



**NOTICE OF MEETING and PUBLIC HEARING of the
BARTON SPRINGS EDWARDS AQUIFER CONSERVATION DISTRICT
BOARD OF DIRECTORS**

Thursday, November 7, 2024

5:00 PM

IN-PERSON

Notice is given that a **Regular Meeting and Public Hearing** of the Board of Directors (Board) of the Barton Springs/Edwards Aquifer Conservation District will be held on **Thursday, November 7, 2024** commencing at **5:00 p.m.** at the **District office, located at 1124 Regal Row, Austin, Texas.**

This meeting will be audio recorded and the recording will be available on the District’s website after the meeting.

Public Comments at the Board Meeting – Please complete a comment card prior to the start of the meeting. Each registered person will be recognized and identified by the Presiding Officer or staff moderating the communications when it is their turn to speak. **Public comment is limited to 3 minutes per person.**

AGENDA

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to meet in Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donati), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

- 1. Call to Order.**
- 2. Citizen Communications (Public Comments of a General Nature).**
- 3. Consent Agenda.** *(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)*
 - a. Approval of Financial Reports under the Public Funds Investment Act, Directors’ Compensation Claims, Specified Expenditures greater than \$5,000.
 - b. Approval of minutes of the Board’s October 10, 2024, Regular Meeting.
- 4. General Manager’s Report. Discussion and Possible Action.**

Topics:

- a. Review of key team activities/projects.
 - i. Trinity Sustainable Yield Study
 - ii. Administrative Group – annual audit update
 - iii. Annual report obligations
- b. Ruby Ranch WSC, Order Granting Variance update
- c. Aquifer status update.
- d. Upcoming events of possible interest.

5. GM Quarterly Update on FY 24 Annual Goals

6. Public Hearing on amending Rule 3-7.8. – Imposition of Regulatory Fees

7. Discussion and Possible Action.

- a. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.
- b. Discussion and possible action on proposed amendments to the District’s enforcement plan.
- c. Discussion and possible action related to amending the District’s FY 25 Fee Schedule.
- d. Discussion and possible action on Rule 3-7.8 – Imposition of Regulatory Fees, including consideration and adoption of amendment(s) to the rule.
- e. Discussion and possible action on GM goals for FY 25.
- f. Discussion and possible action on a draft, new-Board Member, Onboarding Information outline.

8. Director Reports.

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

9. Adjournment.

Please note: This agenda and available related documentation, if any, have been posted on the District website, www.bseacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you. The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

Consent Agenda

- a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, Specified Expenditures greater than \$5,000.
- b. Approval of minutes of the Board's October 10, 2024, Regular Meeting.

Item 4

General Manager's Report Discussion and Possible Action Topics

Topics

- a. Review of key team activities/projects.
 - i. Trinity Sustainable Yield Study
 - ii. Administrative Group – annual audit update
 - iii. Annual Report Obligations
- b. Ruby Ranch WSC, Order Granting Variance update
- c. Aquifer status update.
- d. Upcoming events of possible interest.

Summary of Team Activities in November 2024

Aquifer Science Team

October activities

- Needmore evaluation memo
- Magellan sampling memo
- TAS Phase II model regridding
- TSY coordination and planning.
- Abandoned well risk assessment: Completed research and model selection
- District drought analysis: Exploratory analysis of Barton Springs discharge data and water level data for Lovelady, Buda, and San Leanna monitoring wells

On Deck:

- Sierra West aquifer test
- Barton Springs manual flow measurements
- COA & USGS sampling cooperation prep
- Neighborhood site visits
- TAS modeling Phase II cont.
- Annual HCP preparations
- Abandoned well risk assessment: Indicator selection and statistical correlation analysis; evaluate assessment scoring schemes
- District drought analysis: District history infographic

Administration Team

- Annual permit fees and production fees went out to all permittees in our new QuickBooks.
- Policies continue to be evaluated and improved upon.

Regulatory Compliance Team

September Activities:

- Staff continue to process new applications and assist permittees with drought compliance.
- Staff continues to work on ensuring compliance with all Agreed Orders.
- Staff working with other teams to complete draft of the District's annual report.
- Staff will continue coordinating with driller and AS to coordinate aquifer testing of Sierra West #2.
- Staff continuing to work with LRE on completion of the database development.

On Deck:

- Staff will continue working with the aquifer science team to work through aquifer testing tier guidelines.
- Staff will develop presentation for future Whiskey Ridge production permit application discussion with the Board.

Communications and Outreach Team

September Activities:

- Prepared Stage III communications for social media, website, press release, newsletter, and more.
- Implemented board edits for drought chart update and prepared to present at next board meeting.
- Got District logo applied to the new Subaru.
- Coordinated educational program between District, Colorado River Alliance, and Creedmoor Elementary.
- Coordinated Neighborhood Well Visits for November and designed print materials for well owners.

On Deck:

- Barton Springs University on October 22
- Creedmoor Elementary educational program on November 8
- Social media partnership launch with Texas Runs on Water
- Neighborhood Well Visits begin November 12

Status Report Update November 7, 2024 Board Meeting

Summary of Significant Activities – Prepared by Staff Leads

Upcoming Dates of Interest

- National Groundwater Association, Groundwater Week – December 10-12, Las Vegas, NV
- Texas Water Development Board Water for Texas Conference – January 27-29, Austin, TX

DROUGHT MANAGEMENT

Drought Status and Water-Level Monitoring (*Justin*)

The District declared Stage III Critical Drought on October 3. This is a result of the [Lovelady monitor well's](#) 10-day groundwater level reaching below the District's Stage III threshold of 462.7 feet mean sea level (ft-msl) on Oct. 1.

October, traditionally our second wettest month with an average rainfall exceeding 4 inches, has yielded minimal measurable precipitation across the Hill Country, recording only 0.02 inches. This persistent dry, summer-like weather pattern throughout much of the month has led to both the hottest October day on record, reaching 101°F, and the hottest October overall, according to Austin meteorologists. From January to October, we accumulated an average of 27.6 inches of rainfall, marking a 3.2 inch deficit from the annual average for this time frame.

As of October 31, the 10-day average flow at Barton Springs is reported to be at or below 20 cubic feet per second (cfs). Although recent pool maintenance and spillway operations have influenced pool levels, which can impact the accuracy of the USGS real-time gauge, manual measurements have been used to verify the spring flow. The most recent manual measurement, taken on October 23, recorded a flow of 17.2 cfs. The next measurement is scheduled for November 14.

As of October 31, the 10-day average water level at the Lovelady monitor well is 460.6 feet above mean sea level (ft-msl), within the District's Stage 3 threshold. As a result, the District officially declared Stage 3 Drought status on October 3, and this will take effect on November 1.

The Upper and Middle Trinity Aquifers have also exhibited a sustained and progressive decline in water levels.

Jacob's Well Spring (JWS) has reported 0.00 cfs since September 20. The Blanco River gauge at Wimberley consistently reported between 3 and 4 cfs since late September. saw an increase in flow to about 57 cfs in early September, but it has since stabilized at levels between 3 and 4 cfs.

DISTRICT PROJECTS

GMA Joint Planning

➤ ***GMA 10 Coordination (Tim, Bri)***

The next GMA 10 meeting is scheduled for December 9 to review and discuss District management plans. All meetings are hosted by the Edwards Aquifer Authority in San Antonio.

Trinity Aquifer Sustainable Yield Study & Planning

➤ ***Policy Concepts and Advisory Workgroup Planning (Tim, Jeff)***

LRE Water has all but finished the well-impact analysis (WIA) project and a results discussion/meeting is scheduled for November 5th.

Technical Evaluations (Jeff)

Aquifer Science staff continue to collect data on the geology and hydrogeology related to the Trinity Aquifers. We are continuing to collect and evaluate water level data from our network of Trinity monitoring wells. Telemetry equipment was installed in the newly drilled Garrison dedicated monitoring well, and real-time water level and water quality data is now available on the District website.

In September aquifer science staff have began a hydrogeologic characterization study of an important water bearing unit in the upper section of the Lower Glen Rose formation called the upper reef. This unit is increasingly being targeted for production by domestic users in the District. Insights from the study will increase our understanding of groundwater flow and storage in the Middle Trinity Aquifer and can be used in inform the District's modeling efforts.

Habitat Conservation Plan (Staff)

- **FY 2024 HCP Report:** Staff have commenced preparations for meetings, presentations and the delivery of a final report to the Fish and Wildlife Service, scheduled for late February 2025.
- **Planning for Technical Tasks:** In Fall 2024 Aquifer Science staff will collaborate with COA and USGS staff on a water chemistry and isotope study of the Edwards Aquifer which involves collecting groundwater samples from the new Barton Springs Multiport Well. The study will improve our understanding of the localized Barton Springs flow system and guide potential strategies to protect the endangered salamanders.
- In August the new Garrison Park dedicated monitoring well was instrumented with a telemetered water quality monitoring system which will provide real-time measurements of pH, Dissolved Oxygen, and Conductivity. This system will provide a valuable dataset for understanding how key water quality parameters deeper in the Edwards Aquifer vary over time in response to changing aquifer conditions. While similar datasets exist at the spring outlets, this will be the first time this type of data has been collected deeper in the aquifer. These data will be an important addition to our HCP-related data collection efforts.

Database Management System – LRE Water (*Jacob, Tim*)

The project is a little behind schedule but not in a worrisome way as there has been good progress in some aspects of the work. Staff is working towards scheduling two check-in meetings with our consultant, LRE Water, during November. A searchable image gallery has been deployed with a similar gallery for documents coming soon. The public facing map will be ready to be used after some internal discussion on how to integrate this feature into the website. The ability to track permit amendments and conversions is being developed while also transferring over ownership history and administrative records from the old system. Incorporating water quality and water level data is also currently being developed.

District Drought Temporal Analysis -- (Bri)

This project aims to provide a comprehensive dataset of factors that may contribute to drought triggers, with the anticipation of conducting a multivariate analysis to gain insight into conditions that are actively contributing to District drought. Another goal for this project is to compile the District's history, including drought patterns, into an infographic that can be made available to the public.

