retained by the District.
- (e) The Board shall also consider the requirements set out in Texas Water Code Section 36.113.

#### 5.6 Permit Preferences.

- (a) The Board shall give preference to applications in the order declared in Section 5.6(b).
- (b) In order to conserve and properly utilize Groundwater in the District, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses, and it is therefore declared to be the public policy of the District that in granting permits, water preference shall be given to the following uses in the order named:
  - (i) domestic and municipal uses, including water for sustaining human life and the life of domestic animals, it being the public policy of the District and for the benefit of the greatest number of people that in granting permits for Groundwater, the allocation of water for domestic and municipal uses shall be and remain superior to all other purposes;

- (ii) agricultural uses and industrial uses, which means processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;
- (iii) mining and recovery of minerals;
- (iv) recreation and pleasure; and
- (v) other Beneficial Uses.

5.7 Drilling Permits. Unless specified otherwise by the Board or these Rules, drilling permits are effective for a term ending one (1) year after the date of issuance. The General Manager may, without board action, extend the drilling permit for 1 additional year from the date of original issuance. Should the permittee require a second extension, the General Manager shall place the request on the next available meeting agenda for consideration by the Board.

5.8 Transfer Permits - *No Longer Applicable.*

5.9 Operating Permits. Unless specified otherwise by the Board or these Rules, operating permits are effective for five (5) years from the date of issuance. Notwithstanding the period specified above, the District may periodically review the amount of water that may be pumped under the permit and may limit the amount.

5.10 Effect of Acceptance of Permit. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions thereof.

5.11 Reworking and Replacing a Well.

- (a) An existing well may be reworked or re-equipped in a manner that will not change the permitted well status. A change in the permitted well status will require an operating permit amendment.
- (b) A permit must be applied for if a party wishes to replace an existing well with a replacement well. An application for a new well to replace an existing permitted well, must be made on the Non-Exempt Permit Application form except for the information required by Rule 5.4(e), (f), and (k).
- (c) A replacement well must be drilled on the same tract of land, or an adjacent tract owned by the permit holder, as the existing permitted well.
- (d) The location of 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/her agent must within 120 days of the issuance of the Drilling Permit declare in writing to the District which one of these two wells will be used. If the landowner does not notify the District of his/her choice within 120 days, then it will be conclusively presumed that the new well is the well to be retained. Immediately after determining which well is retained for production, the other well shall be:
  - (i) properly equipped in such a manner that it cannot produce water; or
  - (ii) closed in accordance with applicable state law and regulations, Section 756.002, Texas Health and Safety Code; or
  - (iii) retained to be used as a backup and operated in the event of an emergency.

A permit to rework, re-equip, re-drill or replace an existing well may be granted by the General Manager without notice or hearing so long as the new well produces groundwater from the same production zone(s) as the existing well and the amount produced is equal to or less than the maximum annual amount provided in the Operating Permit for the existing well.

- 5.12 Emergency Authorization. An existing retail water utility, as defined in Texas Water Code Chapter 13, the owner of a well used for Agriculture, or the owner of a non-exempt well which has a Permit or Certificate of Registration from the District to operate the well, may apply to the District for emergency authorization to drill and operate a replacement well as set forth below. The authorization does not constitute a Permit as required above and does not relieve the person from applying for and obtaining one. The emergency authorization can be made by the General Manager and any Board officer.

The "emergency" must present an imminent threat to the public health and safety or to an agricultural activity, or to prevent extensive and severe property damage or economic loss to the person requesting the withdrawals and must be explained to the satisfaction of the District and include any documentation requested by the District.

The owner must submit an initial application within seven (7) days of the emergency authorization. The Application must include all applicable fees and comply with provisions of a replacement well as specified in Rule 5.11.

Upon request to the District, the District may authorize withdrawal of water not currently permitted by the District upon satisfactory demonstration by the applicant that:

- (a) An emergency exists due to acts of God or nature or other disaster;
- (b) The withdrawal of water not covered by a permit is necessary in order to alleviate an immediate and serious threat to human life or health or to prevent extensive and severe property damage or economic loss to the person requesting the withdrawals; and,
- (c) The withdrawals will not endanger human life or health and will not cause what would under the particular circumstances be unreasonable property damage or economic loss.

The emergency authorization can be made by the General Manager and any Board Officer.

