Barton Springs Edwards Aquifer
CONSERVATION DISTRICT

RULES & BYLAWS

Volume 1: Rules 1-4

Effective Date: October 16, 2026

Originally Adopted: February 15, 1988
Revised: August 1, 1988; September 12, 1988; August 14, 1989; August 30, 1990; September 1, 1991; November 1, 1991; April 8, 1993; May 13, 1993; August 10, 1995; December 22, 1997; August 20, 1998; July 8, 1999; July 18, 2001; November 21, 2002; August 14, 2003; August 12, 2004; September 9, 2004; July 28, 2005; January 26, 2006; January 10, 2007; April 12, 2007; September 27, 2007; August 14, 2008; September 10, 2009; March 24, 2011; September 17, 2011; October 11, 2012; July 16, 2015; April 28, 2016; March 28, 2019; July 8, 2021; October 12, 2023; November 9, 2023; December 14, 2023; November 7, 2024; April 10, 2025; August 14, 2025.

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1. INTRODUCTION

In August of 1986, a petition was filed by the Cities of Buda, Hays, San Leanna, Sunset Valley, and Austin to form a groundwater conservation district. As a result, the Barton Springs/Edwards Aquifer Conservation District (District) was created in 1986 by the Texas Water Commission, now the Texas Commission on Environmental Quality (TCEQ), validated in 1987 by the 70th Legislature of the State of Texas (Senate Bill 988), and confirmed by approximately 80 percent of those voting in an election on August 8, 1987. In 2015, the 84th Texas Legislature (House Bill 3405) expanded the District's jurisdictional area to include the Trinity Aquifer, underlying the Edwards Aquifer, and all other aquifers in the portion of Hays County that is located within the boundaries of the Edwards Aquifer Authority excluding the overlapping area in the Plum Creek Conservation District (see figure 1).

The District serves southern Travis County, central and eastern Hays County, and portions of northwestern Caldwell County. The District incorporates approximately 420 square miles and includes both urban and rural areas. In June 1988, the Environmental Protection Agency (EPA) federally designated a portion of the District as a Sole Source Aquifer. Water from the Barton Springs segment of the Edwards Aquifer serves as a water supply for residential, industrial, and commercial purposes; is a major source of high quality base flow to the Colorado River; and provides water for a popular recreational resource in Austin - Barton Springs and Barton Springs Pool. The Trinity Aquifer, underlying the Edwards, is developing to become an important source of the regional water supply.

The District's Rules and Bylaws, and Standards are promulgated under the District's statutory authority (primarily Senate Bill 988, 70th RS, now codified at Special District Local Laws Code Chapter 8802, and Texas Water Code Chapter 36) and are used to guide, define, and achieve the statutory purpose and the District mission of conserving, preserving, protecting, enhancing recharge, and preventing waste of groundwater and preserving all aquifers within the District. The District's Orders, Rules, regulations, requirements, Resolutions, policies, guidelines, or similar measures have been implemented to fulfill these objectives. The Rules and Bylaws, and accompanying definitions are complementary and inseparable.

Most Rules of the District are applicable to the entire District; certain Rules are applicable only to one or more "management zones" of the District rather than to the entire District (see figures 2 and 3, and definitions in Rule 2-1). The Rules language makes it clear if the relevant regulation applies only (or additionally) to certain management zone(s); otherwise, the Rules apply to all zones. As of the effective date for these Rules and Bylaws, the following major and minor Management Zones (MZs) govern the applicability of certain designated District Rules:

- Western Freshwater Edwards MZ
- Eastern Freshwater Edwards MZ
- Saline Edwards MZ
- Upper Trinity MZ
- Middle Trinity MZ
- Lower Trinity MZ
- Austin Chalk MZ (minor)
- Alluvial MZ (minor)

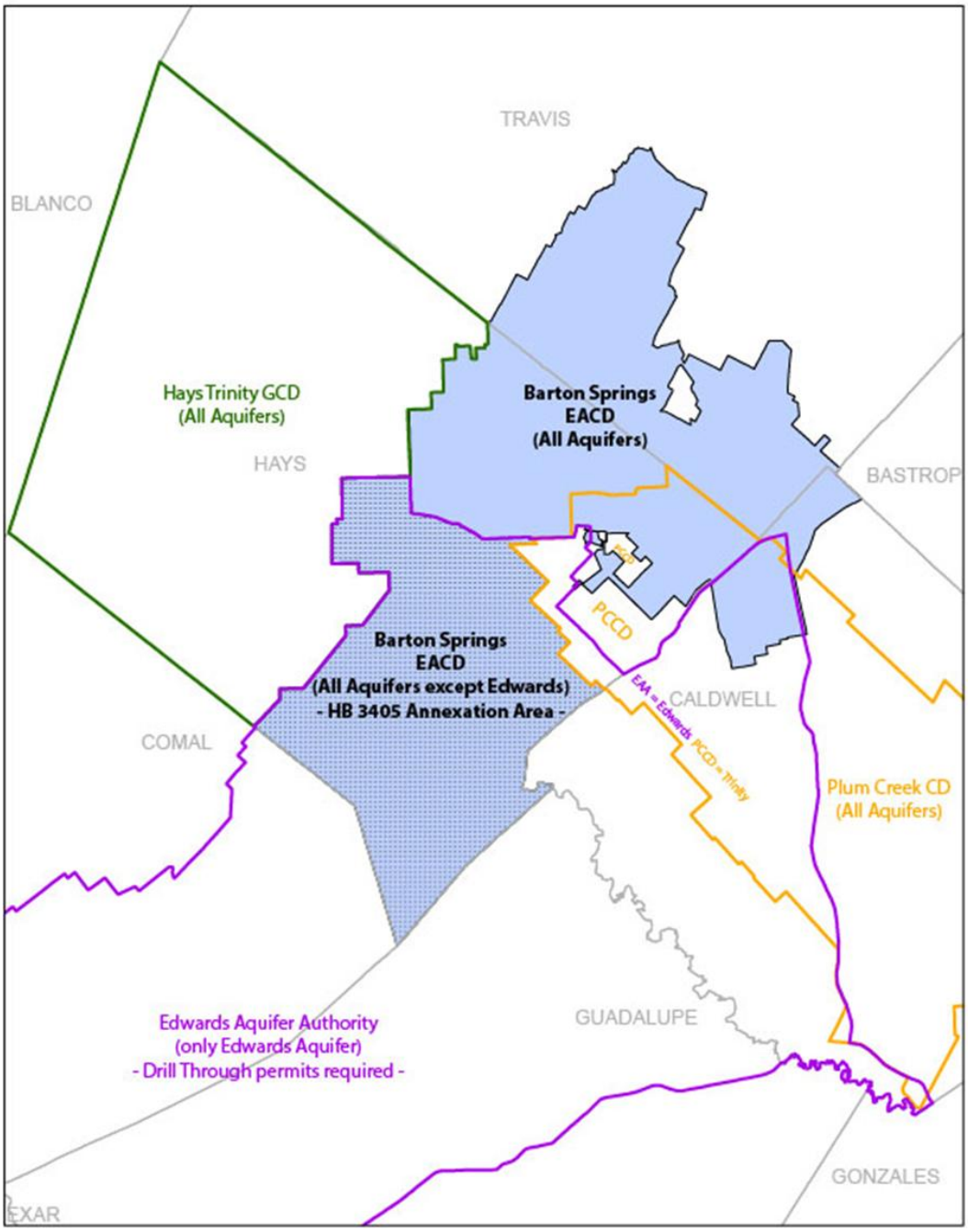


Figure 1. The District's territory, adjacent groundwater conservation districts, and their respective jurisdiction over aquifers.

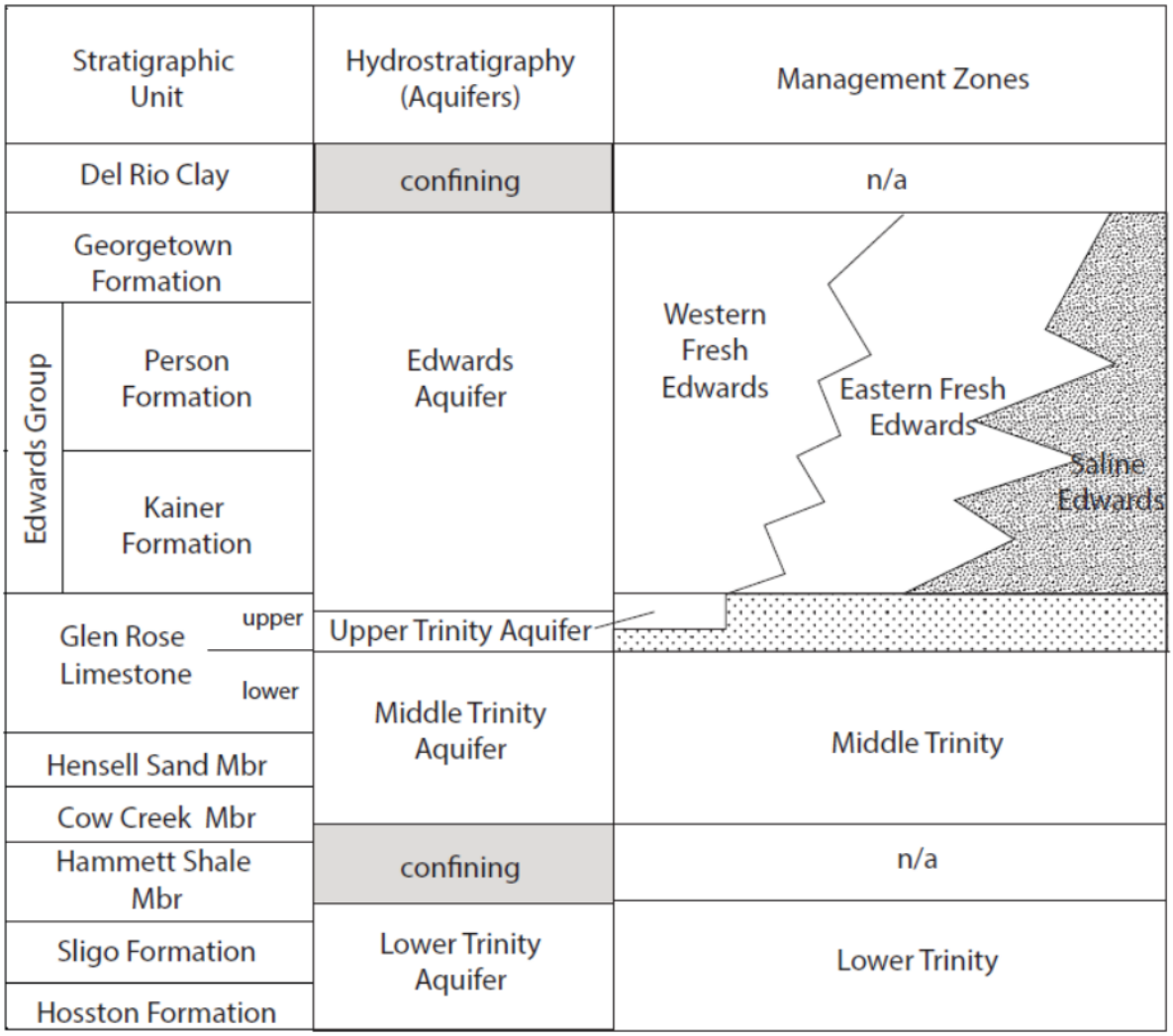


Figure 2. Correlation chart of stratigraphic units, hydrostratigraphy, and management zones.

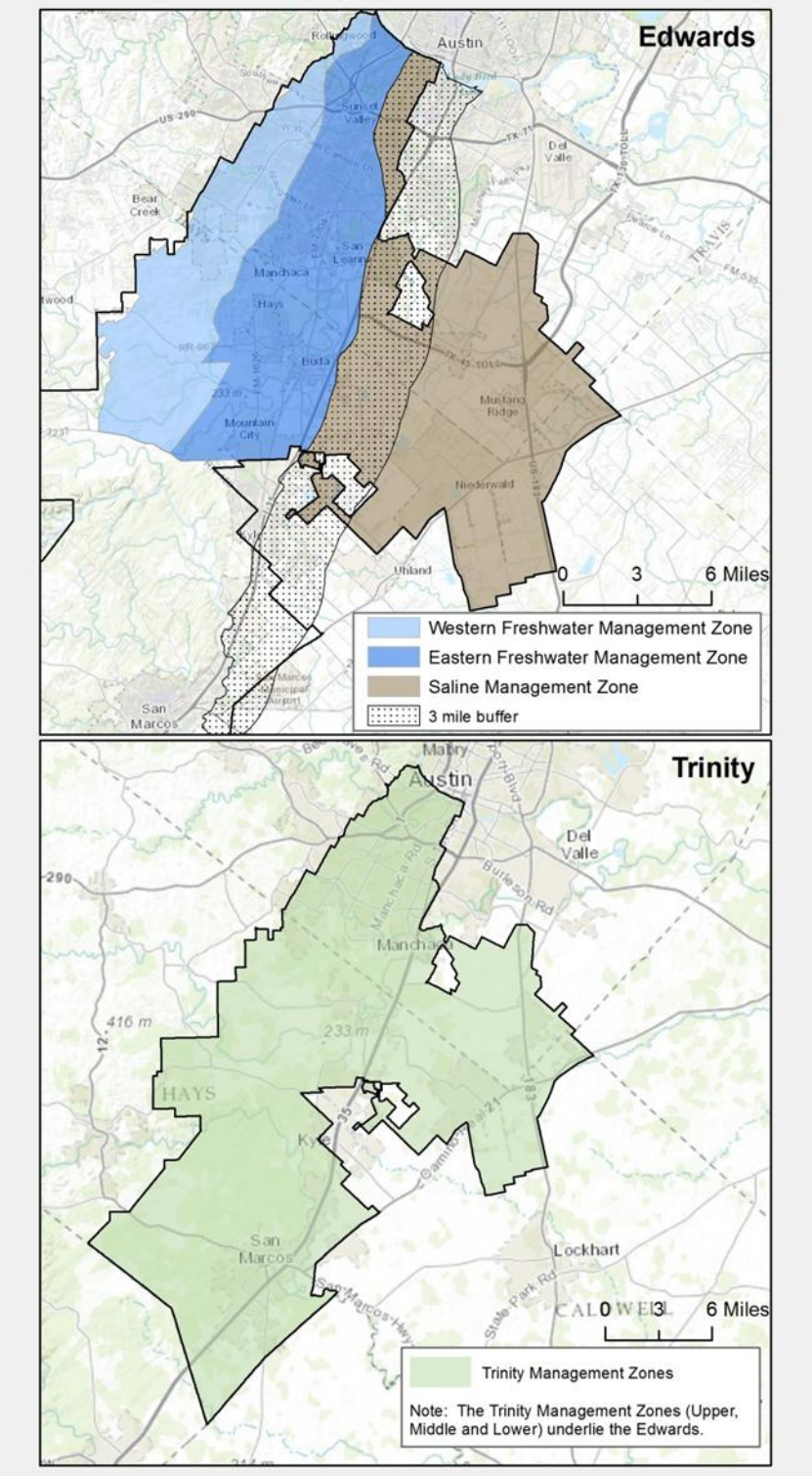


Figure 3. Management zones within the District's territory.

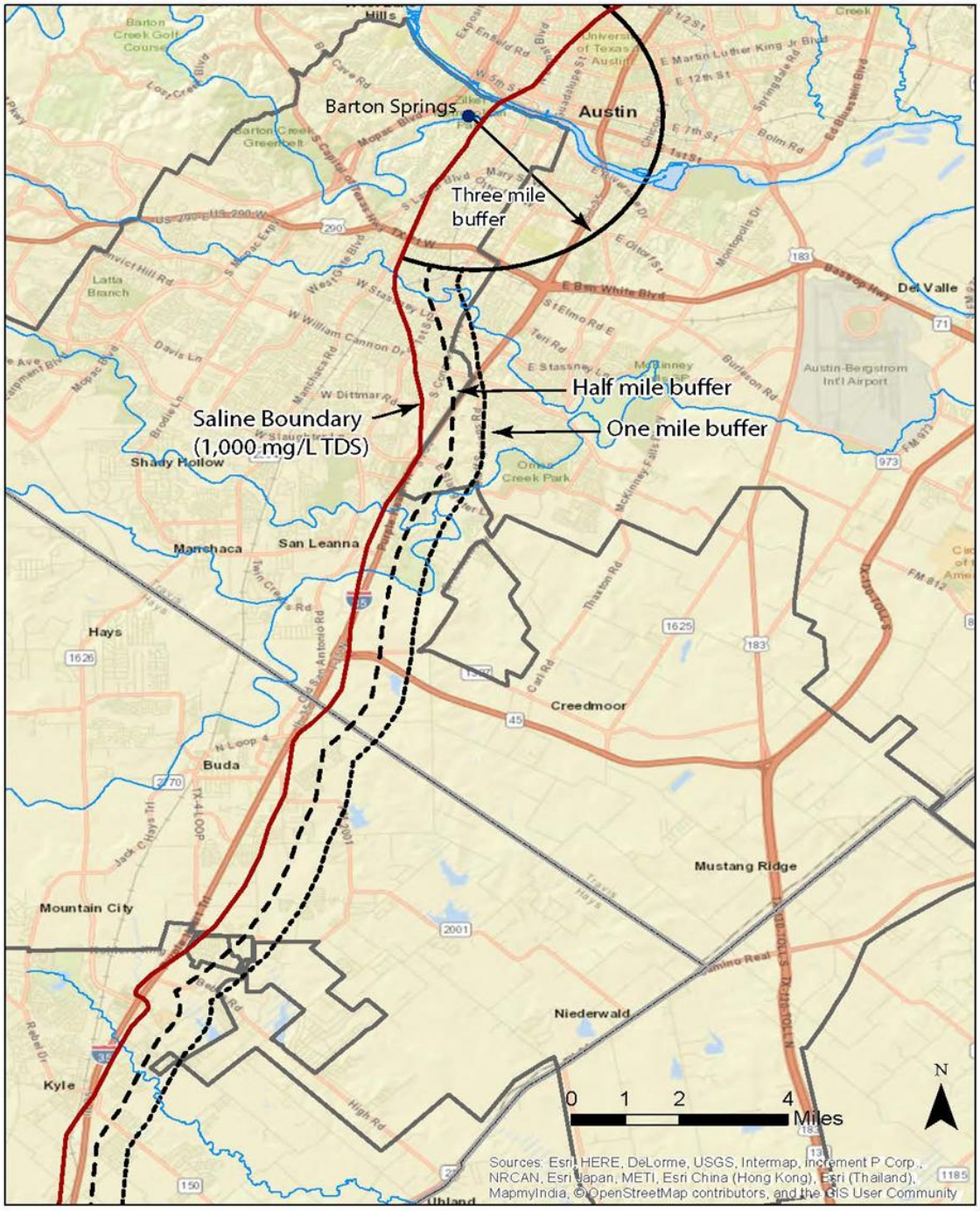


Figure 4. Buffer zones for the Saline Edwards Management Zone.

2. DEFINITIONS, PURPOSE, AND CONCEPTS OF THE RULES AND BYLAWS.

2-1. DEFINITIONS OF TERMS.

Unless the context hereof indicates a contrary meaning, the words hereinafter defined shall have the following meanings in these Rules and Bylaws and all other documents promulgated by the District.

"Abandoned Well" - a well that has not been used for a beneficial purpose for at least six consecutive months. A well is considered to be in use in the following cases:

1. a nondeteriorated well which contains the casing, pump and pump column in good condition,

2. nondeteriorated well which has been capped,

3. the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community, or

4. the owner is participating in the Conservation Reserve Program authorized by Sections 1231-1236, Food Security Act of 1985 (16 U.S.C. Sections 3831-3836), or a similar governmental program.

"Act" - the District's enabling legislation, S.B. No 988 of the 70th Texas Legislature, now codified and amended in Special District Local Laws Code Chapter 8802 in conjunction with Chapter 36, Texas Water Code.