Most of the data required for the multivariate analysis needed to be sourced from the Aquifer Science folder directory or external databases such as that provided by the USGS, TexMesonet, etc. This proved to be a significant challenge due to the decentralized and inconsistent nature of the data within the Aquifer Science folder directory and the need to clean and organize data from multiple sources. Given these challenges and the time-consuming nature of data cleaning, I decided to pause much of the data collection until the District's database management system is updated to allow for more efficient exploration of District data.

To maintain progress on this work, weather station data and the District's history are being compiled. Available water level data is being analyzed to construct the District's drought record.

Abandoned Well Vulnerability Assessment -- (Bri)

As part of the Habitat Conservation Plan (HCP), the District has committed to establishing a reserve fund specifically designated for supporting an abandoned well program. Abandoned wells pose a significant risk of groundwater contamination. The primary objective of this project is to develop an index for assessing abandoned well vulnerability, identifying the most critical factors to consider in the District's efforts to protect our aquifer systems. This index will serve as a tool for prioritizing well plugging activities, including the identification of abandoned well owners most in need of financial assistance.

The index is now in the process of development. This began through the creation of an index and assessment inventory of scholarly work that focused on process-based, index-based, or statistic-based assessment tools – and included a list of the indicators used within each model. Initial indicators have been delineated from this inventory and chosen based on relevance to the District and surrounding community. Data will be collected for each indicator, and a statistical correlation analysis will be used to identify the indicators most useful to the District's index model. Based on the selected indicators, three themes have been identified for the index: 1) well integrity, 2) aquifer vulnerability, and 3) social vulnerability.

ILA Commitments (*Staff*)

The District has an ILA with COA to coordinate studies for the respective HCPs such as scientific feasibility studies and monitoring evaluations; to collaborate on the planning of future Kent Butler Summits; and to

exchange technical information regularly on an annual basis. An annual technical meeting is held between the District and COA in December each year to discuss each organization's activities related to their respective HCPs. The next meeting will be held in December 2024.

Region K Planning Activities (*Tim*)

A Region K planning meeting took place on October 16th. The Consultants are working towards finalizing water management strategies. There is an unmet need in Hays Co. that presently cannot be solved given the scarcity of groundwater and unavailability of surface water.

A new Unique Stream Segments Committee was formed and a Chair designated. It is anticipated that this committee will only need to meet once.

Chapters 1 and 2 of the new Region K Plan are available for review and public comment.

Major water provider designation was updated and now includes only two WUGs in Region K: City of Austin and the LCRA.

The next meeting is scheduled for December 6, 2024 followed by February 12, 2025.

New Maps, Publications, or Reports

A list of recent publications, including our new 2023 Drought Synoptic Study report, can be found at: <https://bseacd.org/scientific-reports/>

RULEMAKING, PERMITTING, AND ENFORCEMENT *(Tim, Erin, Jacob, District Counsel, Rules and Enforcement Committee)*

Rulemaking and Enforcement

The Rules and Enforcement Committee recommendations related to drought enforcement to the Board will be on the agenda for the November 7 meeting for discussion and possible action.

Drought (Erin)

- Will continue working with permittees to ensure compliance per their Agreed Orders.
- Will continue monthly pumpage analysis to determine all permittee’s compliance status of drought curtailments.
- Will continue to assist permittees in ensuring they successfully comply with their UDCPs and Stage II drought curtailments for October and transition into Stage III restrictions for November.

Enforcement and Compliance Matters (Erin)

Compliance/Enforcement			
Permittee or Entity Name	Aquifer	Use Type	Notes
Aqua Texas – Bear Creek Park	Edwards	PWS	Agreed Order Executed.
Aqua Texas – Bliss Spillar (Edwards)	Edwards	PWS	Agreed Order Executed.
Creedmoor-MAHA	Edwards	PWS	Agreed Order Executed.
Monarch Utilities, Inc.	Edwards	PWS	Agreed Order Executed.
Tindol Restaurant Group, LLC	Middle Trinity	Commercial	Agreed Order Executed.
Aqua Texas – Sierra West	Middle Trinity	PWS	Agreed Order Executed.
Seiders, Roy	Middle Trinity	Irrigation	Agreed Order Executed.
Ruby Ranch Water Supply Corporation	Edwards	PWS	Agreed Order Executed; working to fulfill the final technical requirements.

Permitting Activity (Erin, Jacob)

Upcoming					
Precinct	Application Type	Aquifer	Applicant Name	Use Type	Volume Request (GPY)
1 - Pickens	Plugging (2)	Edwards	Liberty Civil Construction	Abandoned	0 - Plugging
1 - Pickens	Volume Increase	Middle Trinity	Tindol Restaurant Group	Commercial	2.5 million?
2- Stansberry	Production (Conditional Class A)	Edwards	TBD – Consultant is Atlas Design	Commercial	TBD

2 – Stansberry	WDA/Production	Middle Trinity	Bryan Boyd is consultant	Commercial – Medical Clinic	TBD
4 – Williams	Exempt	Edwards	Eddings, Colin	Domestic	7 GPM
2- Stansberry	Production (Conditional Class C)	Edwards	Grove Place	Commercial	TBD
<i>In Review</i>					
<i>Precinct</i>	<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request (GPY)</i>
1 - Pickens	Plugging	Upper Trinity	Pena, Estrella	Domestic/Replacement	0 - Plugging
1 - Pickens	LPP	Upper Trinity	Pena, Estrella	Domestic	500,000
5 – Puig-Williams	Combo Drill/Production	Edwards	Prominence Midtown, LP	Irrigation	TBD
1 – Pickens	Combo Drill/Production	Middle Trinity	Far South Mining, LLC	Industrial	1,999,999
<i>Recently Approved and/or Admin Complete</i>					
<i>Precinct</i>	<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request (GPY)</i>
2 - Stansberry	Plugging	Edwards	Waterloo Development	Abandon	0 - Plugging
1 - Pickens	Production	Middle Trinity	Driftwood Water Conservation LLC (Whiskey Ridge)	Commercial	7,931,000
1 – Pickens	Exempt	Middle Trinity	Ramsey, Tim	Domestic/Livestock	7 GPM - Exempt

AQUIFER STUDIES

(Jeff, Justin, and Tim)

Permitting Hydrogeologic Studies:

AS staff continues to work with Regulatory Compliance on permitting issues as they arise, including provided geologic interpretation of geophysical logs prior to final well completion to ensure that new wells are completed accurately within the target water-bearing interval. In October 2024, AS staff continued to coordinate with the Regulatory Compliance team to plan for the Sierra West PWS Aquifer Test, which is planned to begin in Mid-November.

Groundwater Studies: *Dye Tracing, Water Quality, Aquifer Characterizations*

- AS staff assisted staff from the USGS and CoA WPD in developing a proposal for sampling the new Barton Springs multiport well for different water quality parameters. The project will be jointly funded by the USGS and City of Austin, with an in-kind contribution of staff time from BSEACD AS staff for field work. Sampling will begin in the fall.
- Texas Water Development Board (TWDB) sampling – collecting water level, water quality and chemistry from select wells with funding provided by TWDB.
- Magellan Pipeline annual sampling (TPH & BTEX)
- Aquifer Test plans – evaluating submitted plans, designing monitor well networks, and data collection for analysis

Field Activities:

- Cooperating with USGS and City of Austin staff to confirm accurate real-time gauge reporting at Barton Springs and Lovelady. Conducting bi-weekly to monthly field measurements.
- Cooperating with USGS staff to confirm accurate real-time gauge reporting at Jacob’s Well and the Blanco River at Wimberley.
- Calibrating telemetry monitoring equipment at the Needmore index well (Amos) and reviewing pumping and water-level data as drought worsens.
- Antioch- Continuing to maintain the system and to collect data on flow into the vault (when there is flow). A recent visit to Antioch Cave to assess operating components and electronics indicated the need to recondition most electrical systems.
- Well monitoring- Because of drought, staff are increasing the amount of time maintaining equipment in numerous monitor wells and downloading and interpreting data; and occasionally checking on wells that have been reported as “dry”.

Trinity Aquifer Modeling Development:

Aquifer science staff are actively working to advance Phase II of development of the Trinity Aquifer Sustainability model. In October 2024, the first task of Phase II-a regriding of the TAS model domain, began in earnest. The work will be performed by Envision Water (consultant) with direct supervision and input from Aquifer Science staff to ensure the finished product meets the District modeling objectives. The regriding task is scheduled for completion by January 2025.

COMMUNICATIONS AND OUTREACH

(Shay)

There is no report this month.

ADMINISTRATION

(Tim, Hannah, and Tina Cooper/AAG)

The District's chart of accounts has been successfully reorganized and monthly reports for the Board reflect that accomplishment. Work is ongoing to make increased use of certain QuickBooks functions for improved tracking of different funds that do not exist in separate physical accounts.

Work with the District's new auditor, P. Andrew Hall, LLC has gotten underway for the FY 24 audit. Considerable progress is expected in November.

The Administration Team typically has repetitive monthly tasks e.g. monthly bank reconciliations, monthly adjusting journal entries, accounts payable, payroll, contract/grant/project tracking, office maintenance and repairs, budget monitoring, bi-weekly payroll journal updates, directors' compensation, pre-pays, DMFs, posting public meetings, preparing meeting backups, etc. These types of tasks are not listed in this report because they are repetitive. Administration status reports are generally more summarized than the other teams, as we list our extra-ordinary tasks outside of our routine tasks, while supporting all other teams.

Item 5

GM Quarterly Update on FY 24 Annual Goals

Item 6

Public Hearing

Public Hearing on amending Rule 3-7.8. – Imposition of Regulatory Fees

Item 7

Board Discussion and Possible Action

- a. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Item 7

Board Discussion and Possible Action

- b. Discussion and possible action on proposed amendments to the District's enforcement plan.