- 5.13 Permit Amendments. From time to time an amendment to an existing permit may be needed. The amendment request is considered minor if it meets the following condition(s):

- (a) Transfer of ownership without any changes in use;
- (b) Reductions in use or changing use of a well from non-exempt to exempt;
- (c) Increases to the gallon per minute rate without an increase to the annual production; and,
- (d) Increases to the annual permitted amount, not to exceed the greater of: 1) 10% of the current operating permit, or 2) 36,500,000 million gallons annually.

All other amendments are considered major amendments.

The General Manager may grant minor amendments without public notice or hearing. If two or more minor amendment requests are made for the same permitted well within a three-year period, the General Manager will place the amendment request on the next available agenda for consideration by the Board (unless the request is for a reduction in permitted capacities).



If an Operating Permit was applied for and granted based on the annual permit amount of less than 36,500,000 gallons and Section 5.4 items (e), (f), (g) were not provided in the application, the District may require these items before granting the permit amendment and may require a public hearing as provided in Section 5.5(b).

Major amendments must be placed on the next available agenda for consideration by the Board. In the event that the requested amendment is in excess of an additional 250,000 gallons per day or 175 gallons per minute, the board may at its discretion require a hydrogeologic report be provided.

5.14 Involuntary Amendment or Revocation. In accordance with the District's Rules for Hearing, after notice to the permit holder, the District may amend or revoke an operating permit if there is evidence of any one or more of the following:

- (a) violation of the permit, District Rules, or Chapter 36 of the Texas Water Code;
- (b) a change in the permit to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence;
- (c) failure to pay water use production fees; or
- (e) other actions that the Board determines to be detrimental to the groundwater resources within the District.

5.15 Automatic Renewal. A permit subject to automatic renewal as defined in Section 36.1145 of the Texas Water Code will be issued upon receipt of a completed permit renewal application form. The General Manager will not approve a permit renewal if the applicant:

- (a) is delinquent in paying fees required by the District;
- (b) has failed to file quarterly reports;
- (c) is the subject to a pending enforcement action for a substantive violation of a permit, order, or rule that has not been settled by agreement with the District or a final adjudication;
- (d) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

If a permit is not renewed or the permit term expires, a new permit application and applicable fees may be required prior to renewing a previously issued permit.

## **RULE 6 - WELL DRILLER LICENSE AND COMPLETION STANDARDS**

6.1 License and Completion Requirements:

Any person drilling, modifying, completing, changing type of use, plugging, or alter the size of a well within the District shall comply with all standards and requirements in 16 Texas Administrative Code, Chapter 76 including, but not limited to:

- (a) must be a licensed water well driller except for drilling a water well on property owned by the person operating the equipment;
- (b) meet all requirements related to spacing of the well with regards to property lines and sources of potential contamination;

- (c) meet all requirements pertaining to the proper sealing of annular space(s); and,
- (d) meet all requirements pertaining to the surface completion of the well, including the surface slab or protective sleeve, to assure the safety of the well;

6.2 License and Completion Requirements for Landowners Drilling Their Own Water Well:

A landowner may drill, modify, complete, plug or alter the size of a well located on their own property without being a licensed water well driller or pump installer only if the landowner complies with the Rules of the District. Any landowner drilling, modifying, completing, changing type of use, plugging, or alter the size of a well within the District shall comply with all well completion standards in 16 Texas Administrative Code Section 76.100 – 76.104, including but not limited to:

- (a) meet all requirements related to spacing of the well with regards to property lines and sources of potential contamination;
- (b) meet all requirements pertaining to the proper sealing of annular space(s); and,
- (c) meet all requirements pertaining to the surface completion of the well, including the surface slab or protective sleeve, to assure the safety of the well;

6.3 In the interest of protecting life and for the purpose of preventing waste, preventing overlapping cones of depression resulting from production rates, and preventing confiscation of property, the Board reserves the right to limit the number of wells on a tract of land or require a greater minimum distance between wells.

6.4 In the event an artesian flowing water well is drilled, as defined in Rule 1.1(b), the water well driller must, within 10 days of completion of the well, notify the District of the well. Additionally, the well driller must include on the State Well Report an accurate gallon per minute flow rate of the well.

Per Section 11.205 of the Texas Water Code, “Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner’s land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owners land or to percolate through the stratum above which the water is found” and will be considered a violation of these rules.

6.5 Change in Use of Well - Any well existing at the date of enactment of this Rule must comply with the provisions of this Rule if, after the date of enactment of this Rule, the ultimate use of the water produced from the well is changed in whole or in part, such that the water produced from the well annually is increased. Ultimate use of the water shall be defined as domestic, municipal, industrial, agricultural, or irrigation use.