"Accounting Plan" – is a description of plans, formatted reports and diagrams describing how all ASR waters and recharge pressures will be accounted for and reported.

"Actual and Necessary Expenses" - expenses incurred while performing duties associated with District business or representing the District for purposes of the District.

"Aggregate Wells" - a well system comprised of two or more wells that are owned and operated by the same permittee and serve the same subdivision, facility, or area served by a Certificate of Convenience and Necessity (CCN) issued by the Public Utility Commission on Texas (PUC).

"Aggregate Withdrawal" - the amount of water withdrawn from two or more registered wells in a water system that is permitted under a single permit for a total pumpage volume of all wells in the aggregate system.

"Agricultural Use" – the use of groundwater for any of the following activities, including activities consistent with Texas Tax Code §23.51(2) and including irrigation to support the following agricultural uses:

1. cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

2. the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;

3. 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 (Commercial Livestock Use);

4. 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;

5. engaging in wildlife management as defined in the District's Rules and as referenced under a written in-effect wildlife management plan;

6. raising or keeping equine animals; or

7. aquaculture, or active farming of fish, crustaceans or mollusks.

"Agricultural Well" - a well producing groundwater for agricultural uses, or irrigation to support agricultural uses. (A nonexempt well.)

"Agricultural Livestock Use" - see "Commercial Livestock Use"

"All-Conditions Desired Future Conditions" or "All-Conditions DFC" - the desired future condition adopted by Groundwater Management Area 10 for the aggregated Eastern and Western Freshwater Edwards Management Zones providing that the long-term springflow of Barton Springs, as indicated by a seven-year rolling average springflow, shall be no less than 49.7 cubic feet per second (cfs).

"All-Conditions Modeled Available Groundwater" or "All-Conditions MAG" - the maximum modeled amount of average groundwater withdrawals, including withdrawals from both exempt and nonexempt wells, determined by the Texas Water Development Board to be projected to achieve the All-Conditions DFC. The All-Conditions MAG represents a modeled planning estimate of groundwater availability under long-term hydrologic conditions and is currently expressed as monthly-average groundwater withdrawals of 16.0 cfs from the aggregated Eastern and Western Freshwater Edwards Management Zones.

"Alluvial Aquifer" - an aquifer composed of Quaternary stream or river alluvium or terrace deposits consisting of unconsolidated or cemented gravel, sand, silt and clay sediments.

"Alluvial Management Zone" - the management zone that is composed of an alluvial aquifer.

"Alternative (Water) Supply" - a supply of water from some source other than groundwater from the Freshwater Edwards Management Zones.

"Aquifer" - a hydrologically saturated permeable geologic unit (a formation or set of formations) that can transmit significant quantities of water under ordinary hydraulic gradients.

"Aquifer Storage and Recovery" (ASR) - the storage of water into a geologic formation, that is injected through a well during times when water is available and is subsequently recovered from the same well or well field during times when it is needed.

"Aquifer Storage and Recovery Project" - the multiphase aquifer storage and recovery project that is operated for the purpose of aquifer storage and recovery.

"Aquifer Storage and Recovery Pilot Testing" - the design and operation of aquifer storage and recovery activities to investigate and evaluate the suitability, feasibility, and efficacy of an ASR project. Testing includes activities related to feasibility testing, pilot testing, or cycle testing.

"Aquifer Storage and Recovery Pilot Test Permit" - a permit issued by rule to authorize the temporary production and recovery of restricted amounts of Class D Conditional Edwards water or other tested source waters, for the purpose of aquifer storage and recovery activities related to feasibility testing, pilot testing, or cycle testing.

"Aquifer Storage and Recovery (ASR) Well" - a well used for both the storage and recovery of water from a geologic formation as part of an aquifer storage and recovery project. (A nonexempt well.)

"Artesian Zone" - that part of the Edwards Aquifer where water is confined in the aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer. This zone is coextensive with the part of the Edwards Aquifer that is downdip of the Recharge Zone.

"Austin Chalk Aquifer"- an aquifer composed of the upper Cretaceous Austin Chalk Group.

"Austin Chalk Management Zone"- the management zone that is composed of the Austin Chalk Aquifer.

"Authorized Agent" - a person authorized by the well owner or landowner to serve as their legal representative in matters related to the permitting process, activities and regulations of the District.

"AWWA" - American Water Works Association.

"Bad Water Line" - the eastern boundary of Edwards Aquifer water in the Barton Springs segment of the Edwards Aquifer characterized by having more than 1,000 milligrams per liter (mg/l) of total dissolved solids.

"Baseline Pumpage" - the average monthly representative water use for the user for the corresponding months during the years 1988, 1989, and 1990, or a representative three-year period approved by the District. Retail water utilities may set these goals on a per capita basis or a per connection basis system-wide, calculating usage from either the actual number of residents, the number of active connections multiplied by a mutually agreeable per capita standard, or the total number of connections served by the system. If permitted pumpage for any permittee is within 10 percent of a three-year average annual usage, a permittee may calculate the individual monthly target pumpage volume based on the permitted pumpage. Baseline pumpage may be adjusted for current conditions within the system and approved administratively by the District.

"Beneficial Use" or "Beneficial Purpose" – use for a beneficial purpose as defined by Texas Water Code 36.001(9)

"Best Available Science" - conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists, and can be employed to address a specific scientific question.

"Barton Springs Segment" - that segment of the Edwards Aquifer that is hydrologically connected to Barton Springs, and is the term used to distinguish this segment from the San Antonio segment of the Edwards Aquifer and from the northern Edwards Aquifer.

"Board" - the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District.

"Buffer Zone" or "Buffer Water Volume" – the proximal zone of an ASR storage and recovery well in which the stored water has mixed with the native groundwater zone. This zone includes the horizontal and vertical extent of the mixed water.

"Capping" - equipping a well with a securely affixed, removable device that will prevent the entrance of surface pollutants into the well.

"Capped Well" - a Well that is closed or capped with a covering approved by the District, and capable of preventing surface pollutants from entering the Well and sustaining a weight of at least 400 pounds or, in the case of an Artesian Well, an artesian pressure of up to 400 pounds, as necessary to effectively prevent water from flowing out of the Well and running over the surface of the ground above the Well or wasting through the strata through which it passes.

"Casing" - a watertight pipe which is installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving, advance the borehole, and in conjunction with cementing and/or bentonite grouting, to confine the ground waters to their respective zones of origin, and to prevent surface contaminant infiltration.

"Certificate of Convenience and Necessity" or CCN" - a certificate issued by the Public Utility Commission of Texas or the Texas Commission on Environmental Quality or its predecessor agencies that provides the CCN holder the exclusive right to provide retail water service within the geographic area specified in the CCN, or to the facilities specified

in the CCN for a CCN that is not a bounded service area, and within which geographic area or to such facilities the CCN holder has the legal duty to provide continuous and adequate retail water service. A "Bounded Service Area CCN" is a certificated service area with closed boundaries that often follows identifiable physical and cultural features. A "Facilities +200 Feet CCN" is a certificated service area represented by lines on a map that includes a buffer of a specified number of feet (usually 200 feet). A "Facilities Only CCN" is a certificated area represented by lines on a map and granted for a "point of use" that covers only the customer connections at the time the CCN was granted.

"Cessation" - a temporary discontinuance of groundwater production from water wells authorized under a Conditional Production Permit during Stage 2 Critical Drought conditions.

"Cistern" - an in-ground storage facility for water. Abandoned or deteriorated facilities will be treated as hand dug wells for sealing, capping, or plugging purposes.

"Closed Loop Geothermal Well" - a vertical closed system well used to circulate water and other fluids or gases through the earth as a heat source or heat sink. (An exempt well.)

"Closed Loop Geothermal Well System" - a system of Closed Loop Geothermal Wells drilled and equipped for the purpose of utilizing the subsurface as a source of energy for heat exchange in heating and cooling systems. These are sealed systems; no water is to be produced or injected. (An exempt well.)

"Commercial Livestock Use" - the use of groundwater associated with watering, raising, feeding, or keeping commercial livestock and/or poultry, of any variety. Commercial Livestock is considered to be hooved mammals raised in an agricultural setting (on land recorded and taxed in the County as an agricultural land use) for profit or for its labor, or to make produce such as food or fiber, leather, pelts or other tangible products having a commercial value, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this State from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families. This term includes any animal that is stabled, confined, or fed at a facility that is defined by TCEQ rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation. (**Commercial Livestock as defined herein is considered an Agricultural Use.)**

"Commercial Use" - the use of water by a business or business establishment in which the water use is associated with building, supplying, selling or providing products, goods, services or repairs. Commercial use may include multi-family residences such as apartments, hotels, restaurants, office buildings, warehouses that use water in the above-described processes, or use water primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, and limited landscape watering). This includes use in any business enterprise for which monetary consideration is given or received, and which will typically increase water demand compared to typical domestic use.

Commercial use includes the use of water by institutional facilities or establishments dedicated to public service, such as a school, university, church, hospital, nursing home,

prison, or government facility. All facilities dedicated to public service are considered institutional regardless of ownership.

"Commercial Well" - a well producing groundwater for commercial use. (A nonexempt well.)

"Conditional Production Permit" – a Conditional Edwards or Conditional Trinity Production Permit.

"Conditional Edwards Production Permit" - an authorization issued by the District allowing the withdrawal of a specific amount of Edwards groundwater from a nonexempt well for a designated period of time, generally in the form of a specific number of gallons per District fiscal year, which is subject to complete cessation, temporary curtailment, or reduction of the amount of groundwater that may be withdrawn during District-declared drought stages. Conditional Edwards Production Permits may be Class A, Class B, Class C, or Class D (See 3-1.24), and are applicable only to the Western and Eastern Freshwater Edwards Management Zones.

"Conditional Trinity Production Permit" - an authorization issued by the District allowing the withdrawal of a specific amount of Trinity groundwater from a nonexempt well for a designated period of time, generally in the form of a specific number of gallons per District fiscal year, which is subject to temporary curtailment or reduction of the amount of groundwater that may be withdrawn during District-declared drought stages. Conditional Trinity Production Permits are applicable only to the Upper, Middle, and Lower Trinity Management Zones.

"Confining Bed" - a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confined Animal Feeding Operations (CAFO)" - an animal feeding operation is a lot or facility, other than an aquatic animal production facility, where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and in which the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season over any portion of the lot or facility. (**A CAFO is considered Commercial Livestock and is therefore a type of Agricultural Use.)**

"Conservation" - water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

"Conservation Permit" - a general permit by rule that is held by the District itself and contains the volume of water previously associated with permitted pumpage but that is now either permanently retired Historic Use under all conditions or that part of Historic Use retired under Extreme Drought.

"Consumer Price Index" - means the annual revised Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor or a similar index if that index is unavailable. For calculation purposes, the beginning base month is December 2014.

"Contiguous Controlled Acreage" - means the surface acre of land on which a well is located that is associated with a permit or application for a permit, together with all additional acreage within a continuous perimeter boundary within the District for which the applicant or permit holder has the legal right to produce groundwater, provided such acreage overlies the same aquifer and management zone in which the well is completed and:

(a) is included within the same recorded surface estate description (plat, deed, or other legal instrument) as the well site; or

(b) is within a common boundary of an area of land that includes the well site and is under the same right to produce and use groundwater as the well site, even if there are multiple tracts within that boundary described in two or more surface estate real property instruments.

Acreage separated by a road, highway, utility or pipeline route, watercourse, or other narrow strip or easement shall be considered contiguous if it would otherwise share a common boundary; however, such intervening acreage shall not be counted unless groundwater rights therein are held by the applicant or permit holder. Acreage shall not be deemed contiguous solely by connection along such a strip.

For a retail public utility, contiguous controlled acreage also has the additional meaning set forth in Rule 3-1.24.2(E) and (F).

"Continuing Arrangement" - an ongoing relationship between a water provider and any individual customer, subdivision, or other water user, whereby the water provider has water delivery infrastructure in place and operational, and water is available for direct, on-site use by the customer, subdivision, or water user upon demand. The continuing arrangement dates from the day the water was first made available for actual on-site delivery to the customer, subdivision, or water user. A continuing arrangement does not include contractual obligations to provide water at some future date, nor does it include providing water to any subdivision of property by any water user currently served by the provider.

"Cubic Feet Per Second" (cfs) - the rate of flow representing a volume of one cubic foot passing a given point during one second of time. This rate is equivalent to approximately 7.48 gallons per second or 448.8 gallons per minute.

"Cycle Testing" - an aquifer testing activity or protocol associated with ASR projects, for which the testing activities involve repeat cycles of storing and recovering waters. There may be multiple cycles in an ASR testing project

"Demand Reduction Measure" - a specific action to be taken by defined categories of users to reduce the pumpage demand on the aquifer(s), typically defined by a User Drought Contingency Plan (UDCP).

"Designated Alternative Water Supply Well" - a well in the Middle Trinity or Lower Trinity Management Zone that has been specified in a District Conditional Edwards Production Permit as an alternative source of water to be substituted for the curtailed portion of the Edwards groundwater in the Conditional Edwards Production Permit.

"Desired Future Condition" or "DFC" – quantified description of physical characteristics of an aquifer or subdivision of an aquifer that is desired at one or more future times to include the end of the 50-year water planning period, as defined and adopted in joint planning by a Groundwater Management Area under Texas Water Code, Section 36.108.

"Deteriorated Well" - a well that, because of its condition, will cause or is likely to cause pollution of any water in this State, including groundwater.

"Dewatering Well" - a well that is constructed on a temporary basis for the purpose of producing groundwater to lower the water table or potentiometric surface to allow for construction or use of underground space. (An exempt well.)

"Director" - an elected or appointed member of the Board of Directors of the District.

"Discharge" - the amount of water that leaves an aquifer by natural or artificial means.

"District" - the Barton Springs/Edwards Aquifer Conservation District.

"District Management Plan" - the prevailing plan promulgated and adopted by the District, as amended and revised by the Board from time to time, that defines the conditions in the District, and the groundwater management goals and objectives to achieve the District's legislative mandate.

"District Office" - the main office of the District at such location as may be established by the Board.

"Domestic Use"- the use of groundwater by a person or household in which the well produces groundwater by connection to a household for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation or cleaning, and landscape irrigation. Ancillary use may include watering of domestic animals.

"Domestic Well" - a well producing groundwater for domestic use.

"Drill" - drilling, equipping, completing wells, or modifying the size of wells or well pumps/motors (resulting in an increase in pumpage volume) whereby a drilling or service rig must be on location to perform the activity.

"Drought" - a shortfall in groundwater recharge, generally brought about by below-normal rainfall for an extended period of time that is accompanied by high rates of pumping from aquifers, that has the potential for substantial negative impacts to water supply wells and to endangered species at Barton Springs.

"Drought Contingency Plan" or "DCP" - a plan by the District or by a public water supplier that is designed to reduce demand on the available water supply through a process that becomes more restrictive as drought conditions worsen.

"Drought Indicator Well" - a well designated as such by the District Board or staff that is used for specific District needs including the determination of drought conditions. (An exempt well.)

"Drought of Record" - the historical period when natural hydrological conditions provided the least amount of water. For the District, the drought of record occurred from 1950 through 1956.

"Drought Stage" - one of four designated drought conditions that the District may declare when not in a No-Drought condition.

"Eastern Freshwater Edwards Management Zone" - the management zone that includes the Edwards Aquifer and the portion of the Upper Trinity Aquifer where there is significant hydrological connection to the overlying Edwards Aquifer located between (1) the eastern boundary of the Western Freshwater Edwards Management Zone, generally corresponding to the Edwards Aquifer's saturated thickness of approximately 100 feet and certain structural boundaries, and (2) the western boundary of the Saline Edwards Management Zone, generally corresponding to the so-called "bad water line." This zone only applies to the area described in Special District Local Laws Code Section 8802.003 which excludes the Shared Territory (see figures 1, 2, and 3).

"Ecological Flow Reserve" - the part of the discharge from the Edwards Aquifer at Barton Springs that is (1) derived from permanently retired Historic Use and retired Historic Use under Extreme Drought (i.e., held under the Conservation Permit), and (2) associated with quantified recharge enhancement projects in the District and urban/suburban leakage from water supply and wastewater lines, to the extent such quantities are included in groundwater availability modeling. Ecological Flow Reserve is a protected volume, not subject to further permitting.

"Edwards Aquifer" - the water-bearing zone comprised of the Edwards and associated limestone formations.

"Edwards Outcrop" - the Edwards and associated limestone formations found at the surface. This area is generally referred to as the Edwards Aquifer Recharge Zone.

"Exempt Well" - a well whose use and characteristics do not require a permit for the production of groundwater within the District, as specified in Rule 3-1.3.

"Existing Well" - any well in the District that was drilled on or before August 13, 1987.

"Export of Groundwater" - see "Transport of Groundwater."

"Extreme Drought" - a severe drought period, deep within a Stage 3 Exceptional Drought, that is characterized by the sustained flow at Barton Springs at or below ten cubic feet per second (cfs) on a ten-day running average basis. An Extreme Drought is a physical condition of the aquifer and is not a declared drought stage; during Extreme Drought conditions the Board may declare an ERP for additional emergency management action (see also "Stage 4 Emergency Response Period)." The District may be in the physical condition of Extreme Drought without having the institutional condition of an ERP declared.

"Extreme Drought Desired Future Condition" or "Extreme Drought DFC" - the desired future condition adopted by Groundwater Management Area 10 for the aggregated Eastern and Western Freshwater Edwards Management Zones during a recurrence of the drought of record, requiring that the monthly average springflow at Barton Springs be maintained at no less than 6.5 cfs. The Extreme Drought DFC is intended to minimize, to the greatest extent practicable, the likelihood of wells drying and deleterious reduction of springflow at the natural outlets of the aquifer.

"Extreme Drought Modeled Available Groundwater" or "Extreme Drought MAG" – the maximum average annual amount of total aggregate groundwater withdrawals, including withdrawals from both exempt and nonexempt wells, determined by the TWDB that is projected to achieve the Extreme Drought DFC for the Eastern and Western Freshwater Edwards Management Zones during a recurrence of the drought of record. The Extreme Drought MAG shall serve as a target and important consideration in the District's establishment and implementation of the Extreme Drought Withdrawal Limitation ("EDWL"), but the EDWL may be more restrictive than the Extreme Drought MAG where the District determines that actual hydrologic, operational, or drought conditions require a lower aggregate withdrawal limitation over appropriate periods of time to achieve the Extreme Drought DFC.

"Extreme Drought Withdrawal Limitation" or "EDWL" – the maximum amount of groundwater that may be pumped from the Freshwater Edwards Aquifer by all groundwater users in the District during Extreme Drought, to be achieved by imposition of the most stringent current regulatory restrictions on nonexempt users in the Eastern and Western Freshwater Edwards Management Zones and which can be based on daily, monthly, or other production limits. The EDWL is a cap on firm-yield production comprising aggregate authorized production after curtailment plus estimated exempt use, and is established after considering adequate water levels in water-supply wells and degradation of water quality that could result from low water levels and low spring discharge. The EDWL may be decreased but shall not be increased.

"Fault" - a fracture or fracture zone in a rock or body of rock, along which there has been movement of the geologic formation on one side of the fault plane relative to the other side, parallel to the fracture.

"Fees" - charges imposed by the District pursuant to Rule, Order, or the Act.

"Fiscal Year" - the business year of the District begins on September 1 of each year and ends on August 31 of the following year.

"Fracture" - a plane along which there is a break in the geologic formation, but along which there has been no obvious movement. This is sometimes called a "joint."

"Freshwater Edwards Management Zones" - a collective term for the two management zones of the Freshwater Edwards Aquifer, viz., Western Freshwater Edwards Management Zone and Eastern Freshwater Edwards Management Zone. This zone only applies to the area described in Special District Local Laws Code Section 8802.003 which excludes the Shared Territory (see figures 1, 2, and 3).

"General Manager" – means the General Manager of the District or the District staff or other designee acting at the direction of the General Manager or Board to perform the duties of the General Manager.