BS/EACD Enforcement Plan

(Adopted by the Board on 6-25-09, 08-12-21)

The purpose of this enforcement plan is to establish a structure with procedures and guidelines within which the District General Manager (GM) will make decisions relative to the initiation, pursuit, and resolution of enforcement efforts in response to violations of the Barton Springs - Edwards Aquifer Conservation District (District) Rules and Bylaws. The plan is not binding upon the District Board of Directors when acting as the final decision makers in contested cases. The Board of Directors is only bound by the limitations imposed by the District Rules and Bylaws; State statutes, specifically including Chapter 36 of the Texas Water Code; and the District's enabling legislation, Chapter 8802 Texas Special Districts Local Law Code.

1.0 Enforcement Policy

This plan shall constitute the general policy and procedures of the District in all matters relating to compliance, enforcement, and litigation. This plan does not restrict the District from taking any other actions ordered by the Board of Directors, nor does this plan create any procedural rights for any person inside or outside the District's jurisdiction. It is the policy of the District to file suit to enforce its rules only as a last resort.

2.0 Rule References

The Enforcement Plan conforms to the District Rules and Bylaws currently in effect. It will be modified, if and as necessary, to conform to future rules changes approved by the Board.

3.0 General Enforcement Procedures

District enforcement efforts shall be conducted in accordance with the procedures described below. These procedures will be used during the period before litigation is initiated, unless there is a nearly certain and imminent danger to public health or the environment. **Figure 1** depicts the general enforcement procedures in a process flowchart form. **Figure 2** depicts the enforcement procedures for annual overpumpage in a process flowchart form. The enforcement protocol for violations of drought management rules and for violations of the over pumpage rules, which are consistent with these procedures, are elaborated in the Appendix A and B to this Plan.

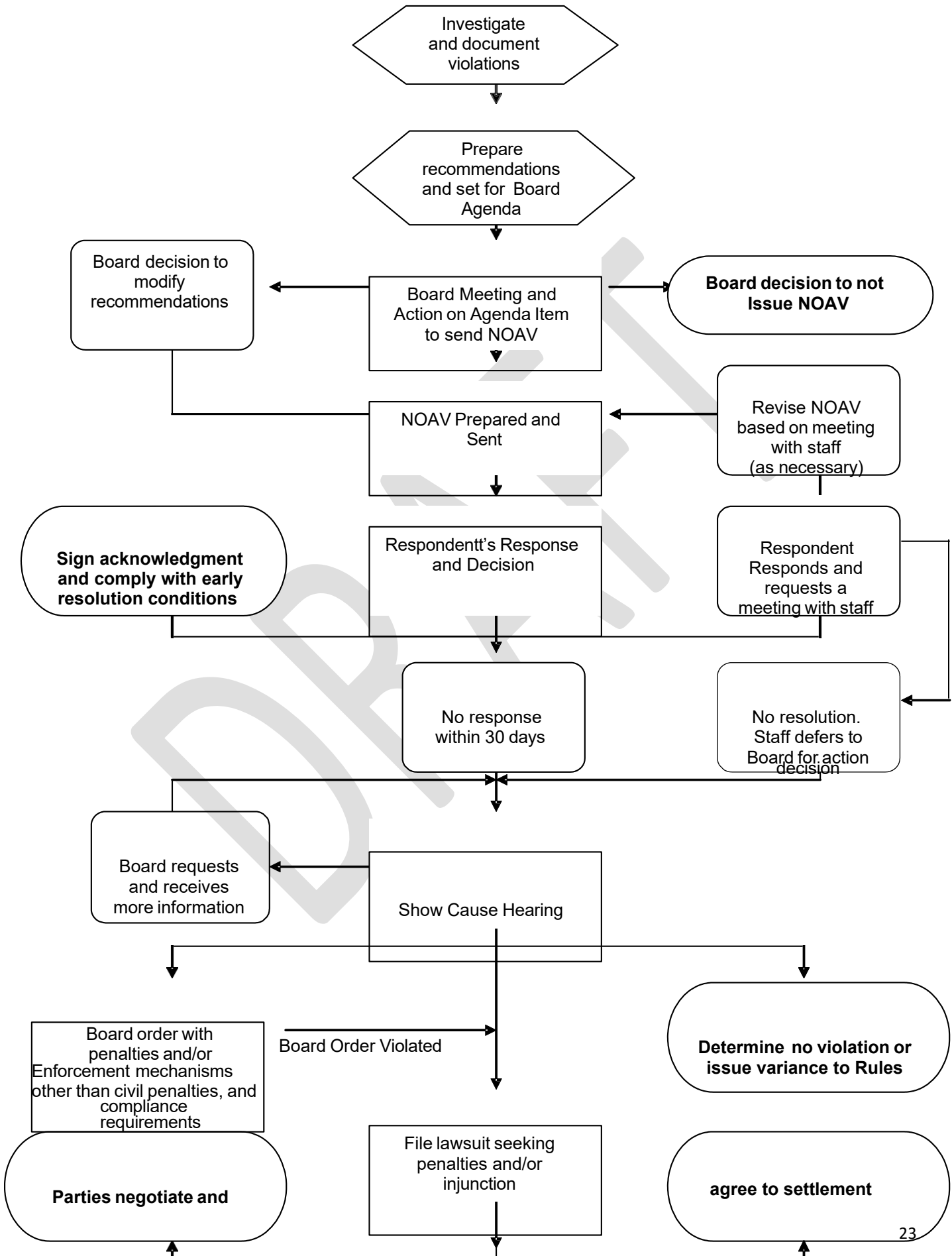
3.1 Complaint Received/Violation Discovered

If a complaint is received or an alleged violation is reported, staff shall obtain sufficient preliminary information to determine if further investigation is necessary:

- Does the District have jurisdiction over the matter?
- Is there enough reliable information to proceed with an investigation?

Once this is determined, staff may proceed with an investigation. Investigations may also be initiated if staff discovers a violation that satisfies these criteria.

Figure 1 - General Enforcement Process



Lawsuit goes
to
hearing
at Civil
Co urt

DRAFT

3.1 Staff Pre-Enforcement Communication:

If a complaint is received or an alleged violation is reported that is within the District's jurisdiction, staff shall contact the permittee or well owner via email, phone call or letter to collect more information about the incident or alleged violation and/or inform them via courtesy notice they could be facing a violation if the matter is not resolved promptly. Staff may proceed with an alert letter or pre-enforcement meetings.

3.2 Conduct of Investigation

If staff determines there is sufficient reliable information, staff may determine to proceed with a full investigation in accordance with District Rule 3-8.3. The investigation shall provide a written report with all of the pertinent findings and information to include:

- Basic Information (i.e. Respondent/Permittees name, contact information, well location if applicable, etc.);
- Investigation Summary;
- Alleged Violations;
- Chronology of Pertinent Events; and
- Pertinent Documentation.

Upon completion of the investigation report, the GM shall determine if sufficient information exists to support Board discussion and possible action related to the issuance of a Notice of Alleged Violation (NOAV).

3.3 Board Action

Should the GM make this determination, the matter will be set on the Board's regular meeting agenda for possible Board action. Staff shall prepare the appropriate materials to be provided with the backup for the next available board meeting to include the investigation report and staff's recommendations. Staff recommendations should include:

- recommended action (i.e. issuance of NOAV);
- indicated penalties for each alleged violation;
- possible enforcement mechanisms other than civil penalties and/or compliance requirements; and
- prospective early resolution conditions.

Penalties recommended by the staff shall be determined in accordance with Section 4 *Violations and Penalty Assessment Guidelines* and include a discussion of the factors used to determine what amount within the specified penalty range was chosen. Early resolution conditions shall be included to provide an option and an incentive for immediate resolution and compliance, before litigation. The GM will generally recommend a reduced penalty associated with an early resolution incentive based on penalty adjustments outlined in Section 4.3.

If the Board determines that the violations are not substantiated and that an NOAV should not be prepared and sent, the case will then either be investigated further or considered closed, at the

Board's direction. Otherwise, staff will prepare an NOAV incorporating the staff recommendations or modify the allegations and conditions in accordance with the instructions provided by the Board.

3.4 Notice of Alleged Violation and Notice of Violation

3.4.1 Notice of Alleged Violation – for General Violations, Drought Management Violations and Enforcement

Staff will send an NOAV with the Board-approved allegations, penalties, and conditions and a 30-day response time. The NOAV shall also offer an early resolution incentive that shall include an acknowledgment of the violations to be signed by the Respondent, a reduced penalty amount, and a commitment to all necessary compliance requirements. The option for early resolution shall only be available if the acknowledgment is signed and the penalties are paid within the 30-day response time.

Upon receipt of the NOAV, the Respondent has the option to accept the conditions of the early resolution offer and resolve the case or to contact staff and arrange a meeting for the purpose of discussing the alleged violations. If a meeting is scheduled, staff may modify the original NOAV as necessary based on the discussions or may defer to a public hearing for a Board decision on the matter. If no response is received within the response time, the case will default to a public hearing for a Board decision on the matter. Pursuant to Rule 3-8.2, the public hearing (Show Cause Hearing) is a hearing where the Respondent will be cited to appear before the Board to show cause why an enforcement action should not be initiated.

3.4.2 Notice of Violation – for Overpumpage Violations and Enforcement

At the end of each fiscal year, the District will determine which permittees overpumped their annual authorized permitted volume. After the District reviews monthly production reports to determine when actual production volume exceeds annual authorized volume, the General Manager shall determine whether a Notice of Violation (NOV) is warranted based on the enforcement criteria outlined in Section 4.2 and the overpumpage enforcement calculation (Appendix A, Section 2.5) The NOV documents the permit violation for over pumping, the amount over pumped, and the amount of daily penalties that may be assessed for each day of over pumping as determined using the penalty methodology (Appendix A, Section 2.6).

3.5 Show Cause Hearing

A Show Cause Hearing may be conducted 1) for all cases not resolved after the issuance of an NOAV, and 2) for all cases where no response to the NOAV was received before the expiration of the response timeframe. At the hearing, staff shall provide the investigation report, pertinent documentation, and testimony to the Board to substantiate the alleged violations. A Show Cause Hearing will follow the contested hearing rules, including notice requirements, under Bylaw 4-9. The Respondent will also have an opportunity to participate and present evidence to show cause to the Board why an enforcement action should not be initiated. The enforcement action(s) by the Board that may result from a show-cause hearing include both seeking of civil penalties to be assessed by a court and/or authorizing other enforcement mechanisms for permittees including written warnings, reprimands, suspension, or revocation of a permit.