**RULE 7 - REQUIREMENT OF DRILLERS LOG, CASING AND PUMP DATA**

7.1 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 whether an Exempt Well or non-exempt. 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 and rate of discharge permitted by said equipment as may be required by the Board. Such records shall be filed with the District within 60 days after completion of the well.

7.2 The well driller shall deliver either in person, by fax, email, or by first-class mail, a photocopy of the State Well Report or Plugging Report to the District within 60 days from the completion or cessation of drilling, deepening, or otherwise altering a well.

- 7.3 No person shall produce water from any well drilled and equipped within the District after the effective date of these Rules without first providing the District a completed registration form for any exempt well, or having an Operating Permit for a non-exempt well.

**RULE 8 - EXCEPTION TO SPACING RULE – *No longer applicable***

**RULE 9 - PLACE OF DRILLING WELL**

After an application for a well permit has been granted or a registration filed, the well, if drilled, must be drilled within fifty (50) feet of the location specified on the application or registration so long as that location does not violate any spacing requirements in these Rules. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code, as amended. The District shall have the right to confirm reported distances and inspect the wells or well locations.

**RULE 10 - RIGHT TO INSPECT AND TEST WELLS**

- 10.1 The District, directors, engineers, attorneys, agents, operators, and employees of the District may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the District.
- 10.2 The District shall have the right to install or to require the installation of necessary metering equipment in order to determine well production capacity and monthly production rates.
- 10.3 The District employees and agents are entitled to enter any public or private property within the boundaries of the District at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the District. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

**RULE 11 - OPEN WELLS TO BE CAPPED**

- 11.1 In accordance with sections 1901.255 and 1901.256 of the Texas Occupations Code and 16 Texas Administrative Code Section 104, every owner or operator of any land within the District upon which is located any open, uncovered, abandoned, or deteriorated well is, and shall be, required to plug or cap the same permanently 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.

Officers, agents and employees of the District are authorized to serve or cause to be served written 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 permanently with a covering in compliance herewith. In the event any owner or operator fails to comply with this Rule, all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the actual cost for any single closing. Any officer, agent, or employee of the District is authorized to perfect said lien by the filing of the affidavit authorized by Section 36.118 of the Texas Water Code. 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.

- 11.2 An artesian flowing well, as defined in Rule 1.1(b), utilized in hydrocarbon exploration shall be plugged within 30 days of the completion of the oil or gas well.

## **RULE 12 - GENERAL RULES OF PROCEDURE FOR HEARING**

All hearings whether conducted by the Board or before a Hearings Examiner shall be conducted in accordance with the Hearing Rules and Procedures as adopted by the Board and as they may be amended from time to time.

Hearing. If requested by the applicant, any affected person opposed to the application having a justifiable interest, or the General Manager, a contested case public hearing shall be conducted in accordance with provisions of the Texas Administrative Procedure Act, Texas Gov't Code 2000.01, et seq. If not requested by any party, the public hearing on the application may be conducted by the Board at a regular or special meeting.

## **RULE 13 – PETITION FOR RULE MAKING / PETITION TO CHANGE EXISTING RULE**

In accordance with Texas Water Code, 36.1025, a person with a real property interest in groundwater in the District may file a petition with the District to request the adoption of a rule or the amendment to an existing rule.

Petitions must be submitted in writing to the District office and must comply with the following requirements:

- (a) each rule requested or amendment requested must be submitted by separate petition;
- (b) each petition must be signed and state the name and address of each person signing the petition;
- (c) each petition must include:
  - (i) a brief description of the petitioner's real property interest in groundwater in the District;
  - (ii) a brief description of the proposed rule or amendment;
  - (iii) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the existing text of a current rule, if any; and,
  - (iv) an allegation of injury or inequity that could result in the failure to adopt the proposed rule.
- (d) The General Manager may reject any petition for failure to comply with the requirements of this rule and shall provide notice to the petitioner of the reason for the rejection.
- (e) Within 90 days after the submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the board meeting or a letter providing written explanation to the petitioner, or initiate rule making proceedings as provided by these Rules and by Section 36.101 of the Texas Water Code.

The petitioner cannot re-submit the same petition unless evidence is provided of changes in circumstances or conditions.