"Groundwater or Underground Water" - water percolating or otherwise able to move beneath the earth's surface; by statute, this excludes water co-produced with oil and gas extraction.

"Groundwater Reservoir" - a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

"Hand-Dug Well" - wells with a diameter greater than 36 inches and less than 100 feet in depth installed by hand digging or by auger drilling are considered to be hand-dug wells.

"Hand-Held Hose" - a garden hose less than one inch in diameter attended by one person, possibly fitted with a manual or automatic shutoff nozzle.

"H.B. 3405"- House Bill No. 3405 is an Act relating to the territory, jurisdiction, and powers of the Barton Springs/Edwards Aquifer Conservation District, including its authority to regulate certain wells for the production of groundwater and imposing a cap on certain fees passed by the 84th Texas Legislature effective June 19, 2015.

"Historic Use Status" - a status applied to authorized groundwater withdrawals of a specified amount and for a designated use from (1) all registered nonexempt wells in the Saline Edwards; (2) those registered nonexempt wells in the Eastern or Western Freshwater Edwards Management Zone approved by the District prior to September 9, 2004; or (3) those registered nonexempt wells in the Upper, Middle, or Lower Trinity Management Zones approved by the District prior to October 16, 2026. A change in type of use of such withdrawals may terminate the Historic Use Status of that well.

"Historical Production Permit" - an authorization with Historic Use Status issued by the District for a designated period of time allowing the withdrawal of a specific amount of groundwater from a nonexempt well, generally in the form of a specific number of gallons per District fiscal year. Historical Production Permits include both Historical Edwards Production Permits and Historical Trinity Production Permits.

"Historical Edwards Production Permit" - a Historical Production Permit issued for a nonexempt well completed in the Eastern or Western Freshwater Edwards Management Zone that was approved by the District prior to September 9, 2004, exclusive of any volume authorized under an associated Conditional Edwards Production Permit.

"Historical Trinity Production Permit" - a Historical Production Permit issued for a nonexempt well completed in the Upper, Middle, or Lower Trinity Management Zone that was approved by the District prior to October 16, 2026, or that was approved on or after that date pursuant to an application that was administratively complete prior to that date, or as otherwise authorized under these rules, exclusive of any volume authorized under an associated Conditional Trinity Production Permit.

"Hydrogeological Report" - a report, prepared by a Texas licensed geoscientist or a Texas licensed engineer in accordance with the District's guidance document, *Guidelines for Hydrogeologic Reports and Aquifer Testing (Guidelines*), which identifies the availability of groundwater in a particular area and formation, and assesses the response of an aquifer to pumping over time and the potential for unreasonable impacts.

"Impervious Cover" - any structure or any street, driveway, sidewalk, patio, or other surface area covered with concrete, brick, paving, tile, or other non-permeable material.

"Incidental Use" - a beneficial use of water which is of a minor nature. Transport of water outside the District by a permittee which totals five percent or less, but in no case more than 5,000,000 gallons of that permittee's fiscal year 1998 annual permitted pumpage volume, or the initial permitted pumpage volume for permittees permitted after fiscal year 1998, is considered incidental use.

"Index Well" - a designated observation or monitoring well that is constructed in accordance with permit requirements or provisions to measure or monitor the quantity (water levels) or quality of water within the aquifer.

"Industrial Use" - the use of groundwater in processes integral to the production of primary goods or services provided by industrial or manufacturing facilities and used primarily in the building, production, manufacturing, or alteration of a product or goods, or a well used to wash, cleanse, cool, or heat such goods or products. Industrial use includes the use of water in the generation of electricity by means other than hydroelectric, including the use of water for cooling purposes, uses associated with plant personnel, and fire protection at a facility.

"Industrial Well" - a well producing groundwater for industrial use. (A nonexempt well.)

"Injection Well" - a well used to inject water or other material into a subsurface formation or into pipe or tubing placed in the formation for the purpose of storage or disposal of the fluid. (An exempt well.) This includes:

1. an air-conditioning return flow well used to return water that has been used for heating or cooling in a heat pump to the aquifer that supplied the water,

2. a cooling water return flow well used to inject water that has been used for cooling,

3. a drainage well used to drain surface fluid into a subsurface formation,

4. a saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into fresh water,

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

   and

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

"Irrigation Use" - the application of water, not associated with agricultural irrigation use, to plants or land in order to promote growth of plants (non-agricultural crops), turf grasses, or non-orchard trees. Irrigation use includes but is not limited to athletic fields, parks, golf courses, and landscape irrigation not tied to domestic use.

"Irrigation Well" - a well producing groundwater for irrigation use. (A nonexempt well.)

"Karst" – Geomorphological definition: a terrain and topography usually associated with limestone, dolomite, and gypsum formations, characterized by distinctive landforms above and below the surface such as sinkholes, caves, and underground drainages which have developed due to a combination of high rock solubility, well-developed secondary porosity (such as fractures, solution cavities, and caves), the physical structure of the rock, and the presence of an aggressive sub-surface hydrology.

Hydrogeological definition: an integrated mass transfer system in soluble rocks with a permeability structure dominated by conduits dissolved from the rock and organized to facilitate the circulation of fluids.

"Landowner" - any person, firm, partnership, or corporation that bears ownership of the land surface either by ownership, contract, lease, easement, or any other estate in the land.

"Landscape Irrigation" - the use of water to irrigate lawns, yards, and/or outdoor plants.

"Late Payment" - a payment received more than ten days after the due date.

"Licensed Water Well Driller" - any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of TDLR's Well Drillers and Pump Installers Program.

"Licensed Water Well Pump Installer" - any person who holds a license issued by the State of Texas pursuant to the provisions of HB 1648, 72nd Texas Legislative Session and the substantive rules of the TDLR's Water Well Drillers and Pump Installers Program.

"Limited Production Permit" - a permit issued for nonexempt groundwater use associated primarily with domestic or livestock uses authorized under District Rule 3-1.20(B) (a nonexempt well.)

"Line Loss" - see shrinkage.

"**Livestock**" – see "Non-Commercial Livestock."

"Lower Trinity Aquifer" - an aquifer comprising the Sligo and Hosston Members of the Travis Peak Formation.

"Lower Trinity Management Zone" - the management zone that is composed of the Lower Trinity Aquifer.

"Management Zone" or "MZ" - a geographic or hydrostratigraphic subdivision of the District having common characteristics that are different from those of other subdivisions and that serve as a basis for differentiated groundwater management provisions. The following management zones have been designated under these rules: Western Freshwater Edwards MZ; Eastern Freshwater Edwards MZ; Saline Edwards MZ; Upper Trinity MZ; Middle Trinity MZ; Lower Trinity MZ; Austin Chalk MZ (minor); and Alluvial MZ (minor).

"Material Amendment" - when used in the District's Fee Schedule, means an amendment to a Production Permit for any purpose other than agricultural use that increases the amount of water permitted by more than ten percent in one fiscal year or by more than 25 percent in any three-year period. The renewal on or after September 1, 2007, of a permit that was issued on or before September 9, 2004, is considered to be a material amendment if the permit as renewed increases the amount of water permitted by an amount that exceeds the specified limits.

"Maximum Production Capacity" - the maximum production capacity of a well, measured in gallons per minute or the equivalent in gallons per day.

"Mean Sea Level" - an average sea level reference datum determined by the National Oceanic and Atmospheric Administration used as a reference in the measurement of elevations.

"Meter" - a water flow measurement device which meets AWWA standards for the line size, pressures, and flows, and which is properly installed according to the manufacturer's specifications; or other measuring device approved by the District capable of measuring the actual volume of water pumped and maintaining a cumulative record of measured flows.

"Meter Reading" - a monthly written report of the reading taken from the water flow measurement device installed on a permitted well. Permitted users are required to submit these reports to the District on a monthly basis.

"Middle Trinity Aquifer" - an aquifer comprising the Lower Member of the Glen Rose Limestone, and the Hensell Sand and Cow Creek Limestone Members of the Travis Peak Formation.

"Middle Trinity Management Zone" - the management zone that comprises principally the Middle Trinity Aquifer, except that the upper boundary of this zone is defined to exclude elevated Ca-SO4 water-bearing units in the upper portion of the Lower Glen Rose; this boundary may also be coincident with the top of a "reef" unit in the upper portions of the Lower Glen Rose Formation (when present).

"Minimum Production Allowable Per Acre" - for a Trinity Management Zone, the quotient obtained by dividing the total annual groundwater availability for that management zone that will result in achievement of the relevant DFC, as determined by the Board after considering the modeled available groundwater and other best available science, by the total acreage overlying that management zone and located within the District.

"**Modify**" - to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities in a manner that may effectively increase production capacity. Modifications increasing production capacity include, but are not limited to, increasing the size of the inside diameter of the pump discharge column pipe of a well in any way, modifying or replacing the maximum designed production capability of a pump or pump motor, modifying the depth or diameter of a well bore. This does not include repair or maintenance of equipment, well houses or enclosures, or replacement with comparable equipment.

"Modeled Available Groundwater" or "MAG" - the amount of water that the TWDB Executive Administrator determines may be produced on an average annual basis to achieve a desired future condition established under Texas Water Code, Section 36.108. The MAG includes both exempt and nonexempt well production.

"Monitor Well" - a well that is constructed by non-governmental entities to measure or monitor the quality, quantity, or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are environmental soil borings, piezometer wells, observation wells, and recovery wells (nonexempt wells). The term shall not include any well that is used in conjunction with the production of oil, gas, coal, lignite, or other minerals.

"Multi-user Well" – a nonpublic water supply well that is used within the District to provide water for beneficial use, and is shared by the well owner and multiple property owners other than the well owner.

"Municipality" – a community, town, city, or other local government under a municipal jurisdiction that provides potable water, through a central distribution system operated by the municipality, for the purposes of beneficial end uses such as domestic, recreational, commercial, industrial, institutional, wholesale, or other municipal public spaces.

"Native Groundwater Zone" – the groundwater naturally occurring in the geologic formation which has not mixed with the stored water and is discretely unaffected by the buffer zone mixing.

"New Well" - any well that is not an existing well or any existing well that has been modified to increase groundwater production after August 13, 1987.

"No-Drought Status" - this stage is in effect when discharge at Barton Springs is above a certain flow rate and when the water level elevation in the District's Lovelady monitor well is above a certain level, and/or the District determines that no conditions exist that constitute drought conditions.

"Nonexempt Well" - a well required to obtain a well drilling authorization for well drilling or modification and a permit for the production of groundwater from within the District.

"**Non-Commercial Livestock Use"** - the use of groundwater associated with watering, raising, feeding, or keeping non-commercial livestock and/or poultry, of any variety, for sustenance. Domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, antelope, and other similar animals involved in farming or ranching operations, on land recorded and taxed in the County as an agricultural land use. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are considered domestic. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock. (An exempt well.)

"Notice of Alleged Violation" - a written notification of an alleged violation of District Rules and Bylaws that is issued to a Respondent once the Board, or the General Manager if delegated by the Board, has determined that sufficient evidence exists to warrant such allegations and that outlines the specific alleged Rule violations, penalties, and procedures and conditions for possible early resolution.

"Notice of Violation" - a written notification of a violation of District annual overpumpage rules that is issued to a Respondent once the General Manager has determined that sufficient evidence exists to warrant such allegations and that outlines the specific alleged Rule violations, penalties, and procedures and conditions for possible early resolution.

"Nursery Grower" - 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.

"Observation Well" – any well that is used to collect observations of water level drawdown and recovery during an aquifer test.

"Open or Uncovered Well" - an artificial excavation at least ten feet deep and not more than six feet in diameter, that is dug or drilled for the purpose of producing groundwater, or for injection, monitoring, or dewatering purposes, and is not capped or covered as required by the District.

"Operate or Operations" - to produce or cause to produce water from a well or to use a well for injection or closed-loop heat exchange purposes.

"Overpumpage" - to produce water from a well in excess of the amount authorized to be withdrawn in accordance with the permitted pumpage volume issued by the District.

"Per Capita" - one individual or person, a unit of population; may be phrased as a standard value such as: one active residential account or meter equals 3.0 per capita.

"Permit Amendment" - a minor or major change in the Production Permit.

"Permittee" - a person who is required to obtain a permit from the District.

"Permit" – a term used collectively for authorizations issued by the District for well drilling, well modification, groundwater production, or transfers of produced groundwater out of the District.

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

"Plugging" - the absolute sealing of a well bore in accordance with approved District standards.

"Plugging Authorization" - an authorization issued by the District which defines the methods for the permanent closure of a well.

"Political subdivision" – a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 67, Texas Water Code.

"Pollution" - the alteration, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

"Potentiometric Surface" - the surface defined by the elevation to which water from a specific aquifer will rise in a well (water level) at all geographic locations of that aquifer.

"Primary Use" – the principal activity and primary groundwater use type that is designated as a superior and major functional use type of a groundwater producing well.

"Production Allowable Per Acre" - the maximum annual volume of groundwater, expressed in gallons per acre per year, that may be authorized for production from each contiguous controlled acre overlying a Trinity Management Zone, as established for that management zone under District Rule 3-1.24.2(C).

"Production Fee" - a fee based upon the total authorized permit volume imposed by the District on each well or aggregate system for which a Production Permit is issued.

"Production Permit" or "Operating Permit" – a term used collectively for authorization(s) (Historical Edwards Production Permits, Historical Trinity Production Permits, Class A, Class B, Class C, and Class D Conditional Edwards Production Permits, and Conditional Trinity Production Permits) issued by the District allowing the withdrawal of a specific amount of groundwater from a nonexempt well for a designated period of time, generally in the form of a specific number of gallons per District fiscal year.

"Proportional Adjustment" - a management practice meaning that a temporary curtailment or cessation of groundwater production from a conditional production permitted water well is proportional when the adjustment is maintained at a constant ratio in relation to the adjustment to all other conditional production permitted water wells. In the Trinity Aquifer Management Zones, it can mean a change in the production allowable per acre applicable to all Conditional Trinity Production Permits.

"Public Water System" - a system that provides water for human consumption through pipes or other constructed conveyances, which include all uses described under the TCEQ's definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes community water systems, non-transient non-community water systems, and transient non-community water systems which maintain and operate collection, treatment, storage, and distribution facilities for providing potable water. An individual is deemed to be served by a public water system if he lives in, uses as his place of employment, is a patron of a business establishment, or works in a place to which drinking water is supplied from the system, 30 TAC §290.38(66).

"PUC" – Public Utility Commission of Texas.

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

"Recharge" – water that infiltrates to the water table of an aquifer through natural or manmade processes.

"Recharge Well" - a well used only for the storage of water into a geologic formation as part of an aquifer storage and recovery project. (A nonexempt well). See also "Aquifer Storage and Recovery Well" pursuant 30 TAC §331.2.

"Recharge Zone" - generally, that area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of waters from the surface into the Edwards Aquifer. The recharge zone is identified as that area designated by the Texas Commission on Environmental Quality on the agency's official maps.

"Recovery" – the action or activities involving the withdrawal of stored water from a geologic formation as part of an aquifer storage and recovery project.

"Recovery Amount" or "Recoverable Amount" – A percentage of the stored water volume that can be subsequently recovered and is determined to be the volume of water that the permittee is authorized to recover under the Source and Recovery Permit.

"Recovery Efficiency" – A percentage of the stored water volume that is subsequently recovered and is considered recoverable based on satisfying and not exceeding a set target water quality criterion for the recovered water.

"Recovery Well" or "ASR Recovery Well" - a well used only for the recovery of water from a geologic formation as part of an aquifer storage and recovery project. (A nonexempt well.)

"Recreational Use" – the use of water by an entity (public or private), person, or corporation in which the water use is associated with outdoor recreational activities including but not limited to:

1. individual or group water sporting activities;

2. boating, swimming, or fishing activities;

3. water park activities;

4. park or camping activities;

5. golf course water hazard ponds or other open watercourse of a similar nature on a golf course;

6. activities relating to the development of historical, archaeological, or scientific sites;

7. natural or man-made amenity pond on private or public property; or

8. activities for the conservation and preservation of scenic areas that primarily provide entertainment, enjoyment, relaxation, and incidentally provide fish and wildlife benefits that are not otherwise defined as Wildlife Management Use.

"**Recreational Well**" - a well producing groundwater for recreational use. (A nonexempt well.)

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

"Reduction Goal" - the amount of reduction in permitted pumpage volume, expressed in a percentage from baseline pumpage volume for each drought stage.

"Register" - a visual display that is built-in to water meters and that allows direct reading at the meter of the aggregate amount of water that has passed through the meter from the time it was installed.

"Regular Production Permit" - a term used to describe the initial Production Permits issued in accordance with Section 4 of H.B. 3405 and former temporary Rule 3-1.55 related to the conversion of Temporary Permits in the Shared Territory. Upon issuance, the converted Temporary Permits will be considered Production Permits subject to all Rules, laws, and Orders of the District applicable to permit holders including Permit Conditions and Requirements Rule 3-1.11.

"Remediation Well" - a well used to pump contaminated water or fluids or vent contaminated air from the ground. (An exempt well.)

"Repair and Maintenance" of a well - procedures employed or the work done in the normal course of operation to ensure safe and proper operation, water quality, proper sanitary measures, and normal replacement, restoration, or repair of well components, provided those repairs do not alter the original state of the well or increase the original groundwater production capacity of the well. Repair of well components or equipment may include work done on damaged or deteriorated equipment and materials or the construction involved in establishing seals and safeguards to protect groundwater. This term also includes the repair or replacement of the pump provided the replacement pump does not exceed the maximum design production capacity of the pump being replaced, or increase the original maximum production capacity of the well.

"Replacement Well" – a well that is drilled to replace a deteriorated well where:

1. the well that is being replaced is permanently plugged;

2. the replacement well is drilled within 250 ft from the original well;

3. the well will not be completed or equipped in such a way that it will increase production capacity (e.g., modification);

4. the well will be used to produce the same or less amount of groundwater and for the same purpose of use of the original well;

5. the well has a cone of depression similar to that of the original well; and

6. the replacement well complies with all applicable District Rules and regulations, including current District Well Construction Standards.

"Retail Public Utility" – a Water Utility, as defined herein, that produces groundwater for retail public water supply use.

"Retail Public Water Supply Use" – the use of groundwater by a public or private water utility that operates, maintains, or controls facilities for providing potable water supply service to the ultimate consumer for compensation. Water supplied by a retail public water supplier to customers within its service area may include end uses such as human consumption, commercial, industrial, irrigation, institutional, or other uses of the retail customer.

"Rules" - standards and regulations promulgated by the District.

"Saline Edwards Management Zone" - the management zone that includes the Edwards Aquifer east of a designated boundary line corresponding to points where its water chemistry generally comprises total dissolved solids concentrations of 1,000 mg/L, colloquially known as the "bad water line."

"Scientific Monitor Well" - a well used primarily for scientific monitoring of an aquifer, for monitoring associated with an aquifer test monitoring network (observation well), or for monitoring associated with compliance monitoring network, specifically for water-quality sampling and/or taking water-level measurements, by local, state, and federal government entities. (An exempt well.)

"Shared Territory" - the territory described by Special District Local Laws Code Section 8802.0035 which includes the area inside the boundaries of the Edwards Aquifer Authority and Hays County but not within the boundaries of the Plum Creek Conservation District as the boundaries existed on February 1, 2015. The District has jurisdiction over groundwater and any wells drilled to produce water from any aquifer other than the Edwards Aquifer in the Shared Territory (see figure 1).

"Shrinkage" - the loss of water between the producing well(s) meter and the customers' meters in a water system. [Note: when the amount of shrinkage becomes excessive (greater than 15 percent of pumpage volume) the loss of water may become waste. See also "line loss."]

"Sinkhole" - a naturally occurring solution or collapse depression characterized by subterranean drainage.

"Source and Recovery Permit" – an individual permit that authorizes 1) the temporary production of Class D Fresh Edwards water for ASR projects and 2) the recovery of stored water from a recovery well for the purpose of ASR in accordance with TCEQ 30 §TAC 331.