If a Variance is sought by the Respondent, the Respondent must request the Variance in advance of hearing and also satisfy all of the specified criteria in accordance with Rule 3-1.25 or 3-7.9 to obtain a Variance.

On the basis of evidence presented at the hearing, the Board may: 1) dismiss the NOAV because it determines that no violations have occurred; 2) grant a Variance to the District rules; 3) issue an order that amends, revokes, suspends, or otherwise modifies the permit; or 4) file a lawsuit seeking civil penalties and injunction; or 5) request additional information and reconsider the additional information once received at a subsequent Show Cause Hearing at a later date.

3.6 Board Order/Civil Suit

If the Board determines that an enforcement action should be initiated, a Board Order will be issued that outlines the findings and either initiates a lawsuit or specifies the appropriate penalties, compliance requirements, and/or enforcement mechanisms other than civil penalties resulting from the Show Cause Hearing. In the latter instance, if the Board Order is violated, the District will send a Notice of Intent to Sue to initiate legal proceedings against the Respondent in District Court. The lawsuit will generally seek civil penalties, court costs, attorney's fees, and/or injunctive relief. Once a lawsuit is initiated, the parties may at that point negotiate a settlement. If a settlement is not negotiated, the lawsuit will go forward in civil court.

4.0 Violations and Penalty Assessment Guidelines

The District may pursue enforcement penalties in addition to other District compliance efforts and options. Pursuant to Section 3-8.9 of the District's Rules, the District may assess penalties for each act of violation and for each day of violation, and each day a violation continues may be considered a separate, specific violation. Multiple violations of District Rules may result in the assessment of multiple penalties. In determining the amount of a civil penalty to be assessed within the ranges presented, the District will consider the factors in Section 4.2. Pursuit of a penalty outside of the penalty matrix may be permitted only with the express approval of the Board when circumstances warrant a departure from these Guidelines. Penalties assessed under these Guidelines may be waived or reduced by the District Board, based on factors outlined in Section 4.2.

4.1 Violations by Type and Penalty Ranges

The violations and associated ranges of penalties in the subsections below, including the tiers of non-compliance with drought provisions shown in Appendix B for targeting enforcement activities.

4.1.1 General Violations: Violations of District Rules not covered by other penalty categories, including but not limited to the following specific Rules:

- § 3-1.1: failure to register wells;
- § 3-1.11.A.5,
3-1.15,: failure to timely report or failure to report accurate pumpage reports and water-quality reports for non-exempt wells;
- § 3-1.11.A.6: failure to provide access to well site during normal business hours or emergencies, or the failure to cooperate fully in any reasonable inspection of the well site or in any well monitoring or sampling by the District;
- § 3-1.16(C): non-payment of fees following past due notice by District;
- § 3-5.1: failure to register abandoned, open or uncovered well; and
- § 3-6.7: failure to prepare, adopt or implement a user conservation plan.

Penalty Range: \$50-\$250 per violation per day

4.1.2 Well Violations: Violations of District Rules relating to the drilling and operation of wells, including but not limited to the following specific Rules:

- §§ 3-1.2,
3-1.4, 3-4.1: constructing a well, drilling a well, modifying a well, completing a well, changing type of well use, performing dye tracing operations on a well, plugging a well, abandoning a well or altering well size without District authorization or advance notice;
- § 3-1.3: pumping from or operation of non-exempt wells without a permit;
- § 3-2.1: failure to employ water meter where required;
- § 3-4.4: failure to drill or complete a well in accordance with State well construction standards, District Rules, and/or District Well Construction Standards
- § 3-4.5: installation of pump and /or equipment on wells not registered with the District; and
- § 3-5.3: failure to plug or cap abandoned, open or uncovered wells in accordance with District Rules and Well Construction Standards; and
- § 3-8.9 failure to pay water production fees.

Penalty Range: \$250-\$500 per violation per day

4.1.3 Falsification/Tampering Violations: Violations of District Rules relating to the falsification of information provided to the District regarding pumping from and monitoring of the groundwater, including but not limited to the following specific Rules:

- § 3-1.11.A.7 falsifying information in application for well registration, permits, or well drilling or modification authorization;
- § 3-2.4: false reporting or logging of meter reading, intentionally tampering with or disabling a meter, or similar actions to avoid accurate reporting of groundwater use and pumpage; and,
- § 3-2.5: tampering with, altering, damaging, or removing a water meter seal or tag.

Penalty Range: \$500 – \$1,000 per violation per day

4.1.4 Waste/Pollution Violations: Violations of District Rules relating to the sealing of abandoned, open or uncovered wells, the wasteful use of groundwater, and the pollution of the groundwater, including but not limited to the following specific Rules:

- § 3-3.1,
3-3.2, 3-3.5: producing or using groundwater in such a manner or under such conditions as to constitute waste;
- § 3-3.3: causing or allowing the introduction of saline-water pollutants or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a well;
- § 3-3.4: causing or allowing pollutants to enter the groundwater reservoir through recharge features, whether natural or manmade; and,
- § 3-5: failure to properly plug or cap an abandoned, open, or uncovered well allowing pollutants to enter the groundwater reservoir through an improperly sealed or capped well.

Penalty Range: \$500 - \$1,000 per violation per day

4.1.5 Overpumpage Violations:

Violations of District Rules relating to exceeding the annual production volume amounts, specific to Rule:

§ 3-8.5, 3-8.8: exceeds the volume amount authorized to be withdrawn in accordance with the Production Permit issued by the District based on permittee's meter readings.

Penalty Range: \$50 - \$1,000 per violation per day as provided in table below

Table 1

TIER 1		Daily Penalties for percent pumped in excess of permitted volume					
		<10%	≥10% and <25%	≥25% and <50%	≥50% and <100%	≥100% and <150%	≥150%
Annual Permitted Amount in million gallons per year (mgy)	< 4 mgy	\$50	\$55	\$60	\$65	\$70	\$80
	≥4 and <8 mgy	\$55	\$60	\$65	\$70	\$75	\$90
	≥8 and <12 mgy	\$60	\$65	\$70	\$75	\$80	\$100

TIER 2		Daily Penalties for percent pumped in excess of permitted volume				
		<10%	≥10% and <25%	≥25% and <50%	≥50% and <100%	≥100%
Annual Permitted Amount in million gallons per year (mgy)	≥12 and <25 mgy	\$100	\$125	\$150	\$195	\$260
	≥25 and <50 mgy	\$105	\$130	\$155	\$200	\$265
	≥50 and <100 mgy	\$110	\$135	\$160	\$205	\$270
	≥100 and <120 mgy	\$115	\$140	\$165	\$210	\$275

TIER 3		Daily Penalties for percent pumped in excess of permitted volume			
		<10%	≥10% and <25%	≥25% and <50%	≥50%
Annual Permitted Amount	≥120 and <240 mgy	\$200	\$400	\$600	\$900
	≥240 and <360 mgy	\$250	\$450	\$650	\$950
	≥360 mgy	\$300	\$500	\$700	\$1,000

4.1.6 Drought Violations: Penalties for the violations of District Rules **§§3-1.11, 3-1.15, 3-2.4, 3-3, and 3-8.9** will be assessed in accordance with the ranges specified in Sections 4.1.1, 4.1.3, and 4.1.4 during Alarm Stage Drought and at twice that amount during Critical Stage and Exceptional Stage Drought. Violations of District Rules relating to the implementation of user drought contingency measures and other drought related violations, including but not limited to the following specific rules shall be assessed penalties as follows:

§3-7.5: Failure to implement measures of the user drought contingency plan

Penalty Range: \$250 - \$500 per violation per day and at twice the amount during Critical Stage Drought

§3-7.6, 3-7.7: Failure to reduce pumpage during District declared drought in accordance with monthly pumpage limits of the UDCP

Penalty Range: Penalties for violations of 3-7.6 shall be determined on a monthly basis, with each day of the month constituting a new violation. Daily penalties shall be assessed according to the following penalty matrices:

Daily Penalties During Alarm Stage Drought Rule 3-7.6.B(1)			
Permitted Pumpage	Overpumpage Level		
	Level A	Level B	Level C
Tier 1	\$50-\$100	\$100-\$200	\$200-\$400
Tier 2	\$200-\$400	\$400-\$800	\$800-\$1,600
Tier 3	\$800-\$1,600	\$1,600-\$3,200	\$3,200-\$5,000

Daily Penalties During Critical Stage and Exceptional Drought Rule 3-7.6.B(2)			
Permitted Pumpage	Overpumpage Levels		
	Level A	Level B	Level C
Tier 1	\$100-\$200	\$200-\$400	\$400-\$800
Tier 2	\$400-\$800	\$800-\$1,600	\$1,600-\$3,200
Tier 3	\$1,600-\$3,200	\$3,200-\$6,400	\$6,400-\$10,000

Where:

Permitted Pumpage (gallons/year):		% Pumpage over Monthly Limits:	
Tier 1:	< 12,000,000	Level A:	< 25%
Tier 2:	≥ 12,000,000 and < 120,000,000	Level B:	> 25% and < 100%
Tier 3:	≥ 120,000,000	Level C:	> 100%

Permitted Pumpage (gallons/year)	
Tier 1:	< 12,000,000
Tier 2:	≥ 12,000,000 and < 120,000,000
Tier 3:	≥ 120,000,000
%Pumpage over Monthly Limits	
Level A:	≥5% < 25% (Tiers 1 and 2), and ≥2.5% < 25% (Tier 3)
Level B:	≥ 25% and 100%
Level C:	≥ 100%

4.2 Penalty Assessment and Enforcement Criteria

In determining the appropriate level of enforcement and whether a violation is warranted, the District will consider the factors below. Furthermore, in determining the amount of a civil penalty to be assessed within the ranges presented, the District will consider the following factors:

- 1) The severity, seriousness, or magnitude of the violation;
- 2) Whether the violation was willful, intentional, or could have been reasonably anticipated and avoided (i.e., culpability);

DRAFT

- 3) Whether the violator adequately responded and communicated with the District and acted in good faith to avoid or mitigate the violation, or to correct the violation after it became apparent and compensate those affected;
- 4) Whether the violation was during a District declared drought;
- 5) Whether similar violations have been committed in the past (i.e., compliance history);
- 6) Any other matter that justice may require.