## **RULE 14 - TRANSFER OF GROUNDWATER OUT OF THE DISTRICT – *No Longer Applicable***

## **RULE 15 - ENFORCEMENT**

In accordance with the Texas Water Code, 36.102, the District may enforce Chapter 36 of the Texas Water Code and its Rules by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction. The Board adopts civil penalties for breach of Chapter 36 of the Texas Water Code and any Rule of the District. Civil penalties shall not exceed \$10,000 per

day per violation, and each day of a continuing violation shall constitute a separate violation of the Rules.

#### **RULE 16 - CONDITIONAL EXEMPTION**

- 16.1 An owner of a well may claim an exemption for a well used solely for an Exempt Purpose, as defined by Rule 1.1(l) regardless of the capacity on a conditional basis by filing a "Conditional Exemption Affidavit" with the District. The Board shall promulgate the form and content of the Affidavit. The District may require a well owner to supply any additional information it determines is necessary for verifying and monitoring the exemption claim.
- 16.2 An owner of a Non-Exempt well incapable of producing more than 25,000 gallons of groundwater per day (17.36 gallons per minute) may claim a conditional exemption by filing an affidavit with the District. The Board shall promulgate the form and include the information required in Rule 3.3. The District may require a well owner to supply any additional information it determines is necessary for verifying and monitoring the exempt claim.
- 16.3 The District may revoke any Conditional Exemption if it determines that the information in the Affidavit is materially incorrect, that the water from the well is not being used solely for Exempt Purposes, or the capability of the well is modified to exceed more than 25,000 gallons per day (17.36 gallons per minute). Prior to revoking a Conditional Exemption, the Board shall give the well owner written notice of its intention to revoke with the reason or reasons for doing so and the well owner shall have 20 days to provide the District with evidence to establish entitlement to the exemption.

End of District Rules

## APPENDIX "A"

### GUIDELINES FOR HYDROGEOLOGIC REPORT

# Guidelines for Hydrogeologic Reports

## 1.0 INTRODUCTION

Under Rule 5.4(k) and 14.4(k), the Southeast Texas Groundwater Conservation District requires the submittal of a hydrogeologic report for non-exempt wells or well fields with a daily maximum capacity of more than 250,000 gallons. These reports must include hydrogeologic information addressing, and specifically related to, the impacts of the proposed well (e.g. area of influence, drawdown, recovery time, subsidence).

This guideline document is intended to set standards and expectations for the investigations and reports. The planning and implementation of investigations should be coordinated with the Southeast Texas Groundwater Conservation District (SETGCD) to insure acceptability. SETGCD may exercise discretion in the application of the guidelines on an individual and site-specific basis in order to allow a practicable application of the guidelines while insuring a result yielding the information needed.

Hydrogeologic reports submitted with applications for the use of groundwater or applications for the increased use of groundwater must meet the standards set forth in these guidelines. Hydrogeologic reports must be sealed by a Professional Geoscientist (P.G.) or Professional Engineer (P.E.) licensed to practice in the State of Texas.

## 2.0 REPORT

The report is intended to evaluate the impacts of pumping using existing data and the existing regional groundwater flow model of the area for the aquifer in which the well is to be completed.

### 2.1 HYDROGEOLOGIC SETTING

The report shall give a description of the hydrogeologic setting that includes descriptions of:

- The surface geology
- The depth interval of the proposed water bearing zone
- The anticipated thickness of the water bearing zone(s)
- A statement of whether the water bearing zone is anticipated to be in unconfined or confined condition
- A description of any existing wells, hydrologic features, or geologic features located within ½ mile of the proposed well site.

In addition, if the proposed well is to be completed in the Gulf Coast Aquifer, the regional clay thickness used by the USGS in the development of the Houston Area Groundwater Model (HAGM) shall be used to estimate the clay thickness and clay percentage of the proposed well site.

### 2.2 PROPOSED WELL CONSTRUCTION DIAGRAM

A diagram of well completion details must be included that shows, at a minimum, the well depth, borehole and casing diameter, depth interval of well screen, and gravel pack design.

### 2.3 SIMULATION OF PROPOSED PUMPING

The report shall include the results of a simulation using the Groundwater Availability Model for the area that adds the proposed well to the then most recent model run that was used to establish the desired future condition. Results of the simulation must include:

- A drawdown hydrograph of the cell or cells in which pumping is proposed, including a comparison with the desired future condition drawdown of the subject cell or cells
- A time series graph that compares maximum subsidence under the DFC condition and the maximum subsidence with the additional proposed pumping in the immediate area of the pumping.
- A county-aquifer level water budget that includes a comparison with the water budget of the

desired future condition simulation.

- Maps of drawdown and maximum subsidence