"Source Water" –water that is used for the purpose of aquifer storage and recovery, and is considered a permissible source of water for ASR projects in accordance with TCEQ 30 §TAC 331.19, TCEQ 30 §TAC 331.186.

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

"Spring" - a point(s) of natural discharge from an aquifer.

"Stage 1 Alarm Drought" - the first of four drought severity stages that the District may declare when aquifer conditions reach drought stage levels. At least 20 percent reduction in monthly water use is required for all permittees.

"Stage 2 Critical Drought" - the second of four drought severity stages that the District may declare when aquifer conditions reach drought stage levels. At least 30 percent reduction in monthly water use is required for individual Production Permit holders.

"Stage 3 Exceptional Drought" - the third of four drought severity stages that the District may declare when the aquifer conditions reach drought stage levels. At least 40 percent-reduction in monthly water use is required for most permittees. This drought stage only applies to the Freshwater Edwards Management Zones.

"Stage 4 Emergency Response Period" (ERP) - in Extreme Drought, deep within the most severe Stage 3 Exceptional Drought, a regulatory period declared by the Board and established by Board Order in which the Board may order additional curtailment of water use by any and all permittees and other users of the Freshwater Edwards Aquifer. Such actions apply only to the two Freshwater Edwards Management Zones. See also "Extreme Drought." The District may be in the physical condition of Extreme Drought without having the institutional condition of an ERP declared.

"Storage Radius" or "Target Storage Volume Radius"– the horizontal radial extent of all stored water from an ASR recovery well in which source waters were recharged into a geologic formation for subsequent retrieval.

"Stored Water Zone" or "Stored Water Volume" – the proximal zone of an ASR storage and recovery well in which the stored water has not mixed with the native groundwater zone. This zone includes the horizontal and vertical extent of all non-mixed stored water.

"Stratum" - a layer of rock having a similar composition throughout.

"Subsidence" - the lowering in elevation of the land surface caused by withdrawal of groundwater.

"Substantial Alteration" - procedures employed or the work done on the well that involves reaming, setting casing, or grouting in association with well repairs or changes in a well or pump configuration/ design provided those repairs or changes do not significantly alter the original state of the well or increase the original groundwater production capacity of the well (see also "modify").

"Surface Completion" - sealing off access of undesirable water, surface material, or other potential sources of contamination to the well bore by proper casing and/or cementing procedures.

"Sustainable Yield" - the amount of groundwater available for beneficial uses from an aquifer under a recurrence of drought of record conditions, or worse, without causing unreasonable impacts. An evaluation of sustainable yield will be based on historic data on groundwater storage, usage, recharge, water quality, and spring flow of the aquifer.

"Target Storage Volume (TSV)" - The sum of stored water volume plus the buffer zone volume.

"Target Pumpage" - the reduced level of monthly permitted pumpage required by the permittee's UDCP by drought stage.

"TCEQ" - Texas Commission on Environmental Quality.

"TDLR" - Texas Department of Licensing and Regulation.

"Temporary Curtailment" - a temporary reduction in the permitted volume of groundwater allowed to be produced by a water well authorized under a Conditional Production Permit during declared drought conditions.

"Temporary Permit" – an interim authorization to drill, operate, or perform another activity related to a nonexempt well in the Shared Territory (see figure 1) from June 19, 2015 (the effective date of H.B. 3405) until the date that the District takes a final, appealable action on issuance of a Regular Production Permit. This authorization includes Temporary Production Permits and Temporary Well Drilling Authorizations.

"Test Well" - a well that is constructed to be used solely for hydrogeological evaluation of the aquifer(s), and assessment of prospective uses of water. (A nonexempt well.)

"Total Dissolved Solids" (TDS) - a measurement of the quantity of minerals, chemical compounds, elements, or other matter contained in a state of solution by water.

"Transfer of Groundwater" - see "Transport of Groundwater."

"Transport of Groundwater" - transferring or exporting out of the District groundwater that is authorized by a District Production Permit. The terms "transfer" or "export" of groundwater are used interchangeably within TWC Chapter 36 and these Rules.

"Transport Permit" - an authorization issued by the District allowing the transfer or transporting of a specific amount of groundwater out of the District for a designated period of time. All applicable permit rules also apply to transport permits.

"Trigger" - specific conditions of aquifer water level elevations, spring discharges, and water quality that the District will monitor and use as indicators of drought conditions for purposes of declaring the various drought severity stages.

"Trinity Group Aquifer" - includes the Upper Member of the Glen Rose Formation, known as the Upper Trinity; the Lower Member of the Glen Rose Formation, and the Hensell Sand and Cow Creek Limestone Members of the Travis Peak Formation, known as the Middle Trinity; and the Sligo and Hosston Members of the Travis Peak Formation, known as the Lower Trinity.

"Unreasonable Impacts" – a significant drawdown of the water table or reduction of artesian pressure as a result of pumping from a well or well field, which contributes to, causes, or will cause in existing groundwater or surface water resources or the existing wells of permit holders, exempt well registrants, or other persons:

1. well interference that causes a reduction of available drawdown at any property line on the property where the well is located or in any other well already existing at that time that is greater than the available drawdown percentage impacts described under the minimum well spacing distances Rule 3-1.12(I);

2. well interference related to a significant decrease in well yields that results in one or more water wells being unable to obtain either an authorized, historic, or usable volume or rate from a water well with reasonably efficient well construction;

3. well interference related to the lowering of water levels below an economically feasible pumping lift or reasonable pump intake level;

4. the degradation of groundwater quality such that the water is unusable or requires the installation of a treatment system;

5. the Desired Future Condition (DFC) to not be achieved;

6. depletion of groundwater supply over a long-term basis, including but not limited to chronic reductions in storage or overdraft of an aquifer;

7. a significant decrease in springflow or baseflows to surface streams including a decrease that may cause an established minimum springflow or environmental flow rate to not be achieved; or

8. land subsidence.

"Upper Trinity Aquifer" - an aquifer comprising the upper member of the Glen Rose Limestone.

"Upper Trinity Management Zone" - the management zone that is composed of the portion of the Upper Trinity Aquifer where there is no significant hydrological connection to the overlying Edwards.

"User" - a person who produces, distributes, or uses water from the aquifer(s).

"User Conservation Plan" (UCP) - a conservation plan submitted to the District by a permitted user, which is approved by the District Board and in accordance with the District Water Conservation Plan.

"User Drought Contingency Plan" (UDCP) - a drought contingency plan submitted to the District by a permitted user, which is approved by the District Board as an integral part of the District permit, and in accordance with the District Drought Contingency Plan.

"Variance" - an authorized exception to requirements or provisions of the Rules, granted by the District's Board of Directors, or by the General Manager where authorized by these Rules.

"Waste" - as used herein shall have the following meaning:

1. The withdrawal of groundwater from a groundwater reservoir at such rate and in such an amount that causes or threatens to cause the intrusion therein of water not suitable for agricultural, municipal, domestic, or stock raising purposes.

2. The flowing or producing of wells from a groundwater reservoir when the water produced therefrom is not used for a beneficial purpose or is not used for such purposes with a reasonable degree of efficiency; includes line losses in excess of those determined to be unavoidable.

3. The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.

4. The pollution or harmful alteration of the character of the groundwater by means of salt water or other deleterious matter admitted from another stratum or from the surface of the ground.

5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer,

street, highway, road, road ditch, or onto any land other than that of the owner of the well other than the natural flow of natural springs, unless such discharge is authorized by permit, rule, or order issued by the TCEQ under TWC Chapter 26 *"Water Quality Control*."

6. The loss of groundwater in the distribution system and/or storage facilities of the water supply system, which should not exceed 15 percent of total pumpage. This loss is also termed "shrinkage."

7. To willfully cause or knowingly permit the water from an artesian well to run off the owner's land or to percolate through the stratum above which the water is found, unless the water is used for a purpose and in a manner in which it may be lawfully used on the owner's land.
8. 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.

"Water Conservation Period" –Permittees within the District will be expected to implement the voluntary measures described in their UDCPs in order to achieve water use reductions during this period when increased water use is typically observed. At least 10 percent reduction in monthly water use is recommended for all permittees.

"Water Level Elevation" - the measure or estimate of a water surface in a well or aquifer as measured in feet above mean sea level.

"Water Meter Seal" - a physical seal that is installed in or on the water meter to prevent tampering with meter readings.

"Water Pollution Abatement Plan" (WPAP) - a project impact assessment and pollution prevention proposal.

"Water-Quality Report" - a report prepared by the Texas Department of Health, the U.S. Geological Survey or any other governmentally- or District-approved laboratory that is the product of testing the water for bacteria, solids, elements, chemicals, or contaminants.

"Water Table" - the upper boundary of the saturated zone in an unconfined aquifer.

"Water Tight Seal" - a seal that prohibits the entrance of liquids or solutions, including water, which may enter through the wellhead and potentially contaminate the well.

"Water Table Zone" - that part of the aquifer confined only by atmospheric pressure. In the Freshwater Edwards Management Zones, this zone is coextensive with the area designated by the TCEQ as Recharge Zone.

"Water Utility" - any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or

controlling in this State, facilities (such as a public water supply well) for providing potable water service for compensation. A Water Utility under these District Rules may be either a "retail public water supply" or a "wholesale public water supply" as defined under TCEQ rules.

"Water Well" - any drilled or excavated facility, device, or method used to withdraw groundwater from the groundwater supply.

"Well" - any artificial excavation or borehole constructed for the purposes of exploring for or producing groundwater, or for injection, monitoring, or dewatering purposes.

"Well Abandonment" - leaving a well unused, unattended, and improperly protected from contamination and/or sources of pollution. Abandoned wells must be capped, permanently closed, or plugged in accordance with approved District standards.

"Well Drilling Authorization" or "Well Development Authorization" - authorization issued to the owner of the property to construct, drill, or modify a nonexempt well within the District in compliance with approved District Rules and standards. This authorization is not a permit to produce groundwater from the well; a Production Permit is also required for that purpose.

"Well Elevation" - the ground surface elevation of the well bore.

"Well Field" - the collection of nonexempt wells located on a contiguous tract of land or on tracts of noncontiguous land, without intervening private ownership or private control, owned or controlled by a person, and operated to produce groundwater for one or more non-exempt use purposes.

"Well Interference" - measurable drawdown in the water table or reduction of artesian pressure in a well due to pumping from another well.

"Well Owner" - any person, firm, partnership, or corporation that has the right to produce groundwater from the land either by ownership, contract, lease, easement, or any other estate in the land or in the groundwater. The term includes but is not limited to a person that holds the permit for the well or owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.

"Well Pumps and Equipment" - equipment and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

"Well Registration" - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping and for future planning purposes (see Rule 3-1.1).

"Well Report (Log)" - an accurately kept record, made during the process of drilling, on forms prescribed by the TDLR's Water Well Drillers and Pump Installers Program, showing the depth of the well bore, thickness of the formations, character of casing installed, together with any other data or information required by the Water Well Drillers and Pump Installers Program, or any other special purpose well log that may be available for a given well such as a gamma ray log, a temperature log, an electric log, or a caliper log.

"Western Freshwater Edwards Management Zone" - the management zone that includes the Edwards and the portion of the Upper Trinity Aquifer where there is significant hydrological connection to the overlying Edwards Aquifer. The zone encompasses the area west of a designated boundary line corresponding generally to the Edwards Aquifer's saturated thickness of approximately 100 feet and/or in certain nearby areas by the surface traces of larger-throw faults. This zone only applies to the area described in Special District Local Laws Code Section 8802.003 which excludes the Shared Territory (see figure 1, 2, and 3).

"Wholesale Public Water Supply Use" – the use of groundwater by a public or private entity that for compensation supplies water to another political subdivision, municipality, wholesale supplier, or retail water utility for resale to the ultimate retail consumer. Water supplied by a wholesale public water supplier may be raw or potable and may include end uses such as human consumption, commercial, industrial, irrigation, institutional, or other uses.

"Wholesale Public Water Supply Well" - a nonexempt well producing groundwater for wholesale public water supply use.

"Wildlife Management Use" - the use of groundwater for the active use of land to propagate a sustaining breeding, migrating, or wintering population of native wildlife for human use, including food, medicine, or recreation, consistent with Texas Tax Code §23.51(1) and §23.51(7)(A), where:

1. the land is appraised as qualified open-space land on the basis of wildlife management under Texas Tax Code §23.51(1) and §23.51(7)(A);
2. groundwater is applied toward at least one of the wildlife management practices described in Texas Tax Code §23.51(7)(A); and
3. a wildlife management plan for the land identifying those practices has been filed with the applicable county appraisal district on the form prescribed under Texas Tax Code §23.521 and remains in effect.

Wildlife Management Use also includes the use of groundwater to protect a federally listed endangered species under a federal permit, where the land:

1. is appraised as qualified open-space land under Texas Tax Code §23.51(1) and §23.51(7)(B); and

2. is either included in a habitat preserve subject to a conservation easement created under Chapter 183, Natural Resources Code, or is part of a conservation development under a federally approved habitat conservation plan.

A well permitted on the basis of Wildlife Management Use shall be reclassified upon the District's receipt of notice, or the District's own determination, that the underlying appraisal has lapsed, been denied, or been removed.

Wildlife Management Use does not include:

1. watering livestock, poultry, or exotic wildlife;

2. landscape irrigation; or

3. filling or maintaining ponds or water features whose primary function is aesthetic or recreational (see Recreational Use).

"Withdraw or Withdrawal" - the act of extracting groundwater by pumping or any other method other than the discharge of natural springs.

2-2. PURPOSE OF RULES.

The District's Rules and Bylaws, and Standards are promulgated under the District's statutory authority to achieve the following objectives: to provide for conserving, preserving, protecting and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to provide for the efficient use of groundwater, controlling and preventing subsidence, controlling and preventing waste of groundwater, addressing conjunctive surface water management issues, addressing natural resource issues, addressing drought conditions, addressing conservation, addressing alternative groundwater management technologies, addressing ASR projects, and to protect private property rights, balance the conservation and development of groundwater to meet the needs of this State and use the best available science in the conservation and development of groundwater. The District's Orders, Rules, regulations, requirements, Resolutions, policies, guidelines, or similar measures have been implemented to fulfill these objectives. Groundwater conservation districts are the State's preferred method of groundwater management through rules developed, adopted, and promulgated in accordance with the provisions of TWC Chapter 36.

2-3. USE AND EFFECT OF RULES.

The District uses these Rules and Bylaws as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the Act. They shall not be construed as a limitation or restriction on the exercise of any discretion where it exists, nor shall they be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor shall they be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the Act.

2-4. ORGANIZATION AND REFERENCES.

These Rules are organized into Rules, which are designated by a number and a hyphenated number, such as Rule 3-1; Sections, which are designated by an additional number, such as Section 3-1.24; and Subsections, which are designated by a capital letter, such as Subsection (A), and which may be further divided into numbered and lettered provisions. A reference to a provision of another Rule is made by Rule number, such as Rule 3-1.24(D)(1) or District Rule 3-1.24(D)(1). A reference to the Rule or Section in which the reference appears is made as "this Rule" or "this Section," and a reference to a provision within it is made as "Subsection (D) of this Section" or "Section 3-1.24 of this Rule." The Bylaws in Rule 4 are adopted as rules of the District under Chapter 36, Texas Water Code.

2-5. HEADINGS AND CAPTIONS.

The Rules, Sections, and other headings and captions contained in these Rules and Bylaws are for reference purposes only and shall not affect in any way the meaning or interpretation of these Rules and Bylaws.

2-6. GENDER.

Use of masculine pronouns for convenience purposes in these Rules and Bylaws shall include references to persons of feminine gender where applicable. Words of any gender used in these Rules and Bylaws shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise.

2-7. SEVERABILITY.

In case any one or more of the provisions contained in these Rules and Bylaws shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other Rules, Bylaws, or provisions hereof, and these Rules and Bylaws shall be construed as if such invalid, illegal, or unenforceable rule or provision had never been contained herein.

2-8. SAVINGS CLAUSE.

If any Section, sentence, paragraph, clause, or part of these Rules and Bylaws should be held or declared invalid for any reason by a final judgment of the courts of this State or of the United States, such decision or holding shall not affect the validity of the remaining portions of these Rules and Bylaws, and the Board does hereby declare that it would have adopted and promulgated such remaining portions irrespective of the fact that any other sentence, Section, paragraph, clause, or part thereof may be declared invalid.

2-9. REGULATORY COMPLIANCE.

All wells shall comply with all applicable Rules and regulations of other governmental entities. Where District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations shall control. The Board is the sole entity that determines compliance with applicable rules and regulations of the District, and it reserves the right to consider any extraordinary circumstances, including but not limited to those associated with District requirements and operations, that may from time to time affect such compliance by specific wells.

2-10. COMPUTING TIME.

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

2-11. TIME LIMITS.

Applications, requests, or other papers or documents required or permitted to be filed under these Rules and Bylaws, or by law must be received for filing at the District within the time limit, if any, for such filing. The date of receipt and not the date of posting are determinative.

2-12. VERB USAGE.

The verbs may, can, might, should, or could are used in a permissive sense, when an action is optional or may not apply in every case. The verbs will, shall, or must are used when an action is required and not discretionary. The verb cannot is used when an action is not allowed or is unachievable.

3. RULES.

3-1. REGISTRATION, AUTHORIZATION, AND PERMITS.

3-1.1. REGISTRATION.

All wells within the District are required to be registered with the District on forms approved by the General Manager. Information on the form shall include the owner's name, mailing address, well location, well size, use, and any other information the General Manager may determine to be of need. All wells registered with the District shall be classified by the District according to applicable management zone and water use. Use

classifications include: domestic, commercial, industrial, public water supply, agricultural, irrigation, injection, closed loop, remediation, dewatering, monitor, scientific monitor, and District Drought Indicator wells. Exempt wells, abandoned wells, and wells used for incidental purposes are also required to be registered with the District. A well registration identification number will be issued to each well.

3-1.2. AUTHORIZATIONS.

No person shall construct, drill, modify, complete, change type of use, perform dye-tracing operations, plug, abandon, or alter the size of a nonexempt well in the District without providing requisite information to the District and as required, obtaining District authorization.

Prior to conducting any of the above activities on any well in the District, the owner or owner's representative must complete and submit to the District an application on forms approved by the District providing information on the proposed activity. Upon completion of an application, the General Manager or the General Manager's designated representative shall advise the applicant of the well use classification and whether permits are necessary. If the well does not have an existing state well number, a temporary well number will be issued along with any authorization to drill, plug or modify.

Prior to performing any type of dye-tracing or other form of groundwater tracing operations within the District's jurisdictional boundary where materials are introduced into surface water or groundwater, the person proposing such operations must submit an operations plan for the proposed tracer study to the District for approval at least 30 days before the proposed starting date of the study. This plan must describe the entire proposal including: the responsible party; type of tracer and any visual, taste, chemical, or health considerations; rationale or need for the proposed study; injection and recovery points; methods to be employed; expected flow paths; expected project term; method of notification of affected well, spring, and property owners; any contingency plans; and any other information involving the proposed study. These studies must not conflict with any part of Rule 3-3 concerning pollution. District approval of any tracing plan may be denied if the District determines that the proposed plan is in conflict with other ongoing tracing studies.

3-1.3. PERMITS AND EXEMPTIONS.

Permits and permit amendments may be issued subject to the rules promulgated by the District, and subject to terms and provisions with reference to the drilling, equipping, completion, alteration, operation of, or production of groundwater from nonexempt wells or pumps that may be necessary to prevent waste and achieve water conservation, prevent as far as practicable unreasonable impacts.

A. No person shall drill, pump, or operate a nonexempt well without first submitting applications and obtaining approval of a Well Drilling Authorization, a Production Permit, and, as warranted, a Transport Permit from the District. A violation occurs

on the first day the drilling, alteration, or operation begins, and continues each day thereafter until the appropriate authorization or permits are approved.