The Board may also choose to assess enforcement mechanisms other than civil penalties including permit suspension or revocation, based on the consideration of these factors.

4.3 Penalty Adjustments

Penalties assessed may be waived or reduced by the District Board, following assessment of the following factors:

- Compliance History (maximum 30%)
 - No compliance issues (of a similar nature) or violations (NOAV/NOV) that occurred in the last 5 years (Reasonable compliance record) – reduce penalty by up to 10%
 - No compliance issues (of a similar nature) or violations (NOAV/NOV) that occurred in the last 6-10 years (Satisfactory compliance record) – reduce penalty by up to 20%
 - No compliance issues (of a similar nature) or violations (NOAV/NOV) that occurred in the last 11 or more years (Above-satisfactory compliance record) – reduce penalty by up to 30%
 -
- Culpability (maximum 30%)
 - If the permittee could not have reasonably anticipated or avoided the violation – reduce penalty by up to 30%
- Good Faith Effort to Comply (maximum 40%)
 - Corrective actions are completed immediately after receiving courtesy notices - reduce penalty by up to 40%
 - Corrective actions are completed immediately after pre-enforcement meeting and before an NOAV/NOV is issued – reduce penalty by up to 30%
 - Corrective actions are completed after issuance of the NOAV/NOV but before a Board Agreed Order is issued – reduce penalty by up to 10%

and/or

- Voluntary Resolution Conditions or Projects Approved by Board (reduce by up to 20-100%) including but not limited to:
 - Voluntary on-site compliance assessment or water audit;
 - Voluntary supplemental environmental projects;
 - Voluntary conservation projects; and/or
 - Any other resolution conditions related to the specific violation.

The penalty reduction will depend on the quality and extent of the conditions or project – reduce by 20% to 100%

Calculation – Multiply the original penalty amount by the total percentage of penalty adjustments.

Ex. Permittee 1 had an original penalty of \$ 5,000 but did not have any violations in the last 10 years (20%) and completed corrective actions as soon as receiving a courtesy notice (40%).
 $\$5,000 \times 60\% = \2000

DRAFT

Appendix A

Overpumpage of Annual Production Permit Production and Enforcement Process

1.0 Enforcement Strategy

The District's approach to a permittee's annual production permit exceedance is described here and is consistent with District Rule 3-8.5 and 3-8.8. This procedure describes the appropriate implementation mechanisms, permittee notification efforts, and permittee performance monitoring and assessment requirements. The compliance and enforcement efforts specified below, elaborate on District Rule 3-8.5 and 3-8.8 with a focus on assessment of permittee performance on a monthly and annual basis which is used to identify the level of non-compliance.

2.0 Implementation Mechanisms and Enforcement Procedures

The protocols and procedures for notifications relating to permittee overpumpage are depicted in Figure 2. *Enforcement Procedures and Process for Annual Overpumpage Violations.*

2.1 Meter Readings/Unusual High Monthly Production

Meter readings shall be submitted monthly to the District and recorded by the Administration team into the pumpage database for review. Once reviewed, any unusual high monthly usage will prompt a courtesy email and a courtesy phone call from the staff.

2.2 Alert Notice for 80% of Permit Usage

- Once a permittee's allotted production permit meets or exceeds 80% of the allotted production amount staff shall send the permittee a written notice.
 - This notice will serve as notification to the Permittee that the Permittee has reached 80% of the annual production amount and that the user should be cautious of future pumping that may cause them to exceed their annual authorized production volume.
 - This letter will be the first step of documentation for potential enforcement actions.
- A notice does not have to be sent to a permittee if the permittee does not show a trend of potentially exceeding the total annual authorized production volume by the end of the fiscal year.

2.3 Notice of Offence for 100% of Permit Usage /Notice of Offense

- Notice of Offense letters will only be issued and provided to Permittees if the staff has documented that the permittee has exceeded annual authorized production volume before the end of the fiscal year.

- If the staff determines that a permittee has met or exceeded its total annual production amount prior the end of the fiscal year, the Administration team will notify the Regulatory Compliance team.
- The staff will then send a Notice of Offense letter via certified mail and email to the Permittee.
 - This notice will serve as notification to the permittee that they have met or exceeded their total annual production amount and that the excess production amounts may result in an assessment of overpumpage penalties.
 - This notice will also make it the responsibility of the permittee to correspond with staff to discuss reasons as to why over pumping is occurring and how to monitor the over pumping during remaining fiscal year.

2.4 Determination of Overpumpage Violation by General Manager

- Once the fiscal year has ended, a determination of an occurrence of a violation will be made by the General Manager and will be based on an evaluation of the enforcement assessment criteria in Section 4.2 of this plan. In determining the appropriate level of enforcement and whether or not to issue a NOV, the General Manager will consider the criteria outlined in Section 2.5.

2.5 Criteria for Determining a NOV and Enforcement

In determining an enforcement action, the General Manager will sum the total enforcement points and any permittee with an enforcement calculation total over 11 points will result in the General Manager issuing a NOV and pursuing enforcement. Additionally, the matter will be referred to the Board for action and assessment of penalties.

Enforcement Points	
10	Magnitude of violation: Permittee overpumpage greater than 15%
10	Compliance history: permittee had an overpumpage compliance issue or violation in previous 5 years (2 points for each violation in previous 5 years)
5	Good faith effort: Permittee did not correct and overpumped for more than 90 days and/or did not timely respond to District request
1	Permittee Communication: Permittee did not notify the District of an issue
1	Drought: overpumpage occurred during a District declared drought

2.6 Penalty Methodology:

- Permittees that are issued an NOV will be assessed penalties based on permitted volume and percentage over pumped in accordance with Section 4.1.5. and the matter will be sent to the

Board for action on the penalty amount. These penalties will be assessed in addition to the excess base fee as described in the fee schedule. Permittees that are not issued an NOV will only be assessed excess base fee in accordance with the fee schedule.

- In determining penalty amounts, the District will review monthly production reports to determine when actual production volume exceeds authorized volume. After the District determines that a permittee's actual production for any month, except August, exceeds annual permitted volumes, each day of additional production after the month that permit volume is exceeded is considered overpumpage and a separate violation subject to the penalties in the table 1 and enforcement mechanisms available to the District.

For the month of August, if the permittee exceeds the authorized annual permitted amount to be withdrawn under the Production Permit, based on the August meter reading, the permittee's production for the month of August will be divided by the number of days in August to find a daily average equivalent production volume. The daily equivalent production volume will then be added incrementally to each day in August in order to determine which day in August that production exceeded the authorized permitted volume.

- Once a permittee is found to have exceeded the annual production amount, and be in violation, the permittee will issued an NOV and be notified by certified mail and email of the following:
 - The District has documented a permit violation for over pumping;
 - The amount over pumped; and
 - The amount of daily penalties that may be assessed for each day of over pumping as determined using the tables and methodology above.
- Should the GM issue an NOV, the matter will be set on the Board's regular meeting agenda for possible Board action. Staff shall prepare the appropriate materials to be provided with the backup for the board meeting to include the relevant information and GM's recommendations on any penalty adjustments and/or conditions.

Penalties recommended by the GM shall be determined in accordance with Section 4 *Violations and Penalty Assessment Guidelines*. The GM could recommend a reduced penalty associated based on penalty adjustments outlined in Section 4.3.

- The permittee shall then be sent a 30-day notice to pay the penalties. If the permittee is non-responsive or refuses to pay the GM shall exceed with a show cause hearing as outlined in Section 3.5.

2.7 Site Inspection

If the permittee does not contact the District within the time specified in the District's written request, a site inspection may be required. A site inspection may be required depending on the amount of over pumpage or if the permittee requests a site inspection. Site Inspections are authorized by District personnel under rule 3-8.3.

Example 1. Permittee (A) has an Annual Production amount of 2,000,000 gallons per year. According to the monthly meter reading submitted on May 1st(for April Pumpage) the permittee exceeds its annual production amount during the month of April. From May 1st through August 31st there are a total of 123 days. By Sep 1st the permittee accumulated a total annual overpumpage amount of 1,093,000 gallons over its permitted amount of 2,000,000 gallons. The percentage of annual overpumpage exceedance is 54.65%. Permittee (A) would be assessed penalties in Tier 1, at a penalty rate of \$120/day. Penalty amount = \$14,760. Excess Base Fee = \$185.81.

Example 2. Permittee (F) has an Annual Production amount of 12,875,000 gallons per year. According to the monthly meter reading submitted on Aug 1st (for July pumpage) the permittee had accumulated 11,968,000 gallons produced through July 31st. According to the monthly meter reading submitted on Sep 1st, the permittee used 1,014,000 during the month of August, exceeding its annual production amount by 107,000 for a total annual pumpage of 12,982,000 gallons. In the month of August there are a total of 31 days.