B. The following wells are exempt from having to obtain a Well Drilling Authorization, Production, or Transport Permit from the District:

1. A well drilled after August 14, 2003, in the Western or the Eastern Freshwater Edwards Management Zone is exempt if it is registered with the District and it is:

   a. A well that is used solely for domestic needs that is either drilled, completed, or equipped so that it is incapable of producing more than 10,000 gallons of groundwater a day, and is on a tract of land larger than 10 acres, or;

   b. A well that is used for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 10,000 gallons of groundwater a day, and is on a tract of land larger than 10 acres.

2. A well drilled before August 14, 2003, in the Western or the Eastern Freshwater Edwards Management Zone is exempt if it is registered with the District and it is:

   a. A well not capable of producing more than 10,000 gallons per day;

   b. A well used solely for domestic needs;

   c. A well used for the watering, raising, feeding, or keeping of livestock for breeding purposes or for the production of food or fiber, leather, pelts or other tangible products having a commercial value. Boarding of horses, veterinarian facilities, sale barn or auction facilities, animal slaughtering operations, equestrian or rodeo arenas and facilities, and similar businesses are not considered agricultural livestock operations; or

   d. A well that was otherwise treated as exempt by the District.

3. A well drilled before July 16, 2015, in the Upper, Middle, or Lower Trinity Management Zones is exempt if it is registered with the District and it is:

   a. A well used solely for domestic needs that is either drilled, completed or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day; or

b. A well used solely for the watering, raising, feeding, or keeping of livestock for breeding purposes or for the production of food or fiber, leather, pelts or other tangible products having a commercial value that is either drilled, completed or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day. Boarding of horses, veterinarian facilities, sale barn or auction facilities, animal slaughtering operations, equestrian or rodeo arenas and facilities, and similar businesses are not considered agricultural livestock operations.

4. A well drilled after July 16, 2015, in the Upper, Middle or Lower Trinity Management Zones, is exempt if it is registered with the District and it is:

a. A well that is used solely for domestic needs that is either drilled, completed, or equipped so that it is incapable of producing more than 10,000 gallons of groundwater a day, and is on a tract of land larger than 10 acres, or;

b. A well that is used solely for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 10,000 gallons of groundwater a day, and is on tract of land larger than 10 acres.

5. A District Drought Indicator Well;

6. A Scientific Monitor Well;

7. A Remediation Well;

8. An Injection Well;

9. A Closed Loop Geothermal Well;

10. A Dewatering Well;

11. A 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 provided that the person holding the permit is responsible for drilling and operating the water well, and the well is located on the same lease or field associated with the drilling rig and within the boundaries of the field in which the drilling rig is located; or

12. A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for groundwater production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

13. A well for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District. An exemption for such a well may not exceed 180 days without an extension granted by the District.

C. The District may not restrict the groundwater production of any well that is exempt from permitting under Subsection (B) of this Section, provided any such production doesn't change the type of well or otherwise redefine it such that it is no longer exempt.

D. An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code that authorizes the drilling of water well shall report monthly to the District:

1. The total amount of water withdrawn during the month,

2. The quantity of water necessary for mining activities, and

3. The quantity of water withdrawn for other purposes.

E. Notwithstanding Subsection (D), the District may not require a well exempted under Subsection (B)(10) to comply with the spacing requirements of the District.

F. The District may not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets all applicable rules as promulgated by the District.

G. A water well exempted under Subsection (B) shall:

1. Be registered in accordance with rules promulgated by the District; and

2. Be equipped and maintained so as to conform to the District Rules and Well Construction Standards 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.

H. The driller of a well exempted under Subsection (B) shall file the State of Texas Well Report and any other available drilling log with the District.

I. A well to supply water for a subdivision of land, for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (B).

J. Groundwater withdrawn from a well exempt from permitting or regulation under Subsection (B) and subsequently transported outside the boundaries of the District is subject to any applicable District production and export fees.

K. This Section applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This Section does not apply to production or injection wells drilled for oil, gas, sulfur, uranium, or brine; or for core tests, or injection of gas, saltwater or other fluids, under permits issued by the Railroad Commission of Texas.

L. A well owner may only apply to re-drill or replace a registered exempt well while preserving an exempt designation if it complies with the exemption criteria pursuant to Subsection (B)(1) or (4) of this Section and the requirements of Rule 3-4.6.

3-1.3.1. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT.

A. Transport Permit Required**.** Before any person transports any water out of the District from a well that is located within the District, the person must obtain a Transport Permit from the District. If a person transports water under any of the exceptions set forth in Subsection (B) of this Section, the person need not obtain a Transport Permit unless the person exceeds the amount of water authorized to be transported without a Transport Permit under Subsection (B) of this Section. If the person exceeds the amount of water transported under Subsection (B) of this Section, the person must immediately make application for a Transport Permit under the process described herein and provide the District with records of pumpage for all water transported from the District.

If an application for a permit or an amendment to a permit under this Section proposes the transfer of groundwater outside of the District's boundaries, the District may also consider the provisions of this Section in determining whether to grant or deny the permit or permit amendment.

B. Exceptions. A Transport Permit and transport fees are not required for transporting of groundwater from the District in the following cases:

1. Transporting of groundwater from the District pursuant to a continuing arrangement (see definition) that was in effect on or before March 2, 1997, to the extent that the amount of water to be transported does not exceed by more than 5 million gallons annually the maximum amount previously transported prior to March 2, 1997 under the terms of the continuing arrangement.

2. Transporting of groundwater from the District for Incidental Use (see definition) or that takes place only sporadically.

3. Where a property has been added to the District in a manner that the District's boundary divides the property so that some, but not all, of the property is within the District. After such a boundary change, groundwater from an existing well or wells on property added to the District may be transported outside the District for use on the portion of the same property outside the District when, at the time of the boundary change, the property inside and outside the District is:

   a. contiguous;

   b. owned by the same property owner; and

   c. the water use type existed prior to the boundary change.

   This exception only applies to property added to the District on or after June 19, 2015.

4. Persons transporting or intending to transport water under any of these exceptions are responsible for notifying the District that transport is occurring under these exceptions, and for metering and maintaining records of transport of water outside the District. Upon request, any such metering and records must be provided to the District for review.

C. Except as provided in this Section, the District may not impose more restrictive permit conditions on transporters than the District imposes on existing in-District users.

D. The District may impose a reasonable fee for processing an application under this Section. The fee may not exceed fees that the District imposes for processing nonexempt applications. An application filed to comply with this Section shall be considered and processed under the same procedures as other applications for permits and shall be combined with applications filed to obtain a permit for in-District water use from the same applicant.

E. In addition to the fees imposed by the District under Rule 3-1.16., the District may continue to collect export fees pursuant to Section 36.122(p), Texas Water Code, for groundwater transported, transferred, or exported outside the District boundaries.

F. In reviewing a proposed transfer of groundwater out of the District, the District shall consider:

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

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

3. The approved regional water plan and approved District Management Plan.

G. The District may not deny a Transport Permit based on the fact that the applicant seeks to transfer groundwater outside of the District but may limit a Transport Permit issued under this Section if conditions in Subsection (F) warrant the limitation, subject to Subsection (C).

H. In addition to conditions provided by this Section, the Transport Permit shall specify:

1. The amount of water that may be transferred out of the District, and

2. The period for which the water may be transferred.

I. The period specified by Subsection (H)(2) shall be:

1. At least three years if construction of a conveyance system has not been initiated prior to the issuance of the Transport Permit; or

2. At least 30 years if construction of a conveyance system has been initiated prior to the issuance of the Transport Permit.

J. A term under Subsection (I)(1) of this Section shall automatically be extended to the terms agreed to under Subsection (I)(2) if construction of a conveyance system is begun before the expiration of the initial term.

K. Notwithstanding the period specified in Subsections (I) and (J) of this Section during which water may be transferred under a Transport Permit, the District may periodically review the amount of water that may be transferred under the Transport Permit and may limit the amount if additional factors considered in Subsection (F) warrant the limitation, subject to Subsection (C). The review described by this Subsection may take place not more frequently than the period provided for the review or renewal of regular permits issued by the District. In its determination of whether to renew a Transport Permit issued under this Section, the District shall consider relevant and current data for the conservation of groundwater resources and shall consider the Transport Permit in the same manner it would consider any other permit in the District.

L. The District is prohibited from using revenues obtained under Subsection (E) of this Section to prohibit the transfer of groundwater outside of the District. The District is not prohibited from using revenues obtained under Subsection (E) for paying expenses related to enforcement of this Section or District Rules.

M. The District may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.

N. This Section applies only to a transfer of water that is permitted after September 1, 1997.

3-1.4. APPLICATION FOR REGISTRATION, PRODUCTION PERMITS, SOURCE AND RECOVERY PERMITS, TRANSPORT PERMITS, WELL PLUGGING, WELL DEVELOPMENT, WELL DRILLING, OR WELL MODIFICATION AUTHORIZATION.

A. Administrative Completeness of Application.

1. Applications for well registrations, Production Permits, Conditional Production Permits, Transport Permits, well pluggings, well development, well drilling, amendments, or well modification authorizations shall be made in the name of the well owner or property owner on a form or forms provided by the District. The sworn, original application must be submitted and signed by the owner or an authorized agent of the owner who may be required to provide the District with a notarized authorization from the owner. This agent may be the well driller, lessee or renter of the property or well, power of attorney, or other appropriate agent. District staff will determine if an application is administratively complete.

2. Applicant's Signature:

a. If the Applicant is an individual (landowner), the application shall be signed by the Applicant or his/her duly appointed agent. The agent must present Power of Attorney as authority to represent the Applicant.

b. If the application is submitted by a partnership, the application must be signed by at least one of the general partners duly authorized to bind all of the partners. A copy of the Resolution or other authorization to make the application must be submitted along with the application.

c. If the application is submitted by a corporation, government agency, county, municipality, or any other political subdivision, the application shall be signed by a duly authorized official. A copy of the Resolution or other authorization to make the application must be submitted along with the application.

d. In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.

e. If the Applicant is any other entity, the application shall be signed by the duly authorized representative of such entity. In any case, proof of authorization must accompany the application.

3. An administratively complete application shall consist of the submission to the District of an original, completed, signed, and notarized application, payment of all applicable application fees, inspection fees, and other District-imposed fees; submission of any required maps, documents, ownership information, or supplementary information required by the General Manager or the General Manager's designated representative; the submission of a Hydrogeological Report if required by Subsection (D) of this Section; and any other documentation required by the District as part of the application. The District will not take action on an application which is not administratively complete or which has preceded in a manner not consistent with District Rules. Applicants submitting incomplete applications will be notified by the District in writing.

4. Applicants exempted under the District Rules from obtaining a Production Permit must submit a District-approved application form for well registration with the District and pay the applicable application and inspection fees. Such exempted wells are still subject to District Well Construction Standards.

5. Application and production permit requirements are the same for groundwater to be used inside the District's jurisdiction or to be transported outside of the District's jurisdiction. Applicants drilling a well or seeking a Production Permit for which the well will produce less than two million gallons per year from the Edwards Aquifer or 650,000 gallons from any Trinity Management Zone may submit one application which will have one permit review process. An applicant granted a waiver under Subsection (D)(6) may submit one application under the preceding sentence, regardless of production volume.

6. Fees included with Application. The application must be accompanied by the application fee, and other fees as appropriate. The application fee must be submitted with the application in order to start the processing review period. Payment of all fees, including water production fees, remains the responsibility of the property owner.

7. All applications for **Well Drilling Authorization or Modification** for nonexempt wells must contain, in addition to any information determined necessary for the evaluation of the application by the General Manager or the General Manager's designated representative, the following specified information in sufficient detail to be acceptable to the District.

a. Nature, Purpose, and Location. Provide a detailed statement describing:

i. The nature and purpose of the various proposed uses including proposed uses by persons other than the well owner;

ii. The proposed well location, location map, and the proposed receiving area from groundwater produced from the well; noting any proposed transfer; and

iii. The location and purpose of any water to be resold, leased, or transported.

b. Pumpage Volume. Provide a detailed statement describing:

i. The estimated pumping rate, and

ii. The anticipated pumpage volume.

c. Well Schematic. A proposed well design schematic with specifications to include: the total depth, borehole diameter, casing diameter and depth, annular seal interval(s), annular sealing method, calculated grout volumes, surface completion specifications, and any other pertinent well construction information.

d. Well Development Plan. A plan that describes the process for handling cuttings and fluids during well development.

e. ASR Wells. For ASR wells, provide the additional information:

i. Anticipated source and recovery volumes associated with this well

ii. A description of the proposed ASR concept and project operational design, including site configuration, instrumentation, flushing, operation management, recharge rates and methods, and equipment (e.g. well head/downhole piping, valves, etc).

f. Aquifer Test Plan and Hydrogeological Report. An aquifer test plan to include the required information as specified in the District's *Guidelines for Hydrogeological Reports and Aquifer Testing*. A Hydrogeological Report in accordance with Subsection (D) of this Section, will be required for any new or modified wells that will be part of an existing permitted aggregate well system and will have an

anticipated pumpage greater than two million gallons per year from the Edwards Aquifer or 650,000 gallons per year from any of the Trinity Aquifers from the referenced new or modified well.

g. Declarations. Provide the following written declaration statements:

i. A declaration that the applicant will comply with the District Rules and all groundwater use permits and plans promulgated pursuant to the District Rules.

ii. A declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures as required in Rule 3-5.

h. Notice Information. For wells for which notice must be provided under Subsection (B) of this Section, the following information and notice must be mailed accordingly:

i. A tax plat location map showing locations of the proposed well, the existing well, or well field to be modified, mapped wells within a half-mile radius of the proposed well, the existing well, or well field, all properties within a half-mile radius of the proposed well or the existing well, and mapped CCNs or public water supply services areas within a half-mile radius of the proposed well, the existing well, or well field. This provision is subject to technical evaluation by District staff based on site-specific conditions.

ii. A mailing list of registered well owners within a half -mile radius of the proposed well, the existing well, or well field. The mailing list should include the property owner's name, mailing address, and physical well address.

iii. A mailing list of public water suppliers within a half-mile radius of the proposed well or the existing well. The mailing list should include the public water supplier's name, mailing address, and physical well address.

iv. Other facts and considerations deemed necessary by the General Manager for protection of the public health and welfare and conservation and management of natural resources in the District.

8. All applications for **Source and Recovery Permits** must contain, in addition to any information required pursuant 30 TAC § 331 or determined necessary for the evaluation of the application by the General Manager or

the General Manager's designated representative, the following specified information in sufficient detail to be acceptable to the District.

a. Nature and Purpose: Provide a detailed statement describing the nature and purpose of the proposed ASR project including the proposed end uses of the waters stored and recovered.

b. Site Location: Provide detailed maps describing:

   i. The extent and boundary of the ASR project area;

   ii. The estimated Target Storage Volume radius;

   iii. The location of all source water;

   iv. The wellfield layout design including all proposed ASR recovery wells, source production wells, monitoring wells, and the regional hydraulic gradient flows;

   v. The distribution system and connection piping for the ASR project, including the route for how source water will be distributed to the storage and recovery well location;

   vi. Receiving point of the recovered water;

   vii. The location of all other registered wells in the half mile radius of the recovery well.

c. If the applicant is seeking a Class D Production Permit as an authorized source water, please describe the following:

   i. The estimated pumping rate at which Class D water will be withdrawn from each source production well;

   ii. The requested annual Class D volume and a description of how the requested pumpage volume was determined. The applicant shall provide pumpage volume calculations based on the anticipated pumping capabilities, pumping times, pumping frequency, storage and recovery capabilities of all the ASR wells, and other pertinent data to substantiate approximate groundwater production. Authorized permit volumes shall be determined based upon factors such as source production well capacity, injection well intake capacity, anticipated injection rates and aquifer storage capacity. The requested pumpage volume should be reasonable and non-speculative.

d. Provide a detailed statement describing the receiving aquifer and location coordinates for all ASR wells for which stored water will be recovered. Provide information on water quality, geochemistry, and hydrogeology.

e. Provide a detailed statement describing the anticipated source (s) waters to be stored. Provide information on water quality, geochemistry, and water treatment for all source water.

f. ASR Site Configuration. Provide a detailed statement describing:

   i. Anticipated source and recovery volumes associated with this well.

   ii. A description of the proposed ASR concept and project operational design, including site configuration, instrumentation, flushing, operation management recharge rates and methods, and equipment (e.g. well head/downhole piping, valves, etc).

   iii. Provide a well schematic with well construction specifications for all ASR wells. Please provide a discussion on how each well will be used for storage and recovery.

g. Project Operations and Demand Trends. Provide a detailed statement describing:

   i. The target storage volume (TSV) for the ASR project. Describe whether the operation will implement and preserve a storage buffer within the receiving aquifer and the anticipated buffer volume.

   ii. An estimate of total volume to be stored annually.

   iii. Project Phases. Describe the project phases over the long-term, the planned schedule for those phases, the duration of those phases, the anticipated source waters for each phase, estimated volumes of those sources waters to be produced and the anticipated volumes to be stored and recovered for each phase. Provide a 10-year outlook for estimated annual recovery.

   iv. Project Operations. Describe the storage and recovery periods/timeframes. Describe whether the system will be operated for seasonal storage, long-term storage, or both.

Describe the recovery volume as an estimate of total volumes to be recovered on an annual basis.

h. Recoverability Analysis. Provide a recoverability analysis to determine a recoverable amount as defined in the District's Rule 2. A report shall be submitted and describe the applicant's methods for estimating the percentage of stored water that will be recovered. The report shall describe the following:

i. Whether storage in receiving formation can successfully be recovered for beneficial use, taking into account the injected water may be commingled to some degree with the native groundwater;

ii. Volume of source waters to be stored;

iii. Buffer zone water;

iv. Estimated recovery efficiency based on target water quality criterion;

v. Potentiometric data;

vi. Porosity, permeability, and transmissivity data;

vii. Migration and regional flow gradients;

viii. Natural discharge;

ix. Relevant groundwater modeling;

i. Hydrogeological Report. A Hydrogeological Report, in accordance with Subsection (D) of this Section.

j. Accounting Plan. Provide a detailed reporting format and diagrams describing how all ASR waters and recharge pressures will be accounted for and reported. The accounting plan shall depict where the meters will be located on the system piping, and the type of meters that will be installed. The plan shall describe how the following will be metered, calculated and reported on a monthly basis:

i. The volume of source water produced (Class D);

ii. The volume of source water(s) stored (total for each source water); and

iii. The volume of recovered water from storage (total volume recovered);

iv. The total storage volume of all source waters remaining after recovery (total for each source water);

v. The volume of native groundwater withdrawn from the ASR well (if applicable);

vi. Monthly average recharge pressures for each ASR well.

k. ASR Monitoring. Provide a description of how the ASR project will be operated, monitored and evaluated. The plan should outline, at minimum, the monitoring parameters and activities, a monitoring and sampling schedule, data sources that will be used, and a list of responsible personnel.

l. UCP and UDCP. A User Conservation Plan (UCP), a User Drought Contingency Plan (UDCP), and the State proposed/approved Drought Contingency Plan (if required by TCEQ).

m. Related Permits and Authorizations. Provide a copy of all ASR application materials submitted to the TCEQ to obtain or modify an ASR Permit or ASR Test Permit. Provide any relevant materials or correspondence submitted to TCEQ Drinking Water division or Edward Aquifer Protection Program division relating to ASR operations. Provide notice of any pending, denied, or remanded authorization from a local, state, or federal agency relating to ASR.

n. Active Source Permits. Provide a copy of all permits relating to the source waters.

o. Reports. Provide a copy of all feasibility and testing reports relevant to the ASR project.

p. Transfers. If the stored and recovered groundwater is to be resold, leased, or otherwise transferred to others, provide the location to which the groundwater will be delivered, the purpose for which the groundwater will be used, and a copy of the legal documents establishing the right for the groundwater to be sold, leased, or otherwise transferred, including but not limited to any contract for sale, lease, or transfer of groundwater.

q. Declarations. Provide the following written declaration statements:

i. A declaration that the applicant will comply with the District Rules and all groundwater use permits and plans promulgated pursuant to the District Rules.

ii. A declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures as required in Rule 3-5 and Rule 5.

iii. A declaration that the applicant will take all necessary steps to ensure the water quality of the aquifer is protected due to the operations of an ASR project.

iv. A declaration that the applicant understands a landowner owning surface property over the TSV radius owns the water unless ownership has been severed.

v. A declaration that the applicant will comply with all applicable TCEQ rules pursuant 30 §TAC 331.

r. Notice Information. For wells for which notice must be provided under Subsection (B) of this Section, the following information must be provided, and notice must be mailed accordingly:

i. A tax plat location map showing locations of the proposed well, the existing well, or well field to be modified, mapped wells within a half-mile radius of the proposed well, the existing well, or well field, all properties within a half-mile radius of the proposed well or the existing well, and mapped CCNs or public water supply service areas within a half-mile radius of the proposed well, the existing well, or well field. This provision is subject to technical evaluation by District staff based on site-specific conditions.

ii. A mailing list of registered well owners within a half-mile radius of the proposed well, the existing well, or well field. The mailing list should include the property owner's name, mailing address, and physical well address.

iii. A mailing list of public water suppliers within a half-mile radius of the proposed well or the existing well. The mailing list should include the public water supplier's name, mailing address, and physical well address.

iv. A mailing list of groundwater conservation districts or entity that have jurisdiction over other water sources, and for which those water sources will be used for storage and recovery within this District.

v. For wells with an anticipated total storage volumes of more than 200,000,000 gallons, the applicant will be required to mail notice as dictated below:

a. Applications for 200-300 million gallons per year shall provide notice via first class mail within a one-mile radius from the proposed well, existing well, or well field.

b. Applications for 300-400 million gallons per year shall provide notice via first class mail within a one and one-half (1.5) mile radius from the proposed well, existing well, or well field.

c. Applications for more than 400 million gallons per year shall provide notice via first class mail within a two-mile radius from the proposed well, existing well, or well field.

s. Other facts and considerations deemed necessary by the General Manager for protection of the public health and welfare and conservation and management of natural resources in the District.