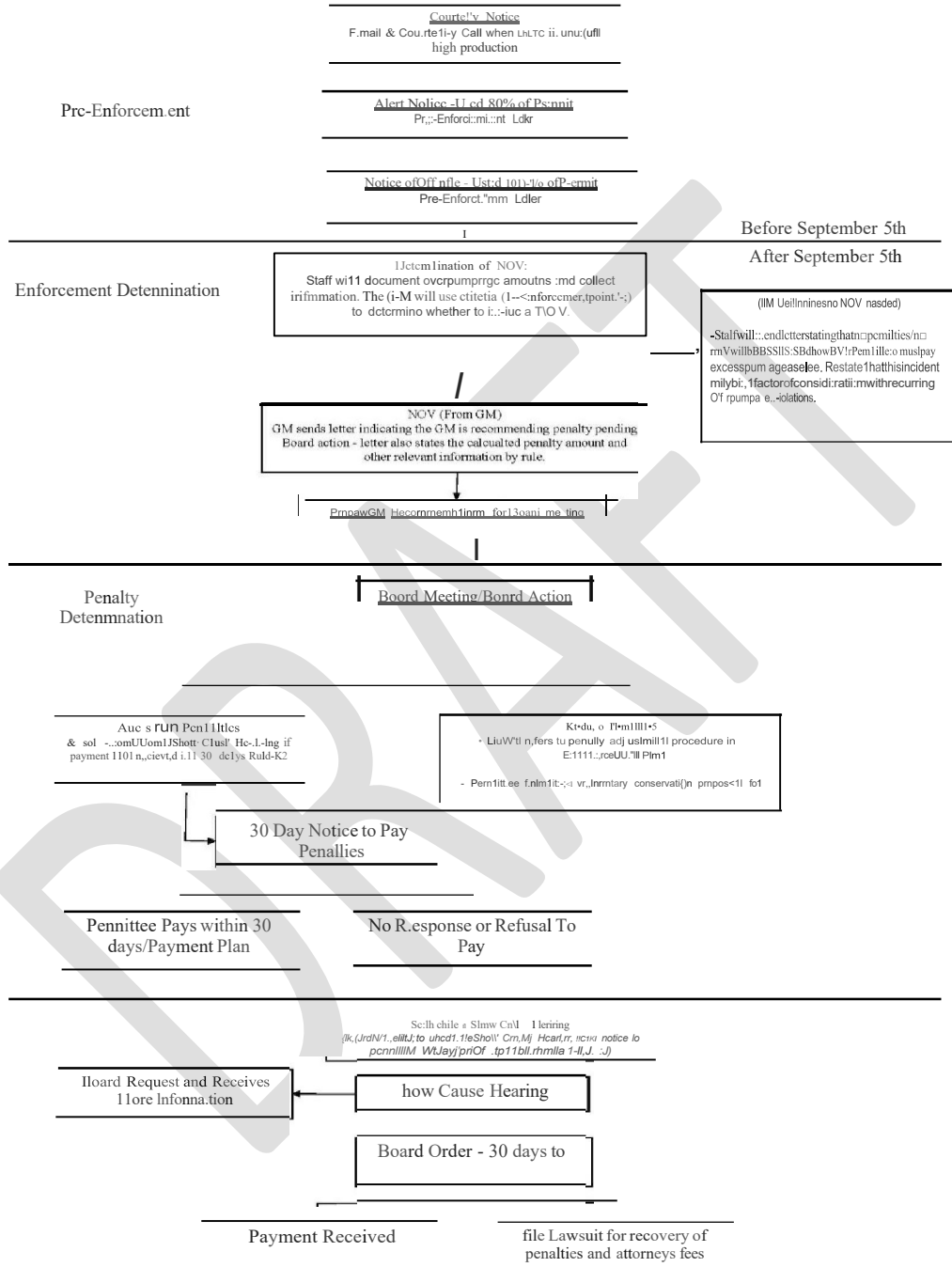
- 1,014,000 gallons produced in August ÷ 31days = 32,709 daily equivalent
 - The Aug 1st beginning production amount is 11,968,000 gals
 - Add the daily equivalent amount to each day of August production until the amount exceeds 12,875,000 gallons*
- *Internal staff calculator

The percentage of annual overpumpage exceedance is 0.83%. Permittee (F) would be assessed penalties in Tier 2, at a penalty rate of \$100/day. Penalty amount = \$300.00 Excess Base Fee = \$18.19

Example - Scenarios for Calculation of Overpumpage Penalties									
Permittee	Annual Permitted Volume	Overpumpage	Over %	Month Exceeded	Penalties begin on	Number Days in Penalty	Tier	Daily Penalty	Penalty Amount
A	2,000,000	1,093,000	54.65%	April	May 1	123	1	\$120.00	\$14,760.00
B	26,000,000	7,500,000	28.85%	January	Feb 1	212	2	\$155.00	\$32,860.00
C	180,000	95,710	53.17%	June	July 1	62	1	\$120.00	\$7,440.00
D	250,000,000	15,000,000	6.00%	July	Aug 1	31	3	\$250.00	\$7,750.00
E	100,000	59,700	59.70%	June	July 1	62	1	\$120.00	\$7,440.00
F	12,875,000	107,000	0.83%	August	*see calculation	3	2	\$100.00	\$300.00

Figure 2

Enforcement Procedure & Process for Annual Over Pumpage Violations



Appendix B

Drought Management and Enforcement Process

1.0 Drought Enforcement Strategy

The District's approach to drought management described here flows from and is consistent with District Rules 3-7 and 3-8. It describes the appropriate implementation mechanisms, public awareness efforts, aquifer and drought monitoring, and permittee performance monitoring and assessment to be used during drought. Compliance and enforcement efforts specified below elaborate District Rule 3-8 and 3-7.10 and center on assessment of permittee performance on a monthly basis to identify the various levels of non-compliance with mandatory pumpage reductions. This monthly assessment will focus the District's early efforts on permittees with the more egregious levels of over-pumpage, on the basis of both the percentage of pumpage over their monthly pumpage limits and the volumes of their permitted pumpage.

2.0 Implementation Mechanisms

2.1 Drought Declaration Notices

The District will declare the commencement of drought by sending written notice to all District permittees when specified aquifer conditions are met in accordance with the approved District drought trigger methodology and after the Board has approved the declaration. The staff will assess the continuation and stage of drought continuously and notify all permittees when a more or less severe drought stage is declared and when the drought no longer exists.

2.2 Public Awareness

Once drought is officially declared by the District, the District may implement measures to provide public awareness including but not limited to:

- Web site updates on aquifer conditions and permittee pumpage performance
- Press releases and guest columns in the local newspapers
- Recurring articles and columns in District newsletter
- Drought and aquifer condition updates provided via e-newsletter to permittees
- Outreach and education by District Communications team.

2.3 Monthly Compliance Evaluations

Monthly evaluations of permittee performance and compliance with monthly drought limits will begin on the 5th of each month.

- Staff will notify permittees who have failed to report meter readings by the monthly reporting deadline that the District will obtain the meter readings at a fee per the Fee Schedule to the permittee. District staff will follow up with meter readings for all delinquent permittees to ensure necessary readings are available to assess drought compliance.
- Should a more or less severe drought stage be declared in the middle of a particular month, the District will evaluate and measure compliance with the less stringent drought stage

requirements for that month that the status change occurred. Compliance with the measures of the newly declared stage will be required in the following month.

- Staff will generate a list of non-compliant permittees based on permitted volume and percentage over-pumped. Non-compliance will be categorized in tiers in accordance with the following criteria:

Permitted Pumpage (gallons/year)		% Pumpage over Monthly Limits	
Tier 1:	< 12,000,000	Level A:	< 25%
Tier 2:	≥ 12,000,000 and < 120,000,000	Level B:	≥ 25% and 100%
Tier 3:	≥ 120,000,000	Level C:	≥ 100%

Permitted Pumpage (gallons/year)	
Tier 1:	< 12,000,000
Tier 2:	≥ 12,000,000 and < 120,000,000
Tier 3:	≥ 120,000,000
%Pumpage over Monthly Limits	
Level A:	≥5% < 25% (Tiers 1 and 2), and ≥2.5% < 25% (Tier 3)
Level B:	≥ 25% and 100%
Level C:	≥ 100%

- Staff will send notices of overpumpage to all non-compliant permittees to notify them of their overpumpage and to inform them of their level of non-compliance. This notice will also include the amount of a drought management fee if a fee is assessed
- Staff will identify and red flag suspect permittee meter readings, on the basis of previous readings, and conduct follow-up meter reading verifications.
- Staff will monitor pumping trends of those permittees that repeatedly over-pump monthly limits while in Drought and take action based on Section 4.0 Drought Enforcement Procedures outlined below.
- Staff will evaluate compliance trends of all other permittees to identify efforts to comply or escalating overpumpage.
- Staff will report and update monthly, all non-performing permittees after the third consecutive enforceable month of District declared drought, by posting a list of those permittees not meeting their monthly pumpage limits on the District website and at the District office for public review.

2.4 Drought Management Regulatory Fee for Non-compliance

In accordance with District Rule 3-7.8, the District will impose a Drought Management Fee (DMF) to individual permittees ~~permitted for more than 2,000,000 gallons annually and~~ who exceed their monthly drought allocations (excluding all permittees under general permits) starting after onetwo full months of District declared Alarm or Critical Stage Drought. The appropriate fees are determined based on the outside diameter of the production zone casing of the permitted well or an average of the casing size of all wells in an aggregate system. The fees are outlined in the Fee Schedule.

2.5 Determination of Occurrence of Non-compliance

Determinations of an occurrence of substantial non-compliance will be made based on 1) repeated events of non-compliance, 2) specific causes of overpumpage, and 3) the permittee's response to the reported overpumpage. In determining an occurrence, the District will take into consideration the permittee's demonstrated efforts to achieve pumpage reductions and any documented trends in prior water use reductions.

DRAFT

3.0 Timelines and Phasing of Determinations

Initial Month of a Drought Stage: No enforcement will be initiated for non-compliance in the initial month of Alarm Stage Drought if the timing of the declaration does not allow for a full month (after notice has been provided to the permittees) to begin assessing compliance with monthly limits. Overpumpage notices will be sent to all permittees who over-pumped their monthly pumpage limits to inform them of the on-going pumpage assessment being conducted by the District during drought and to notify them of the District's authority to enforce against non-compliance. For the initial month of Critical Stage Drought, the permittees will only be subject to the conditions of the Alarm Stage Drought until such time that a full month is available to assess compliance.

Enforcement efforts will begin after one-full month of District declared drought. All tiers will be eligible for monthly assessment of overpumpage violations of any level at this time. Enforcement efforts for Tiers 3, 2, and 1 permitted for over 2,000,000 gallons annually will be reserved for only those occurrences more recurrent in nature. It will take two monthly occurrences of noncompliance within a six-month period to trigger an enforcement action for these permittees. Enforcement efforts for Tier 1 permittees permitted for 2,000,000 gallons or less will generally be reserved only for noncompliance that warrants enforcement as determined by the Board.