9. All applications for **Production Permits** for nonexempt wells must contain, in addition to any information determined necessary for the evaluation of the application by the General Manager or the General Manager's designated representative, the following specified information in sufficient detail to be acceptable to the District.

a. Permit Type. Provide a statement of the type of Production Permit that is being requested (e.g., Historical Trinity, Conditional Trinity, Class C Conditional Edwards, etc.).

b. Nature, Purpose, and Location. Provide a detailed statement describing:

i. The nature and purpose of the various proposed uses including proposed uses by persons other than the well owner,

ii. The well location and the proposed receiving area from groundwater produced from the well; note any proposed transfer, and

iii. The location and purpose of any water to be resold, leased, or transported.

c. Pumpage Volume. Provide a detailed statement describing:

i. The estimated pumping rate at which water will be withdrawn from each well, and

ii. The requested permit pumpage volume; a description of how the requested pumpage volume was determined. The applicant shall provide pumpage volume calculations based on the type of use, anticipated pumping capabilities, pumping times, pumping frequency, and other pertinent data to substantiate approximate groundwater production. The requested pumpage volume should demonstrate reasonable non-speculative demand.

d. Demand Trends. Provide a detailed statement describing:

i. A projected annual volume breakdown by type of use (e.g. PWS, commercial, irrigation, industrial).

ii. A projected quarterly timeline detailing the anticipated pumpage volumes for the first three to five years of pumping.

iii. An explanation of future demands and long term system growth.

iv. For public water suppliers, provide an estimated or calculated per capita and/or household consumption.

e. Conservation Practice. Describe any conservation measures or practices that are anticipated or are currently in place.

f. Demonstration of Backup Supply. For Class B or Class C Edwards Production Permits subject to Rule 3-1.24(D) and (E), provide a detailed statement describing:

i. An explanation that includes adequate documentation of the applicant's capability and commitment to use an Alternative Water Supply in the event of a drought declaration. Must

provide specific information or contractual agreements that demonstrate the certain ability and binding commitment to switch from the to-be-permitted volume of groundwater to some Alternative Water Supply source(s) on a 100 percent basis.

ii. For Public Water Supply systems, the reasonable likelihood that all necessary physical infrastructure and supporting agreements, rates, and tariffs will be in place within the first year of the permit.

iii. A declaration statement stating the applicant's capability and commitment to use an Alternative Water Supply in the event of a drought declaration.

g. Hydrogeological Report. A Hydrogeological Report, in accordance with Subsection (D) of this Section.

h. UCP and UDCP. A User Conservation Plan (UCP), a User Drought Contingency Plan (UDCP), and the State proposed/approved Drought Contingency Plan (if required by TCEQ).

i. Related Permits and Authorizations. Provide notice of any application to the PUC to obtain or modify a Certificate of Convenience and Necessity (CCN) to provide water or wastewater service with water obtained pursuant to the requested Production Permit. Provide notice of any pending, denied, or remanded authorization from a local, state, or federal agency relating to water or wastewater.

j. Transfers. If the groundwater is to be resold, leased, or otherwise transferred to others, provide the location to which the groundwater will be delivered, the purpose for which the groundwater will be used, and a copy of the legal documents establishing the right for the groundwater to be sold, leased, or otherwise transferred, including but not limited to any contract for sale, lease, or transfer of groundwater.

k. Declarations. Provide the following written declaration statements:

i. A declaration that the applicant will comply with the District Rules and all groundwater use permits and plans promulgated pursuant to the District Rules.

ii. A declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures as required in Rule 3-5 and Rule 5.

l. Notice Information. For wells for which notice must be provided under Subsection (B) of this Section, the following information must be provided and notice must be mailed accordingly:

i. A tax plat location map showing locations of the proposed well, the existing well, or well field to be modified, mapped wells within a half-mile radius of the proposed well, the existing well, or well field, all properties within a half-mile radius of the proposed well or the existing well, and mapped CCNs or public water supply services areas within a half-mile radius of the proposed well, the existing well, or well field. This provision is subject to technical evaluation by District staff based on site-specific conditions.

ii. A mailing list of registered well owners within a half-mile radius of the proposed well, the existing well, or well field. The mailing list should include the property owner's name, mailing address, and physical well address.

iii. A mailing list of public water suppliers within a half-mile radius of the proposed well or the existing well. The mailing list should include the public water supplier's name, mailing address, and physical well address.

iv. For wells with an anticipated annual pumpage volume more than 40,000,000 gallons, shall provide notice via first class mail within a two-mile radius from the proposed well, existing well, or well field.

m. For Conditional Trinity Production Permits, a legal description, map of, and number of all contiguous controlled acreage and identification of all permitted and registered exempt wells on the acreage sufficient to enable the District to determine the maximum production limit available to the applicant under District Rule 3-1.24.2.

n. Other facts and considerations deemed necessary by the General Manager for protection of the public health and welfare and conservation and management of natural resources in the District.

10. In addition to the above information, Production Permit applications or major amendment applications with proposed annual groundwater

production for more than 40,000,000 gallons will require an aquifer test work plan and a monitoring well network plan pursuant to Subsection (D) of this Section related to Hydrogeological Reports and Aquifer Tests. The applicant may request a 90-day extension subject to approval by the General Manager if needed to satisfy the requirements of Subsection (D).

11. Potential for Unreasonable Impacts. All applications required to conduct an aquifer test and submit a Hydrogeological Report pursuant to District Subsection (D) of this Section will be evaluated by the General Manager to assess the potential to cause unreasonable impacts pursuant to Subsection (G) of this Section. Applications for proposed production that are found to have potential for causing unreasonable impacts will receive written notification of the General Manager's preliminary finding prior to the expiration of the application review period. Upon receipt of written notification of the General Manager's preliminary finding, the applicant will be granted a 90-day extension to the application review period to provide the following additional application requirements unless the applicant requests that the application be directly referred to the Board as provided below.

    a. The applicant shall submit a written description of avoidance measures and actions that the applicant proposes to implement either before or after groundwater production commences in an effort to avoid the occurrence of unreasonable impacts;

    b. The applicant shall submit a compliance monitoring plan subject to District review and approval and consistent with minimum plan requirements pursuant to District Rule 3-1.11(B);

    c. The applicant shall submit other facts and considerations deemed necessary by the General Manager;

    d. In addition to the above requirements, the applicant may opt to submit a mitigation plan subject to District review and approval and consistent with minimum requirements pursuant to District Rule 3-1.11(C). The District-approved mitigation plan shall be incorporated into a binding agreement between the permittee and the District, which will be incorporated as special provisions of the permit.

    The above plans and information shall be submitted within 30 days of receipt of notification of the General Manager's preliminary finding of potential for unreasonable impacts and may be incorporated in whole or in part as special provisions of the permit. Alternatively, the applicant may request that the application be directly referred to the Board, pursuant to Subsection (G)(6) of this Section, for consideration without the completed information requirements above under Subsection (A)(11)(a)–(d) of this

Section prompted by the General Manager's preliminary finding of unreasonable impacts, provided that the application requirements of Subsections (A)(1) through (A)(10) of this Section have been satisfied.

12. In addition to the above information required for Production Permit applications, an application for a Transport Permit must contain the following information:

    a. Information describing the projected effect of the proposed transporting of water on aquifer conditions, including flow at Barton Springs, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District.

    b. Information describing the availability of water in the proposed receiving area during the period for which the water transport is requested.

    c. A description of the indirect costs and economic and social impacts associated with the proposed transporting of water.

    d. Any proposed plan of the applicant to mitigate adverse hydrogeologic, social, or economic impacts of the proposed transporting of water in the District.

    e. A description of how the proposed transport is addressed in any approved regional water plan(s) and the certified District Management Plan.

    f. A technical description of the facilities to be used for transportation of water and a time schedule for any construction thereof.

B. Notice.

1. Applicants must provide public notice for the following types of permit applications:

    a. All new individual Production Permit applications for more than two million gallons to be produced from the Edwards Aquifer;

    b. All new individual Production Permit applications for more than 650,000 gallons to be produced from any of the Trinity Aquifers;

    c. Well Drilling Authorizations or Modification applications for wells with anticipated annual pumpage of more than two million gallons from the Edwards Aquifer;

d. Well Drilling Authorizations or Modification applications for wells with anticipated annual pumpage of more than 650,000 gallons from any of the Trinity Aquifers;

e. Notice of intent to transport any groundwater out of the District;

f. All major permit amendments, as defined in Rule 3-1.9;

and

g. All new Source and Recovery Permit applications

2. Such notices shall be published in one or more newspapers of general circulation in the county in which the subject well is located as determined by the District, in a form approved by the District. Public notice shall include a 28-day public response period beginning the day after the day said notice is published in a newspaper of general circulation within the District. If the notice is published in more than one newspaper, the public comment period expires the later of the date specified in the notice or 28 days after the day said notice is published in the newspaper of general circulation within the District. Applicants shall publish notice not later than ten business days after receiving an administratively complete determination from the General Manager or the General Manager's designated representative.

3. All required permit applications must have notice provided by the applicant, in a form approved by the District, by certified first-class mail to all registered well owners with wells located within a radius described in Subsections (A)(7)(h) and (A)(8)(b)(vii) (for Source and Recovery Permit applications) of this Section. Notification of any property owner served by a retail water utility is not required of any applicant if notice is provided to the retail water utility. Applicants shall provide notice by certified first class mail not later than ten business days after receiving an administratively complete determination from the General Manager or the General Manager's designated representative.

4. Applicants may not publish notice or provide notice by mail until the General Manager or the General Manager's designated representative determines that the application for which notice is required is administratively complete.

5. Under no circumstances will a public hearing be held, or action taken on the application by the Board prior to the termination of the 28-day public response period.

6. All public notices for newspaper circulation, covered by this Section, must contain at least the following information:

    a. The name and address of the applicant;

    b. The date the application was filed;

    c. The location and a description of the well that is the subject of the application; and

    d. A brief summary of the information in the application.

7. All public notices for mailout, covered by this Section, must contain at least the following information:

    a. The name and address of the applicant in 14 point type printed at the top of the notice in such a manner that clearly and conspicuously shows the notice is from the applicant;

    b. The date the application was filed;

    c. The location and a description of the well that is the subject of the application;

    d. A map showing all properties within a half-mile radius of the proposed well and nearby roads and/or other distinguishing geographic features; and

    e. A brief summary of the information in the application.

8. Upon completion of the published and mailed public notice, the District shall be provided with proof of publication of public notice. The applicant shall submit to the District office within ten business days after the date of publication an original newspaper clipping which shows the date of publication and the name of the newspaper and copies of the certified mailing receipt(s) which shows the post marked date the notices were mailed and the names and addresses of the intended recipient(s).

C. Decision to Hold Public Hearing.

1. On any application for nonexempt well permits not authorized by a general permit, the General Manager may schedule a hearing if the General Manager determines that a hearing will be beneficial to the District's consideration of the application, if the applicant requests a hearing, or if the General Manager receives protests to the application and the protest includes a request for a public hearing from any person having a personal justiciable interest, including any party to whom notice is provided in accordance with Subsection (B) of this Section and otherwise complies with District Rule 4-9.13(B). A hearing will not be held for Temporary Permits issued under Section 4(d) of H.B. 3405.

2. The District shall conduct a public hearing for:

    a. major amendment applications,

    b. Transport Permit applications,

    c. new Production Permit applications with proposed groundwater production of more than 2,000,000 gallons annually from the Edwards Aquifer or more than 650,000 gallons annually from any of the Trinity Aquifers, and

    d. All new Source and Recovery Permit applications.

3. The General Manager shall make a determination whether to schedule a hearing on an application within 60 days of the date the application is administratively complete.

4. The Board of Directors at a regular or special Board meeting may conduct a hearing on any application.

5. A hearing on an application will be held within 35 days of the date the determination to schedule a hearing is made.

6. Except for hearings referred to the State Office of Administrative Hearings (SOAH), the final hearing may occur at the same time and immediately following the preliminary hearing. For a hearing conducted by SOAH, the final hearing on the application concludes on the latest of the dates of SOAH’s proposal for decision; any exceptions to the proposal for decision, and any replies to exceptions to the proposal for decision are presented to the Board of Directors.

7. Hearings shall be conducted in accordance with District Rule 4-9 related to notice and hearing process.

D. Hydrogeological Report and Aquifer Tests.

1. Applicants seeking to export groundwater out of the District, to obtain a Source and Recovery Permit for ASR, or to permit a new nonexempt well with an annual pumpage volume of more than 2,000,000 gallons from the Edwards Aquifer or more than 650,000 gallons annually from any of the Trinity Aquifers, shall conduct an aquifer test and hydrogeologic report in accordance with the requirements of Subsections (D)(2) through (D)(4) of this Section, addressing the potential impacts associated with the proposed groundwater production or export. Any amendment that leads to a total permitted volume associated with a higher test class (see 3.a. Table 1) shall meet the aquifer test and report requirements of the higher test class.

2. The aquifer test and hydrogeologic report must be prepared by a Texas licensed professional geoscientist or engineer pursuant to the District's guidance document, *Guidelines for Hydrogeologic Reports and Aquifer Testing (Guidelines*).

3. Aquifer Tests. A written aquifer test work plan shall be submitted to the General Manager for review and approval prior to commencement of the test and shall include the required information for aquifer test work plans as specified in the *Guidelines*. Planning and implementation of the aquifer test work plan shall be closely coordinated with the District to ensure that the proposed aquifer test design is consistent with District standards and expectations specified in the *Guidelines*.

   a. The aquifer test shall be conducted and the report completed pursuant to the *Guidelines* and the following tiered requirements:

Table 1. Test-class structure for aquifer test and report requirements.

Test Classes	***Edwards Aquifer*** **Anticipated Production or Storage Volume (gallons / year)**	***Trinity Aquifer*** **Anticipated Production or Storage Volume (gallons / year)**	**Aquifer Test and Report Requirements**
Class 0	0 – 2,000,000	0 – 650,000	No pump test required
Class 1	2,000,001 – 12,000,000	650,001 – 2,000,000	Single well pump test and hydrogeologic report

Class 2	12,000,001 – 40,000,000	2,000,001 – 40,000,000	Aquifer test with at least one (1) observation well[a]
Class 3	> 40,000,000	> 40,000,000	Aquifer test with monitor-well network plus new scientific monitor well[b]

a – An aquifer test work plan is to be submitted to and approved by the District General Manager prior to an applicant conducting an aquifer test and submitting a hydrogeologic report. At the discretion of the General Manager, installation of one or more scientific monitoring wells may be required if nearby existing wells are not available for monitoring. For ASR projects, additional water quality monitoring may be required in lieu of installing a monitoring well(s).

b – An aquifer test work plan and monitoring well network plan are to be submitted to and approved by the District General Manager prior to an applicant conducting an aquifer test and submitting a hydrogeologic report. Installation of one or more scientific monitoring wells will be required.

b. For wells with proposed annual pumpage or for ASR projects with a proposed TSV over 40,000,000 gallons (Tier 3), the aquifer test work plan shall also include a monitoring well network plan. Pursuant to the *Guidelines*, a monitoring well network shall be established by installing one or more new scientific monitoring wells and identifying a sufficient number of existing wells adjacent to the well or well field prior to commencement of the aquifer test in accordance with the District-approved monitoring well network plan. The final aquifer test work plan and monitoring well network plan must be approved by the District.

c. The monitoring well network plan shall contain the following minimum requirements:

i. General Information:

a. Goal and purpose of project.

b. Description of local geologic and hydrogeologic conditions.

c. Location map showing network well locations (including proposed and existing wells) and rationale for well locations.

ii. Design and Construction:

a. Well design plans or schematics on construction of each new well.

b. Completion and construction data for each existing well that will be used in the monitoring well network (e.g. State well reports if available, geophysical data, downhole video, non-pumping and pumping water levels, well and casing depth and diameter, pump depth, or schematics for proposed modifications).

c. Monitoring well equipment specifications and installation.

d. Designated hydrogeologist/engineer and well drilling contractor.

iii. Schedule for completion of work.

iv. Assurances that the District can maintain access to the monitoring well network and equipment. For newly drilled scientific monitoring wells required for Tier 3 permits, the District must be granted access to the well for monitoring purposes for the duration of active well production after the permit application is approved. In addition to providing aquifer testing data, scientific monitor wells required under this Section are intended for long-term monitoring of aquifer conditions in the vicinity of permitted production, and shall not be utilized as pumping wells by the permittee.

v. Parties responsible for maintaining, repairing, and equipping the monitoring well network.

d. The established monitoring well network may potentially be converted to a compliance well network as part of a permit provision.

4. Hydrogeological Report. The report must include hydrogeologic information as specified in the *Guidelines* and shall provide findings and conclusions addressing the response of an aquifer to pumping over time and the potential for causing unreasonable impacts. Applicants may not rely solely on reports previously filed with or prepared by the District. A Hydrogeological Report submitted under this Subsection must be current. A current Hydrogeological Report is one that has been completed within the three years preceding the date of the application and that includes the information that is required to be included under these rules based on the

nature of the application. The General Manager may accept a report completed more than three years before the date of the application upon a determination that the proposed production, well location, completion interval, and other relevant characteristics of the application are not likely to cause impacts substantially different from those addressed in the report, and that aquifer conditions, water levels, and nearby permitted and exempt production have not changed materially since the report was completed. If a Hydrogeological Report is required by this Section, the Hydrogeological Report is a required component of all administratively complete Production Permit and ASR applications.

5. Well Construction. All proposed pumping and ASR wells must be completed and equipped for the ultimate planned use or, at minimum, completed and equipped to isolate the target production zone for the ultimate planned use and production rate. Observation wells may be required per the *Guidelines*. The applicant is responsible for all cost associated with the design, engineering, well construction, and other related expenses.

6. Waiver of Hydrogeologic Reports and Aquifer Test Requirements. The General Manager may waive the hydrogeologic report and aquifer test requirements of this Subsection. Technical information and a memorandum from a Texas licensed geoscientist or engineer supporting and documenting the rationale for the waiver shall be submitted to the General Manager for consideration and approval. Factors that may be considered include:

    a. Relatively low requested production volume;

    b. Sufficient data exists for the well or vicinity (e.g. existing hydrogeologic reports or aquifer tests);

    c. Low potential for unreasonable impacts; and

    d. Other relevant factors.