~~**1-3 Months:** Enforcement efforts will focus initially on the more egregious and sustained non-compliance by the large volume permittees. During the first three consecutive full months of District declared drought, monthly assessment of overpumpage violations will focus on Tier 3 permittees with Level B/C non-compliance. As a practical matter, the initial assessment and enforcement activities during this period will focus on Tier 3 permittees with Level C non-compliance plus those who are irrigators.~~

~~**4-6 Months:** After the third consecutive full month of District declared drought, monthly assessment of non-compliance will be expanded to include Tier 2 permittees. Evaluation of compliance with Critical Stage Drought requirements will begin after the first full month and will focus on Tier 2 and Tier 3 permittees with Level B/C non-compliance.~~

~~**After 6 Months:** After the first six (6) consecutive full months of District declared drought, monthly assessment of non-compliance for Tier 2 and Tier 3 permittees will include Level A/B/C and will be expanded to include Tier 1 permittees. Enforcement efforts for Tier 1 permittees permitted for more than 2,000,000 gallons annually will be reserved for only those occurrences that are egregious and/or recurrent in nature. This will be determined when a Tier 1 permittee reports six (6) or more months of level B or greater overpumpage or when the monthly volume overpumped equals a volume that would trigger an enforcement action for a Tier 2 permittee. Enforcement efforts for Tier 1 permittees permitted for 2,000,000 gallons or less will generally be reserved only for non-compliance that warrants enforcement as determined by the Board.~~

4.0 Drought Enforcement Procedures

Levels of non-compliance will be assessed with actions taken in accordance with the Districts Enforcement Plan and Procedures and the following enforcement protocol for those permittees with consistent or increasing levels of non-compliance*.

1st Occurrence: For the initial occurrence of non-compliance, a meeting or teleconference will be arranged with the permittee representative and the District GM and staff to discuss the particular causes of the non-compliance. The discussion will focus on compliance with the measures of the UDCP and identifying causes of excessive water use/loss or other possible

relevant causes for overpumpage. Specific commitments and timelines to achieve pumpage reductions will be requested and documented.

2nd Occurrence: For those permittees with a first occurrence of non-compliance and recurrent months of reported non-compliance, staff may refer the case to the Board with a recommendation

DRAFT

to issue a NOAV. Further enforcement efforts will proceed in accordance with the District *Enforcement Procedures* and the *Penalty Assessment Guidelines*.

For those permittees with a first violation who continue to have recurrent months of reported non-compliance but with some improvement, a meeting will be arranged with the permittee representatives, GM and staff, and the appropriate District Director at the District office. Discussion will focus on the implementation of the documented measures, the success or failure of those specific measures, and the commitments to achieve pumpage reductions resulting from the first violation discussions. More detailed analysis of causes for continued non-compliance will be conducted to result in more specific and binding measures for committed pumpage reductions by the permittee.

3rd Occurrence:

For permittees with a second occurrence who continue to have multiple months of reported non-compliance, the GM may refer the case to the Board with a recommendation to issue an NOAV. Further enforcement efforts will proceed in accordance with the District *Enforcement Procedures* and the *Penalty Assessment Guidelines*.

* If a permittee is non-responsive to any of the bulleted elements of these enforcement procedures, the GM may recommend to Board that either an NOAV be issued, a Show Cause Hearing be conducted, or an enforcement action be pursued on the violation immediately, whichever is more likely to elicit a constructive response.

Item 7

Board Discussion and Possible Action

- c. Discussion and possible action related to amending the District's FY 25 Fee Schedule.

Barton Springs/Edwards Aquifer Conservation District

Fee Schedule: FY 25

Effective Date: September 1, 2024

I. PERMIT FEES AND PRODUCTION FEES

A. Drilling and Production Application Fees (See Table 1)

\$ 450 Exempt Application Fee – assessed for the drilling (new well or replacement well) or modification of an exempt well. These wells are exempt from having to obtain an authorization or permit but must comply with the application requirement and District Rule 5. Exempt Wells include: Scientific Monitor Wells, Remediation Wells, Injection Wells, Closed Loop Geothermal Wells, Dewatering Wells, and Oil and Gas Drilling and Exploration Wells. For Monitoring Wells and Closed Loops Geothermal Wells, multiple wells that are similar in well design, construction, location, and purpose will be assessed an additional \$10 fee for each monitoring well.

\$450 General Permit Application Fee – assessed for the drilling (new well or replacement well), modification, or production of all new limited production permit (LPP), monitor, and test wells subject to the general permits by rule outlined in District Rule 3-1.20. This fee includes construction inspections conducted by District staff (a non-refundable, one-time fee assessment).

- For monitoring wells, multiple wells that are similar in well design, construction, location, and purpose will be assessed an additional \$10 fee for each monitoring well.
- For test wells requiring additional aquifer pump tests, an additional \$50 fee will be assessed.
- For aquifer tests performed to support application requests, a fee will be assessed based upon an hourly rate of \$75 per hour for the amount of staff time needed in excess of 20 hours to support these tests. The applicant will be invoiced for this fee within 30 days upon the completion of the test.

Production Permit Application Fee - assessed to all new Production Permits for existing or new nonexempt wells not covered by Rule 3-1.20 - general permits by rule (a non-refundable fee assessment). Permit applications will be assessed an application fee based on the following scale:

- \$ 600 - Production volume requests less than 2,000,000 gallons per year
- \$ 900 - Tier 1 production volume requests 2,000,001 to 12,000,000 gallons per year
- \$ 1200 - Tier 2 production volume requests 12,000,001 to 200,000,000 gallons per year
- \$ 3,000 - Tier 3(a) production volume requests 200,000,001 to 500,000,000 gallons per year
- \$5,000 - Tier 3(b) production volume request greater than 500,000,000 gallons per year

\$800 Transport Permit Application Fee – assessed to all new Transport Permit applications for existing or new nonexempt wells (a non-refundable fee assessment). This is in addition to production permit application fee, if applicable.

\$725 Drilling/ Modification Application Fee– assessed for the drilling (new well or replacement well) or modification of all nonexempt wells. This fee includes construction inspections conducted by District staff. This fee does not apply to general permits by rule outlined in District Rule 3-1.20.

Well Plugging, Capping, or Recompletion –assessed for application and site review of proposed abandonment procedures, field inspections, and registration on abandonment of all wells (a non-refundable fee assessment).

- **\$125** – for the plugging of hand dug or shallow alluvial wells.
- **\$250** – for the plugging of drilled and cased wells that are not hand dug.

B. Permit Amendment Applications (see District Rules for clarification)

Minor Amendments

- **\$600 Production Permit Increase** - minor amendments to increase pumpage authorized by individual permits (a non-refundable fee assessment).
- **\$375 Substantial Alteration** - minor amendments to substantially alter a well (a non-refundable fee assessment).
- **\$85 All other minor amendments** - (a non-refundable fee assessment).

Major Amendments

- **\$850 Production Permit Increase** - major amendment to increase pumpage authorized by individual permits (a non-refundable fee assessment).
- **\$750 Well Modification** - major amendment to alter the physical or mechanical characteristics that increase capacity of an existing well (a non-refundable fee assessment).

C. Production Fees

\$0.17 per 1,000 gallons for annual permitted or authorized pumpage for water to be withdrawn from a well or aggregate of wells by a Historical Edwards Permit or a Conditional Permit not authorized by material amendment.

\$0.37 per 1,000 gallons for annual permitted or authorized pumpage for water to be withdrawn from a well or aggregate of wells by a Trinity Production Permit.

\$0.48 per 1,000 gallons for annual permitted or authorized pumpage for water to be withdrawn from a well or aggregate of wells by a new Class A, B, or C Conditional Permit or a Class A, B, or C Conditional Permit authorized by material amendment.

\$0.20 per 1,000 gallons for annual permitted or authorized pumpage for water to be withdrawn from a well or aggregate of wells by a new Class D (ASR) Conditional Permit or a Class D Conditional Permit authorized by material amendment.

\$0.20 per 1,000 gallons for annual permitted or authorized pumpage for water to be withdrawn from a well or an aggregate of wells in the Saline Edwards Management Zone.

\$1 per acre-foot for Agricultural Wells for annual permitted pumpage for water to be withdrawn from a well or aggregate of wells (an acre-foot is 325,851 gallons).

Production Fees are assessed annually based on the current permitted pumpage volume of certain nonexempt wells. Permits are issued annually for nonexempt wells and are explicit as to the volume of water permitted to be withdrawn from a well or aggregate of wells over a specific time period.

D. Transport Fees

\$0.31 per 1,000 gallons - assessed annually to all permittees who are transporting water out of the District. Transport fees are based on the volume authorized to be transported outside the District boundaries, in addition to the production fee associated with the production of that water (a non-refundable fee assessment).

E. Annual Permit Fees

\$85 Annual Permit Fee - assessed to all permittees for renewing their first annual permits (a non-refundable fee assessment). If a permittee holds multiple permits, then subsequent permits will each be assessed a \$50 fee for annual renewal.

F. Excess Pumpage Base Fee

Permittees who exceed their annual permitted pumpage, and are deemed **not in violation**, shall be assessed an excess pumpage base fee for groundwater withdrawn in excess of the permitted volume in accordance with the following fee rates. Permittees who exceed their annual permitted pumpage, and are deemed **in violation**, may be assessed a penalty in accordance with District Rules 3-8.5 and 3.8.7 and the District's Enforcement Plan.

Excess amounts will be assessed at \$0.17 per 1,000 gallons for a Historical Edwards Permit, a Conditional Permit not authorized by material amendment, or a Temporary Production Permit, or at \$0.48 per 1,000 gallons for new Conditional Permits and Conditional Permits authorized by material amendment, or at \$0.37 per 1,000 gallons for a Historical Trinity Permit. .