7. District Review. The General Manager will review the applicant's submitted Hydrogeologic Report and will determine whether there is potential for unreasonable impacts (as defined by District Rule). Permit applications may be deemed incomplete due to Hydrogeologic Reports that do not meet the District's minimum standards or deviate significantly from the *Guidelines* without prior District approval. An applicant who incurs cost related to conducting an aquifer test knowingly bears the risk that the permit request may be denied or modified.

E. Applications submitted during District-declared drought. Applications to drill any well requiring a Production Permit that are submitted during a District-declared

drought will be referred to the Board for consideration and/or public hearing. Applicants should be aware that during times of District-declared drought, the Board may require additional information from the applicant, may place special conditions on the application and/or permit, may authorize the drilling but modify the Production Permit, or may delay or deny the application entirely if the Board determines that it does not meet all the requirements of District Rules 3-1.4 and 3-1.6.

F. Applications approved during District-declared drought. Although the District must take action on permit applications in accordance with Subsection (C) of this Section for wells (a) within the Freshwater Edwards Management Zones, or (b) that are intended by the applicants to provide groundwater as a substitute to water being provided at the time of permit issuance by those water utilities that are able to provide water to the applicants, any permits having applications that are approved by the Board during a District-declared drought, including amendments of existing permits to increase permitted pumpage, may contain a special provision delaying the effective date of the permit so long as the District remains in a District-declared drought.

G. Applications found to have potential for unreasonable impacts.

1. Policy. The District seeks to manage total groundwater production on a long-term basis while avoiding the occurrence of unreasonable impacts. The preferred approach to achieve this objective is through an evaluation of the potential for unreasonable impacts using the best available science to anticipate such impacts, monitoring and data collection to measure the actual impacts on the aquifer(s) over time once pumping commences, and prescribed response measures to be triggered by defined aquifer conditions and implemented to avoid unreasonable impacts. Mitigation, if agreed to by the applicant, shall be reserved and implemented only after all reasonable preemptive avoidance measures have been exhausted and shall serve as a contingency for the occurrence of unreasonable impacts that are unanticipated and unavoidable through reasonable measures.

2. Evaluation of potential for unreasonable impacts. All applications required to conduct an aquifer test and submit a Hydrogeological Report pursuant to Subsection (D) of this Section will be evaluated by the General Manager to assess the potential to cause unreasonable impacts. The evaluation of the potential for unreasonable impacts will apply the best available science and be performed on the basis of the Hydrogeologic Report, the aquifer test, and other factors relevant to the proposed production from the subject well/well field including but not limited to:

a. local geology and aquifer conditions including water quality;

b. construction and location of the subject well/well field;

c. target production zone, production capacity, and proposed production rate of the subject well/well field;

d. construction/completion of existing wells in the area of influence;

e. drawdown over time and distance attributed to pumping from the subject well/well field;

f. drawdown attributed to drought conditions and seasonal increases in pumping from existing wells;

g. drawdown attributed to pumping from existing wells and from future domestic and livestock wells;

h. proposed production relative to the Modeled Available Groundwater;

i. projected impacts on the relevant Desired Future Condition(s); and

j. projected impacts to regional surface water resources (springs and streams).

3. General Manager's Preliminary Finding. Pursuant to Subsection (A)(11) of this Section, the General Manager shall evaluate the application and issue to the applicant a preliminary finding, subject to Board consideration, of the potential for unreasonable impacts.

4. General Manager's Statement of Position. For applications found to have potential for unreasonable impacts that are not directly referred to the Board, the General Manager shall provide a statement of position with the findings and recommendations for consideration by the Board. The statement of position may include recommended special permit provisions incorporating elements of the measures and plans submitted pursuant to Subsection (A)(11) of this Section and District Rule 3-1.11, and other reasonable measures necessary to avoid or mitigate for unreasonable impacts. Such measures may include:

a. reduction of authorized permit volume and/or pumping rate;

b. phased permit volumes with conditional increases;

c. ongoing aquifer monitoring;

d. one or more index wells with defined compliance levels and prescribed responses;

e. temporary pumping curtailments;

f. permanent permit volume reductions;

g. mitigation measures if applicable; and

h. other reasonable measures necessary to avoid the occurrence of unreasonable impacts.

5. Board Action. Pursuant to District Rule 3-1.6(A) related to consideration of unreasonable impacts, the Board may consider applications found by the General Manager to have potential for unreasonable impacts and may take action to approve or deny the permit application in full, approve for a reduced amount, approve with special provisions or take any other appropriate action to avoid or mitigate unreasonable impacts.

6. Direct Referral Process. In lieu of completion of the additional information requirements prompted by the General Manager's preliminary findings pursuant to Subsection (A)(11) of this Section, the applicant may opt to request direct referral of the application to the Board for a hearing on whether the application complies with all statutory and regulatory requirements, including whether there is the potential for causing unreasonable impacts.

   a. The applicant may request direct referral by submitting a written request to the General Manager within ten days of receipt of the notification of the General Manager's preliminary finding of potential for unreasonable impacts. Within a reasonable time after receipt of the request, the General Manager shall declare the application administratively complete, provided that the application contains all required information pursuant to Subsection (A)(1)-(10) of this Section, and shall promptly provide written notification to the applicant in accordance with Rule 3-1.6(B).

   b. An application that is directly referred to the Board is subject to and the applicant must comply with District Rules 3-1.4 and 4-9 regarding notice; comment and hearing; and, if desired, request for contested case hearing, and request for a contested case to be conducted by SOAH.

   c. Persons desiring to comment on or protest an application subject to a direct referral must likewise comply with the applicable District Rules 3-1.4 and 4-9.

   d. The General Manager will include with such applications for the Board's consideration, the preliminary findings of potential for unreasonable impacts and supporting evidence, but shall not include

recommendations for special permit provisions to avoid or mitigate for unreasonable impacts described under Subsection(A)(11)(a)-(d) of this Section.

e. If after hearing, the Board determines an application has the potential for causing unreasonable impacts, the Board may order a remand to reopen the record for further proceedings on recommendations to avoid or mitigate unreasonable impacts.

3-1.5. PERMITS FOR EXISTING WELLS IN AREA EXCLUDING SHARED TERRITORY.

A. Any well existing on or before August 13, 1987, which has not been permitted and which is not exempted from permitting under Rule 3-1.3, is entitled to obtain a permit from the District in the manner provided by this Section.

B. Applications for permits for existing nonexempt wells must be filed with the District. Failure of the District to provide mailed notice shall not be grounds for failing to meet the requirements of these Rules and Bylaws. Any owner of an existing nonexempt well who failed to apply by October 13, 1987, may make application for a permit pursuant to this Section; provided, however, if the well was in operation during the period from August 13, 1987 until the application was made, past production fees shall be paid for each year of operation. Upon written request of the well owner or permittee, the Board may waive any or all past due fees.

Upon completion of a sworn application providing the completion date, capacity, location, water use, and such other information as may be required by the District, and upon payment of the application processing fee, the current annual production fee, and any required past water production fees, the District will issue a permit to the applicant in accordance with the applicable provisions of these Rules.

3-1.5.1. PERMITS FOR EXISTING WELLS IN SHARED TERRITORY.

A. Any well existing on or before June 19, 2015, which has not been permitted and which is not exempted from permitting under 3-1.3(B)(3), is required to obtain a permit from the District provided by and subject to the provisions of these Rules.

B. Applications for permits for existing nonexempt wells must be timely filed with the District. Failure of the District to provide notification of the requirements to obtain permits to eligible persons shall not be grounds for failing to meet requirements of these Rules.

C. Any owner of an existing nonexempt well who failed to apply for a permit in a timely manner may make application for a permit pursuant to Rule 3-1.4; provided, however, if the well was in operation during the period from June 19, 2015, until the application was made, past water production fees shall be paid for each month

of operation. Upon written request of the well owner or permittee, the Board may waive any or all past due fees. Upon completion of an application in accordance with Rule 3-1.4 and upon payment of the application processing fee, the current annual production fee, and any required past water production fees unless waived by the Board, the District will issue a permit to the applicant in accordance with the applicable provisions of these Rules.

3-1.6. ACTION ON PERMITS.

A. Permits. Before approving, modifying, delaying, or denying a permit, the District shall consider whether:

1. The application conforms to the requirements of these Rules and is accompanied by the appropriate fees;

2. The proposed use of water is dedicated to beneficial use at all times including whether there are reasonable assurances of definite, non-speculative plans and intent to use the water for specific beneficial uses during the Production Permit term;

3. The proposed use of water would not cause or contribute to waste, and the applicant has agreed to avoid waste and achieve water conservation. In assessing the acceptability of the proposed volume of water to be permitted, the District will apply industry and regional standards for permitted usage to assure the prospective use is commensurate with reasonable, non-speculative demand;

4. The proposed use of water would not unreasonably affect existing groundwater and surface water resources, existing permit holders, or registered exempt wells by causing the potential for unreasonable impacts. In determining whether the proposed use of water is unreasonable under this Subsection, the District may consider the criteria of the term "unreasonable impacts" as defined in District Rule 2-1, Definitions of Terms, and any other information relevant to whether the proposed use is unreasonable;

5. The proposed use of water would not be otherwise contrary to the public welfare;

6. The proposed use of water is consistent with the approved District Management Plan or an approved regional water supply plan;

7. The applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure, and report closure to the District and all other applicable government agencies;

8. The water is used within the term of the Production Permit;

9. The approved User Drought Contingency Plan (UDCP) for the prospective well yields a maximum volume of authorized groundwater production from the Western and Eastern Freshwater Edwards Management Zones that, when added to all other authorized amounts under District permits for these management zones, as restricted by UDCPs, and to other estimated withdrawals from specified (exempt) wells in these management zones, does not exceed the lesser of the Extreme Drought MAG or the Extreme Drought Withdrawal Limitation (EDWL) for the Edwards Aquifer, as specified in District Rule 3-1.23(A);

10. The approved User Drought Contingency Plan for the prospective well in any other management zone yields a maximum volume of authorized groundwater production that, when added to all other authorized amounts under District permits for that management zone, as restricted by their UDCPs, and to other estimated withdrawals from exempt wells in these management zones, does not exceed the amount required to achieve the applicable DFC for the aquifer, as specified in District Rule 3-1.23. In making this determination, the District shall consider the following:

    a. the applicable MAG amount,

    b. the TWDB estimate of total groundwater produced by exempt wells,

    c. the amount of groundwater under permits that have been previously authorized by the District,

    d. a reasonable estimate of the amount of groundwater actually produced under permits issued by the District, and

    e. yearly precipitation and production patterns;

11. For Class B and Class C Conditional Edwards Production Permits, the applicant has demonstrated to the Board's satisfaction the certain ability and binding commitment to switch from the to-be-permitted volume of groundwater to some Alternative Water Supply source(s) on a 100 percent basis except to the extent of an eligible volume authorized under District Rule 3-7.6(C)(7);

12. In order to protect the public health and welfare and to conserve and manage the groundwater resources in the District during times of drought, the District may prioritize groundwater use, place special requirements on, modify, delay, or deny a Production Permit for a new well during a District-declared drought; and

13. The District may impose more restrictive permit conditions on new permit applications and on applications for increased use by historic users if the limitations:

    a. Apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use,

    b. Bear a reasonable relationship to the District's approved Management Plan, and

    c. Are reasonably necessary to protect existing use.

B. Time for Action. After the application is administratively complete, the General Manager or the General Manager's designated representative will promptly provide written notification to the applicant. The District shall promptly consider and act on each administratively complete application (see Rule 3-1.4(C)). If a hearing is called to consider any of the foregoing applications, the District will conduct the hearing within 35 days after the General Manager determines that a hearing is necessary, and the District's Board will act to approve, modify, delay, or deny the application within 60 days after the date the final hearing on the application is concluded. The failure of the District to act within this time period shall not affect the District's jurisdiction over or the merits of an application. An administratively complete application requires submission of all information set forth within these Rules.

If any applications for nonexempt wells are administratively incomplete 90 days after receipt of the application by the District, the District, by certified mail, return receipt requested, will notify the applicant of the missing documentation and the need to complete the application. Applications that remain administratively incomplete will expire 90 days following the above-mentioned notice to the applicant. Upon expiration of the application, the applicant may request reconsideration or an extension by the Board. Request must be made within ten days of receiving notice of an expired application.

C. Action by General Manager. The District's General Manager or the General Manager's designated representative may act for the District in approving any application for well registration; minor amendments to Production Permits; and well drilling, plugging, well modification, or other well development applications so long as the District does not receive any protests to the application nor any requests for a contested case hearing from any person having a personal justiciable interest, including any party to whom notice is provided in accordance with Rule 3-1.4(B), above. The General Manager shall schedule all major amendment applications, all Transport Permit applications, and all new Production Permit applications for consideration for action by the Board. The General Manager will also refer all new nonexempt well drilling applications received by the District during periods of District-declared Drought to the Board for action.

3-1.7. TERM OF PERMITS.

A. All permits are effective for the fiscal year of issuance unless otherwise stated on the permit. (Example: a permit issued on September 14, 1977 would be valid as of September 14, 1977 and expire on August 31, 1978.) Permits shall not be issued for a term longer than one year, except as provided for in Subsection (C) below and District Rule 3-1.24(I)(2).

B. A Transport Permit shall specify the period for which water may be transferred.

C. The period specified by the Transport Permit shall be:

1. At least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, or

2. At least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.

D. Notwithstanding the period specified in Subsection (C) during which water may be transferred under a Transport Permit, the District may periodically review the amount of water that may be transferred under the permit and may limit the amount if additional factors considered in Rule 3-1.3.1(F) warrant the limitation, subject to Rule 3-1.3.1(C). The review described by this Subsection may take place not more frequently than the period provided for the review or renewal of Regular Production Permits issued by the District. In its determination of whether to renew a permit issued under this Section, the District shall consider relevant and current data for the conservation of groundwater resources and shall consider the permit in the same manner it would consider any other permit in the District.

3-1.8. PERMIT RENEWAL.

A. The General Manager without hearing will renew a permit for wells if:

1. the terms and conditions of the permit (including maximum authorized withdrawal) are not changed,

2. the permittee is in compliance or has a compliance agreement with all terms of the permit, Order or Rule; or with an Order resulting from a final adjudication of a District Order, permit or Rule,

3. the permittee has resolved all pending enforcement actions for a substantive violation of a District Rule, permit or Order, if any, for the permit, and

4. the permittee has paid all fees and civil penalties, if any.

B. After notice and an opportunity for a hearing, the Board may renew the permit with a reduced amount of the authorized production if the authorized withdrawal volume is no longer commensurate with reasonable non-speculative demand, or actual production from a well is substantially less than the authorized permit amount for multiple years without any rationale that reasonably relates to efforts to utilize alternative water supplies, conserve, or improve water use efficiency.

C. If the District is not required to renew a permit because of a substantive violation, the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

D. For Conditional Trinity Production Permits held by retail public utilities in the Upper Trinity, Middle Trinity, or Lower Trinity Management Zones, production authorization will be reduced when the permit is renewed if a reduction in the contiguous controlled acreage of the CCN or corporate boundaries causes production to exceed the production allowable per acre under District Rule 3-1.24.2.

E. For Conditional Trinity Production Permits for wells completed in the Upper Trinity, Middle Trinity, or Lower Trinity Management Zones, if a reduction in the permittee's contiguous controlled acreage causes authorized production to exceed the production allowable per acre under District Rule 3-1.24.2, the permit shall be renewed at the volume supported by the permittee's remaining contiguous controlled acreage, whether or not an amendment under District Rule 3-1.11(A)(22) has been completed. A renewal under this Subsection does not relieve the permittee of the requirements of District Rule 3-1.11(A)(22).

3-1.9. PERMIT AMENDMENTS.

A. Minor amendments include:

1. Transfers of ownership without any change in use;

2. Reductions in permitted volume or changing use of a well from nonexempt to exempt;

3. Reductions in permitted volume due to a use type change;

4. Substantial alteration of a well;

5. Increases of 20 percent or less in total storage volume or the recoverable amount of a Source and Recovery Permit;

6. Converting two or more wells individually permitted by the same permittee into an aggregate system under one permit; and

7. Converting to a multi-user well.

All other amendments, including all amendments pertaining to Transport Permits, permit reclassifications, Source and Recovery permits, and use type changes that increase the permitted volume are major amendments. Any amendment that increases authorized annual production from any aquifer or management zone is a major amendment, except for Source and Recovery Permits as described above. An increase in authorized production from a Trinity Management Zone, if approved, shall be authorized as a Conditional Trinity Production Permit under District Rule 3-1.24.1, subject to the production allowable per acre under District Rule 3-1.24.2.

B. Major amendments shall be subject to all the requirements and procedures applicable to issuance of a Production Permit for a new well or, if applicable, a Transport Permit or Source and Recovery Permit. Amendment applications seeking an increase in authorized production volume must include a detailed justification for the increase, including but not limited to: analysis of average daily, weekly, and/or monthly water usage and pumpage records; a breakdown by types of use (domestic, commercial, irrigation, industrial, etc.); estimated or calculated per capita and/or household consumption; explanation of increased demands or system growth; anticipated pumpage needs; local water use trends; conservation practices in effect; a revised UCP and UDCP; information about current procedures to locate and repair leaks and the system's current percentage of line loss; and any other pertinent information required by the District.

C. Amendments to change the use type of a Production Permit will require the recalculation of the permitted volume to be commensurate with the reasonable non-speculative demand of the new use type.

D. The General Manager or the General Manager's designated representative may grant minor amendments without public notice and hearing.

E. Permittees requesting a minor amendment may be required to submit a Hydrogeological Report at the General Manager's discretion based on aquifer condition, type of modification, status of adjacent wells, local water use trends, and other aquifer management considerations.

F. Application for a permit amendment shall be made upon forms supplied by the District and must be accompanied by an application processing fee established by the Board. No application processing fee will be required from permittees requesting a reduction in permitted volume or changing use of a well from nonexempt to exempt.

G. Permittees requesting an increase in pumpage volume must have a Board-approved UCP and a Board-approved UDCP on file at the District office. Permittees will be

required to update their UCP and UDCP to reflect their new permitted pumpage amount and/or new ownership.

H. Applications for amendments to increase annual permitted pumpage volumes submitted during any District-declared drought shall be referred to the Board for consideration and/or public hearing. A failure to achieve drought-mandated targeted monthly permitted pumpage reduction requirements does not in itself justify a pumpage increase.

I. Permit to Remain in Effect.

1. If a permittee, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under District Rules, the permit as it existed before the permit amendment process remains in effect until the later of:

a. The conclusion of the permit amendment or renewal process, as applicable; or

b. Final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

2. If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed without penalty, consistent with Rule 3-1.8.

3. The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District Rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

3-1.10. PERMITS: ISSUANCE AND FORMAT.

A. Permits. The permit shall include the following information in a format approved by the General Manager: the name and address of the person to whom the permit is issued, the state well number or District-assigned temporary well number of the well(s), the date the permit is to expire, the maximum withdrawal authorized, and any other terms and conditions necessary to accomplish the purposes of the Act. The permit is effective upon date of issuance as indicated on the permit certificate. Payment of fees are due within ten days following issuance of a new permit.

B. Transport Permits. A Transport Permit may be issued as a consolidated permit, including consolidation with an aggregate permit under Rule 3-1.14 that authorizes drilling, production, and transporting of water from the District. In addition to all

other matters required for permits, a Transport Permit shall include the amount of water that may be transported out of the District and any limitations or conditions placed on the Transport Permit based on the factors set forth in Rule 3-1.3.1(F) and Section 36.122 of the Act. The District will not deny the issuance of a Transport Permit if the water to be transported was purchased pursuant to an agreement that was in effect on or before June 1, 1997.

C. The District shall not issue a Production Permit for wells that are not drilled and completed for their ultimate intended use.

3-1.11. PERMIT COMPLIANCE, MONITORING, AND MITIGATION.