G. Regulatory/Drought Management Fees

During periods of District-declared drought starting after ~~onetwo~~ full months of a drought period, a regulatory drought management fee (DMF) will be imposed on individual permittees ~~permitted for more than 2,000,000 gallons annually and~~ who exceed their monthly drought allocations (excludes all uses under general permits). This regulatory DMF will be invoiced and paid within the permittee's current billing cycle, in arrears as a condition of permit renewals at the beginning of each fiscal year. The fee will be assessed per full month of declared drought, with a credit of that same fee amount per month applied for each month that the permittee does not exceed its monthly mandated restriction in the prevailing UDCP. After a permittee has participated in a pre-enforcement meeting with District staff, the monthly drought regulatory fee will increase by 30% per month.

Fees will be assessed in accordance with the following schedule:

For production zone casing with outside diameters nominally 5.0 inches or less: *

\$150/month

- \$195/month – There will be 30% increase in the regulatory drought management fee for violations that occur after a permittee's participation in a pre-enforcement meeting.

For production zone casing with outside nominally between 5.0 inches and 10.0 inches: *

\$300/month

- \$390/month – There will be 30% increase in the regulatory drought management fee for violations that occur after a permittee's participation in a pre-enforcement meeting.

For production zone casing with outside diameters nominally greater than 10.0 inches: *
\$550/month

- \$715/month – There will be 30% increase in the regulatory drought management fee for violations that occur after a permittee’s participation in a pre-enforcement meeting.

II. OTHER FEES

Meter Verification / Inspection Fee - \$60 to \$120

Assessed only when a permitted user fails inspection after being advised that meters must be installed or calibrated, or when a permittee fails to submit the required meter readings and District personnel must visit the well site or take the meter readings. The fee may be assessed as many times as permitted user fails to comply with Board Orders or District Rules to come into compliance. The fee will be assessed at \$60 for the first two instances of the permittee’s reporting history beginning Sept 1, 2021. On the third instance the fee will permanently be increased to \$120 per instance for the life of the permit. (a non-refundable fee assessment). The \$120 fee may be reduced back down to \$60 after the permittee has demonstrated 12 consecutive months of timely meter reading submissions.

Special Fees

A Special Fee is required for certain tasks involving extraordinary staff time to perform extensive technical/ review, fieldwork, and/or inspections. This fee may be assessed for a variety of tasks and may be assessed as a one-time fee, on a periodic recurring basis, or cumulatively for multiple tasks depending on the tasks warranting the fee. Such tasks include but are not limited to the following:

Tasks Warranting a Special Fee	Assessment of Fee
Staff technical review of Permit applications involving alternative well designs (i.e. acidization), well development procedures (i.e. multiple target production zone options), or well plugging/capping procedures including alternative Test Well designs in which a formal aquifer test will be conducted to support a future Production Permit request.	\$500 fee shall be assessed one time, and will be due 30 days upon the determination of administrative completeness of the application
Review of Permit applications requiring extensive external technical consulting services (e.g. contract review, well construction, engineering plans and specifications, hydrogeological modeling).	\$5,000 fee shall be due within 30 days upon the determination that external technical consulting services are needed. (Fee may be assessed in addition to other applicable Special Fees.)
Review of Permits with special provisions requiring ongoing, annual or periodic internal technical review or compliance evaluations.	A fee up to \$1,000 shall be recurring, assessed annually upon permit renewal based upon the nature and duration of the special permit provisions that are in effect.

Special inspections or investigations, or requests from local government or private entities.	A fee up to \$1,000 shall be assessed one time as determined by the General Manager.
---	--

Potential for Unreasonable Impact Fee

The District will assess a supplemental fee to address staff time needed to review a permit application found to have a potential for unreasonable impact(s). Per District Rules, this finding initiates additional application requirements, internal technical review, development of permit compliance measures, and/or development of special provisions. The fee will be based upon a staff time rate of \$75 per hour for the amount of time needed for the additional review determined by the General Manager’s preliminary finding. This fee will be due at two times: half within 30 days upon the completion of the General Manager’s preliminary finding, and half within 30 days upon administrative completeness.

Returned Check Fee - \$35

The District will assess the person writing the returned check a \$35 fee for each check returned by the District depository due to insufficient funds, account closed, signature missing, or any other problem causing such a return. This fee will be charged each time a check is returned. If bank charges to the District’s account exceed \$35, the District shall assess the higher of the two amounts (a non-refundable fee assessment).

Accounting Fee - \$110 per hour

Anyone requesting that the District conduct any accounting, other than the routine accounting normally done by the District, shall be assessed an accounting fee of \$50 per hour of District staff time spent on the accounting. Accounting fees will not be assessed if District generated errors are found in the Permittee’s account.

Variance Request Fees - \$400

An applicant may, by meeting eligibility requirements of Section 3-1.25 or Section 3-7.10 and by written petition to the Board, request a variance from the requirements of District Rule 3-1 or District Rule 5, except Sections 3-1.20, 3-1.22, 3-1.23, and 3-1.24, or District Rule 3-7, respectively.

Legal Notice Fees

An applicant will pay for publishing any legal notices in accordance with the District rules.

III. FEE REFUNDS

The General Manager or a specifically designated representative may approve a refund of any fee for which no District service has been provided at the time of the request for refund is submitted. Requests for refunds must be submitted in writing to the District office and can be mailed, faxed, hand-delivered, or sent by e-mail. Fee payers who feel they have been unfairly denied a refund may request that the matter be reviewed by the Board.

Exempt Wells – Permit Actions	Application Fee
Register Existing Well/ Change of Ownership	\$0
Drill New Exempt Well/ Well Modification	\$450

Nonexempt Wells – Permit Actions	Application Fee
GP - Drill New Well (LPP) Limited Production Permit	\$450
GP - Drill New Test Well (includes one pump test)	\$450
GP - Conduct Pump Test	\$50
GP - Drill New Monitor Well	\$450
GP – Aquifer Tests	TBD upon completion of the test.
Individual Drilling Authorization – Drill New Well / Well Modification	\$725
Individual Production Permit – to produce from a well	\$600-\$5000
Transport Permit – to transport out of District	\$800
Production Volume Increase (Minor Amendment)	\$600
Production Volume Increase (Major Amendment)	\$850
Plug, Cap, Recomplete Abandoned Wells	\$125-\$250
Change of Ownership of Permitted Well	\$75
Special Fees	\$500-\$5000
Potential for Unreasonable Impact(s) Fee	TBD upon GM preliminary findings

Item 7

Board Discussion and Possible Action

- d. Discussion and possible action on Rule 3-7.8 – Imposition of Regulatory Fees, including consideration and adoption of amendment(s) to the rule.

3-7.8. IMPOSITION OF REGULATORY FEES.

During periods of District-declared drought, and starting after ~~two one~~ full ~~month months~~ of a drought period, a drought management fee (DMF) will be imposed on individual permittees ~~permitted for more than 2,000,000 gallons annually and~~ who exceed their monthly drought allocations (excludes all uses under general permits). **This DMF will be invoiced and paid within the permittee's current billing cycle as a condition of permit renewals at the beginning of each fiscal year.**

Fees will be assessed in accordance with the outside diameter of the production zone casing (e.g., 5.0 inches or less, between 5.0 and 10.0 inches, and greater than 10.0 inches) and as indicated in the District's Fee Schedule that is updated annually for each new fiscal year.

Commented [BD1]: Do small permittees have a "billing cycle?"

Item 7

Board Discussion and Possible Action

- e. Discussion and possible action on GM goals for FY 25.

Item 7

Board Discussion and Possible Action

- f. Discussion and possible action on a draft, new-Board Member, Onboarding Information outline.

October 2024

Board Onboarding Outline

- Create SOP for adding time in Gusto (paid monthly on the 20th, submit by the 15th)
 - Add I-9 for Board members in Gusto
- Create SOP for expenses and milage – include what can be expensed
- Add Docs to Gusto
 - [5-year Management Plan](#)
 - Rules and Bylaws
 - [Volume 1](#)
 - [Volume 2](#)
 - [Habitat Conservation Plan \(HCP\)](#)
 - [Annual Report \(2023\)](#)
 - Employee Policy Manual – Should make one just for Board but they should always have access to the Staff one
 - Links to [TAGD GCD Bootcamp videos](#) – Could call out a few but link to all
 - [GCD Must Do's](#)
 - [An Overview of GCDs](#)
 - Call out that the TAGD Summit is a great way to learn more and meet others – every August
- [Presentation](#) on what we do/who we are (Justin)
- Answer questions
 - What is allowed and not allowed?
 - How to communicate with Staff as a Board Member
 - What does being a public entity mean? (might even be answered in the TAGD videos?)
 - How to communicate as a Board member through the District
 - Rules and regulations of being a public entity

Additional useful resources:

- [Toolkit for Managing Groundwater in the Texas Hill Country](#)
 - Helpful document to inform community members how groundwater is managed and who to approach with issues.
- [TAGD GCD Index](#)
 - Includes an interactive map with all of the GCDs' names, location, and manager.
- District Website:
 - [District News](#)

- Read recent Drought Updates and internally written articles about the District's work.
- [Drought Information](#)
 - Includes information about current drought status along with relevant resources
- [Drought Status](#)
 - Shows current drought chart and USGS gauges for Lovelady and Barton Springs
- [Scientific Reports](#)
 - Published articles by the District or related organizations about aquifers in or near our territory
- [Aquifer Research](#)
 - Work that our Aquifer Science team has focused on over the years
- [District Maps](#)
 - Various maps including for the territory, precincts, and more
- [Monitor Wells and Aquifer Data](#)
 - Includes a map of monitoring sites and gauges throughout territory along with links to a variety of resources related to water levels, weather conditions, rainfall, and more.
- [Well Permits and Forms](#)
 - View all of the permits and forms the District offers on a single page

District Media Outlets

- Newsletter/Drought Update
 - <https://bseacd.org/newsletter-signup>
 - Click the link above to sign up for the District's monthly email. Every other month we send out a newsletter. On the off months while in drought, we send a Drought Update.
- District Social Media Outlets
 - [LinkedIn](#)
 - [Facebook](#)
 - [X \(Twitter\)](#)
 - [Instagram](#)
 - [NextDoor](#)

Item 8

Director Reports

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended
- Board committee updates
- Conversations with public officials, permittees, stakeholders, and other constituents
- Commendations
- Issues or problems of concern

Item 9

Adjournment