A. Permit Conditions and Requirements. All permits are granted subject to the Rules, regulations, Orders, special provisions, and other requirements of the Board, and the laws of the State of Texas. In addition to terms and conditions related to Rule 3-7. Drought, each permit issued shall also be subject to the following conditions and requirements:

1. The permit is granted in accordance with the provisions of S.B. 988 of the 70th Texas Legislature in conjunction with Chapter 36, Texas Water Code, and the Rules, regulations and Orders of the District as may be in effect from time to time, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations, and restrictions embodied in the permit and with the Rules, regulations, and Orders of the District.

2. The permit confers no vested rights in the holder and the permit is non-transferable. Written notice must be given to the District by the permittee prior to any sale or lease of the well covered by the permit. The permit may be revoked or suspended for failure to comply with its terms, which may be modified or amended pursuant to the requirements of the Act and any applicable Rules, regulations and Orders of the District.

3. A permit shall be subject to amendment by the District of the amount of water authorized for pumpage based upon a review of the District's sustainable yield model and a determination by the District that an amendment is necessary after considering adequate water levels in water supply wells and degradation of water quality that could result from low water levels and low spring discharge.

4. The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifer.

5. The permittee shall keep accurate records and meter readings, on a monthly basis, of the amount of groundwater withdrawn, the purpose of the withdrawal, and, for any transporting of water outside the District, the amount of water transported and the identity and location of the recipients. Such records shall be submitted to the District office on a monthly basis, unless some other reporting period is specified in the permit, even if there is zero pumpage or transport for the time period and shall also be available for inspection at the permittee's principal place of business by District representatives. Immediate written notice shall be given to the District in the event a withdrawal or transporting of water exceeds the quantity authorized by the permit or Rules. Unless the permittee can present evidence that the pumpage or transport which exceeded the permitted amount is due to an isolated incident that is not likely to be repeated and/or would not result in continued higher demands, the permittee must immediately submit an application to increase the permitted pumpage or transport volume based on the amount of pumpage or transport which exceeded the permitted amount projected for the remainder of the fiscal year.

6. The well site or transport facilities shall be accessible to District representatives for inspection during normal business hours and during emergencies. The permittee agrees to cooperate fully in any reasonable inspection of the well site or transport facilities and related monitoring or sampling by District representatives. The well owner shall provide a 24-hour emergency contact to the District.

7. The application pursuant to which a permit has been issued is incorporated therein, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of a permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall prevail.

8. Driller's logs must be submitted within 60 days of the drilling of a well.

9. For all new public water supply wells, a 150-feet radius sanitary control easement around the well must be recorded with county of record and evidence of said easement or a variance from TCEQ shall be provided to the District 60 days upon completion of the well.

10. Monitoring of groundwater pumpage is to be accomplished in the manner specified in the District's metering policy and any modifications thereto.

11. Violation of the permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal

or transporting amounts outside of the District in excess of the amount authorized for transport, shall be punishable by civil penalties as provided by the Act and these Rules.

12. If special provisions are inconsistent with other provisions or regulations of the District, the Special Provisions shall prevail.

13. A Transport Permit may contain any term, condition, or limitation determined to be warranted by the District's Board based on the factors set forth in Rule 3-1.6(A), and Section 36.122(d) of the Act.

14. Permittees will notify the District upon filing an application with the PUC to obtain or modify CCN to provide water or wastewater service in a service area that lies wholly or partly within the District or for which water shall be supplied from a well located inside the District.

15. Upon request of the District, permittees that are water utilities and that are not in compliance with their permit conditions concerning water use, are required to furnish the District the individual monthly water usage of all end-user customers that exceed the presumptive excessive-use criteria set forth in District Rule 3-3.7(C).

16. Permittees holding Class B or Class C Conditional Edwards Production Permits under District Rule 3-1.24 (D) and (E) must maintain at all times the certain ability and binding commitment to switch from the to-be-permitted volume of groundwater to some alternative water supply source(s) on a 100 percent basis, including (a) all necessary physical infrastructure and supporting agreements, rates, and tariffs required for such substitution, and (b) the commitment to use the alternative supply as warranted by District-declared drought conditions. This provision does not apply to eligible volume authorized under District Rule 3-7.6(C)(7).

17. A Permit does not authorize use on property within the District other than the well owner’s property without prior approval from the District for Multi-user Wells. For Permits approved for Multi-user Wells, the well owner shall be considered the sole permittee and shall be solely responsible for compliance with all applicable rules, permit conditions, and requirements including the multi-user well metering and reporting requirements pursuant to District Rule 3-2.

18. After notice and an opportunity for a hearing, the Permit may be reduced if the authorized withdrawal volume is deemed to be no longer commensurate with reasonable non-speculative demand or if actual production from a well is substantially less than the authorized permit amount for multiple years without any rationale that reasonably relates to efforts to utilize alternative water supplies, conserve, or improve water use efficiency.

19. After notice and an opportunity for a hearing, the Permit may be reduced or curtailed if the authorized withdrawal volume is determined to cause unreasonable impacts or failure to achieve the applicable DFC of the aquifers.

20. Wells must be maintained in good non-deteriorated condition and in compliance with Rule 5 related to District Well Construction Standards.

21. After receiving official notification from the District, the permittee shall implement the approved mitigation plan.

22. A permittee holding a Conditional Trinity Production Permit for a well completed in the Upper Trinity, Middle Trinity, or Lower Trinity Management Zone shall notify the District in writing not later than 30 days after any reduction in the permittee's contiguous controlled acreage and shall apply for a permit amendment if the reduction causes authorized production to exceed the production allowable per acre under District Rule 3-1.24.2. For a permittee that is a retail public utility, this provision applies only to a reduction resulting from a change in the utility's CCN or corporate boundaries or loss of acreage actually owned or leased by the utility for the right to produce groundwater.

B. Compliance Monitoring Plan and Compliance Monitoring Well Network. Except as provided by Rule 3-1.4(G)(6), any Production Permit application that, through an evaluation of the Hydrogeological Report and aquifer test data, has been found by the General Manager to have the potential to cause unreasonable impacts, pursuant to Rule 3-1.4(G) will require submittal and implementation of a compliance monitoring plan including a compliance monitoring well network. The purpose of the compliance monitoring plan and network is to provide data needed to assess the impacts of the pumping on the aquifer(s) over time and compliance with permit conditions in place to avoid unreasonable impacts.

1. Compliance Monitoring Well Network. A compliance monitoring well network shall be established by installing a sufficient number of index wells to measure drawdown and water quality around the well or well field. Spring flow should also be monitored if the spring is sourced from the same formation and within the vicinity of the proposed well or well field. Planning and implementation of the plan and network shall be closely coordinated with the District to ensure that the proposed plan is consistent with District standards and expectations. The final plan and network must be approved by the District and installed prior to commencement of pumping. The permittee or applicant will be required to pay for all cost associated with the design, engineering, construction, sampling and maintenance of the monitoring well network and equipment except such that may be agreed upon by the District. The permittee or applicant shall

provide assurances of legal District access to the monitoring well network. A permittee or applicant who incurs cost related to implementing the plan and operating the network assumes the risk that the Board may modify, reduce, adjust, or curtail the permitted volume.

2. Minimum Compliance Monitoring Plan Requirements. The compliance monitoring plan shall be a legally binding agreement between the District and permittee or applicant and should include detailed information on the construction, operation, sampling and analysis, and maintenance of the new compliance monitoring well network. The plan shall be subject to approval by the General Manager and shall, at minimum, include the following:

    a. General Information:

        i. Goal and purpose of project.

        ii. Description of local geologic and hydrogeologic conditions.

        iii. Location map showing monitoring well network well locations (including proposed and existing wells) and rationale for well locations.

    b. Design and Construction:

        i. Well design plans and schematics on construction of each new index well.

        ii. Completion and construction data for each existing well that will be used in the monitoring well network (e.g. State well reports, available geophysical data, downhole video, pump depth, or schematics for proposed modifications).

        iii. Monitoring well equipment specifications and installation.

        iv. Designated hydrogeologist and well drilling contractor.

    c. Schedule for Completion of Work.

    d. Monitoring Well Access. The permittee or applicant will ensure that the District can maintain access to the monitoring well network and equipment.

    e. Maintenance and Repair Commitments. Identify parties responsible for maintaining, repairing, and equipping the monitoring well network.

f. Groundwater Sampling and Analysis Plan.

i. Sampling procedure, schedule, and frequency.

ii. Target constituents.

iii. Water level measurement procedure, schedule, and frequency.

g. Other Relevant Information.

C. Mitigation Plans. For Production Permit applications found by the General Manager to have the potential to cause unreasonable impacts related to groundwater quality degradation or well interference, pursuant to Rule 3-1.4(G), the applicant may opt to submit a mitigation plan subject to District review and approval to serve as a contingency for the occurrence of unreasonable impacts that are unanticipated or unavoidable through reasonable measures. Mitigation Plans, if adopted by agreement between the permittee and the District, will be incorporated as special provisions of the permit.

1. Planning and Implementation. Planning and implementation of the plan shall be closely coordinated with the District to ensure that the proposed plan is consistent with District standards and expectations. After an investigation is initiated and the permittee has received official notification from the District, the permittee shall implement the approved mitigation plan pursuant to the conditions and requirements of the permit. A permittee or applicant who incurs cost related to implementing the plan assumes the risk that the Board may modify, reduce, adjust, or curtail the permitted volume.

2. Plan Requirements. A Mitigation Plan shall address the following minimum requirements.

a. Financial Commitment. A description of permittee's financial commitment to implement mitigation actions. Responsible parties for managing the funding must be specified.

b. Impact Area. A geographical description of the designated impact area within the potential area of influence. A profile of impact estimation should be included to outline the risk analysis within the designated impact area.

c. Contingency Supply. An outline of actions and temporary procedures that will be taken by the permittee to provide a supplemental or alternative source of potable water to the owners of

the wells that were determined to be unreasonably impacted. Responsible parties must be specified.

i. These measures shall be temporary in nature until the permittee can provide a permanent solution of well remediation or well replacement.

ii. The quantity and quality of the supplemental or alternative water supply shall be equal to or greater than the original water supply yield and quality available from the impacted water supply well.

d. Mitigation Actions. A description of the actions that will be taken to remediate or replace the impacted well(s). Mitigation actions may be categorized into 'action tiers' for which there are specific diagnostics and responses taken to comply with this condition. Responsible parties must be specified.

e. Implementation Schedule. A description of the schedule and timeline for implementing each phase of the mitigation plan. Responsible parties must be specified. A schedule and timeframe must be provided for each 'mitigation action tier' which includes the timing and frequency of diagnostic and response actions.

f. Implementation Documentation. A description of the types of documents and reports that will be produced to document actions and schedules of implementation tasks. Responsible parties must be specified.

g. Third Party Contractors. A list of the third-party contractors, mutually agreed upon by the District and permittee, to carry out well services, well repairs, well construction, or well equipment replacement. The responsibilities of each contractor, District and permittee must be specified.

3-1.12. REGULATION OF WELL SPACING AND PRODUCTION.

A. In order to minimize interference between wells and impacts to existing neighboring wells completed in the same management zone, to protect the investment-backed expectations of those well owners and their historic use, and to help prevent other unreasonable impacts and waste, all wells drilled or modified on or after October 16, 2026, shall comply with the management zone-specific provisions for well spacing set forth in this Section (following the authorization of specific actions referenced in TWC 36.116). Compliance with these well spacing requirements is a minimum regulatory standard, and all applications will additionally be evaluated for the potential to cause unreasonable impacts and the

other criteria and considerations set forth in Rules 3-1.4, 3-1.6, and other applicable rules.

B. All wells, existing or new, shall be drilled in accordance with the District Rules and Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, and applicable state law in effect, if any, at the time drilling commenced.

C. After authorization to drill a well has been granted by the District, the well may only be drilled at a location that is within ten (10) feet of the location specified in the registration or permit. Wells must nonetheless be actually drilled in compliance with the minimum well spacing requirements. The owner and driller of a well are jointly responsible for ensuring that the well is drilled at a location that strictly complies with the location and spacing requirements of this Section. If the District determines that a well is drilled at a location that does not strictly comply with the location and spacing requirements of this Section, the Board may, in addition to taking all other appropriate enforcement action, including without limitation revoking or suspending the well registration or permit, require the well to be permanently closed and plugged, or otherwise enjoin any continued drilling or completion activity or the operation of the well.

D. In situations where an applicant owns the land or groundwater rights on two or more contiguous tracts, the applicant is not required to meet minimum well spacing distances from the property line with regard to the property line separating the tracts. However, if the applicant sells a tract or leases its groundwater rights in the future, the well becomes subject to the provisions of Subsection (E) of this Section.

E. If the property where the well is located is further subdivided or partially sold or leased without reserving the groundwater rights or otherwise in a manner that will cause the well to no longer be in compliance with the well spacing rules, if any, that were in effect when the well was drilled, the District may order the capacity of the well reduced accordingly or the well plugged as necessary to bring the well into compliance with the applicable spacing rules in effect at the time it was drilled. Property that is sold or transferred may: (i) be ineligible for a well to the extent that the acreage of the sold or transferred property is insufficient in size for the drilling of a well; and (ii) result in reduced production authorization for a well that depended upon the acreage sold or transferred for that well's authorized production capacity or annual production authorization.

F. Eastern and Western Freshwater Edwards Management Zones. The District may set groundwater spacing and production limits on wells completed in these management zones based on the District's analysis of the approved aquifer test and Hydrogeologic Report if required in accordance with 3-1.4(D).

G. Saline Edwards Management Zone. All nonexempt wells to be completed in the Saline Edwards Management Zone may be issued production permits with the following spacing provisions (see Figure 4):

1. No new wells may be drilled within a 3-mile radius of Barton Springs.

2. Except for areas within 3 miles of Barton Springs, production permits may be issued for the following volume tiers and in accordance with the set forth spacing requirements:

   a. Production of 2,000,000 gallons per year or less may be permitted throughout the Saline Edwards Management Zone.

   b. Production of 300,000,000 gallons per year or less may be permitted beyond ½ mile of the 1,000 mg/L TDS boundary. These wells must be spaced at least ½ mile from other wells that are permitted to produce more than 2,000,000 gallons per year.

   c. Production of 300,000,000 gallons per year or more may be permitted beyond 1 mile of the 1,000 mg/L TDS boundary. These wells must be spaced at least ½ mile from other wells that are permitted to produce more than 2,000,000 gallons per year.

3. The District may require greater spacing or lower production limits on wells completed in this management zone based on the District's analysis of the approved aquifer test and Hydrogeologic Report if required in accordance with 3-1.4(D).

Zone	Volumes Produced from a Production or Recovery Well	Buffer Spacing Requirement from 1,000 mg/L TDS boundary (Freshwater – Saline Water Boundary Interface)
Zone 1	< 2,000,000 gpy	• No buffer spacing requirements from other wells. • These volumes are allowed in all parts of the Saline Edwards Zone.
Zone 2	2,000,000 to <300,000,000 gpy	A spacing buffer is required from the following: • Other wells that produce > 2 MGY - the new well must be spaced at least ½ mile apart • Boundary interface - **½ mile or more away.**
Zone 3	> 300,000,000 gpy	A spacing buffer is required from the following:

		• Other wells that produce > 2 MGY - new well must be spaced at least ½ mile apart • Boundary interface - **1 mile or more away.**

H. Austin Chalk and Alluvial Management Zones. The District may set spacing and groundwater production limits on wells completed in these management zones based on the District's analysis of the approved aquifer test and Hydrogeologic Report if required in accordance with 3-1.4(D).

I. Upper Trinity, Middle Trinity, and Lower Trinity Management Zones. The District may set spacing and groundwater production limits on wells completed in these management zones based on the District's analysis of the approved aquifer test and Hydrogeologic Report if required in accordance with Rule 3-1.4(D). In addition, the following well spacing rules apply to all wells in these management zones:

1. A well must be spaced at least one hundred (100) feet from the nearest property line and two hundred (200) feet from all other wells or approved well sites at that time in the same management zone, regardless of whether the well is pressure cemented.

2. Except as provided under Subsection (I)(4) of this Section for a retail public utility, a well must be spaced at minimum distances:

   (a) from property lines so as to limit the impact of the new well on the available drawdown in the applicable management zone at the location of any property line to no more than five percent (5%); and

   (b) twice that minimum property line distance from any other existing well or previously approved well site screened in the same management zone as the proposed new well.

3. Applicants shall use the following methodology to calculate the impact of the new well on available drawdown under this Section. Minimum spacing distances shall be derived from application of the Cooper–Jacob formula:

$$r = \sqrt{\frac{0.3Tt}{S \cdot 10^{\frac{sT}{264Q}}}}$$

where:

r = required minimum distance from other well or property line (feet)

T = transmissivity (gpd/ft)

S = storativity

s = drawdown, which is 0.05 x available drawdown at the location of the nearest property line under this subsection, and 0.01 x available drawdown at the location of the nearest existing well or approved well site for purposes of calculations under Subsection (I)(4) of this Section.

Q = pumping rate (gpm), which shall be the maximum production capacity of the proposed new well; and

t = pumping duration (days), which shall be 36 hours or 1.5 days.

"Available drawdown" at the site of the nearest well or the property line shall be calculated using the difference between the static water level elevation and the elevation of the bottom of the applicable layer of the aquifer at the locations of the other well and the property line. If calculated or measured values for storativity, transmissivity, the elevation of the bottom of the applicable layer of the aquifer are available based on actual aquifer tests and measurements within a one-mile radius of the proposed well, the calculated and measured values based on aquifer tests and measurements closest to the location of the proposed well may be used in the formula. Otherwise, the default storativity and transmissivity values to be used in the formula shall be the values in Table 2. Bottom of aquifer layer elevation should be interpolated from nearby geophysical log data for the applicable management zone and location where the proposed new well will be completed and screened. The "available drawdown" value will be calculated as the difference between static water level elevation and elevation of the bottom of the applicable layer of the aquifer in which the proposed well will be screened. The static water level will be the lower elevation of either: 1) drought water levels interpolated from the September 2023 synoptic drought study (BSEACD Report of Investigations 2024-0220, Watson and Camp); or 2) a more recent water level measurement collected within a 0.5 mile radius of the proposed well. The General Manager may assign this static water level based on the best available science and hydrogeologic assessment of the static water level. The District shall continue to use the Table 2 values for storativity for pre-development

(pre-transition to unconfined) conditions for the confined subcrop areas in situations where the subcrop of the applicable management zone has gone from confined to unconfined conditions. The General Manager shall approve and issue a guidance document detailing acceptable methods and examples of calculating minimum spacing distances under this subsection. Any calculated or measured values for storativity, transmissivity, or the elevation of the bottom of the applicable layer of the aquifer used for calculations under this Section in lieu of those in Table 2 must be sealed by a licensed professional geoscientist or licensed professional engineer.

Table 2. Average Transmissivity and Storativity Values

(from BSEACD Data Series Report 2026-0925, Watson et al.)

Layer	Transmissivity (gallons-per-day/foot)	Storativity (unitless)
Upper Trinity	200	0.000013
Middle Trinity	1,600	0.000098
Lower Trinity	1,240	0.000045

The applicant may apply to drill a test well to conduct a pumping test to determine actual hydraulic property values at the well site and/or to conduct other tests to measure actual impacts on other wells.

4. For an applicant that is a retail public utility, the retail water bounded service area CCN or external boundary of a polygon defined by each property served by the utility as described by District Rule 3-1.24.2(F) for a retail public utility with a CCN that is not a bounded service area, or the applicant's corporate boundary if the applicant does not have a CCN, can be utilized by the applicant as the applicant's property line for purposes of determining minimum spacing distances from a property line under this Section for a well to be located within such boundaries. However, such a proposed well shall also be subject to well spacing distances that limit its impact on the available drawdown in the applicable layer of the aquifer at the location of any existing well or previously approved well site to no more than one percent (1%). A retail public utility that utilizes its service area boundary as its property line shall not be entitled to the protection of the spacing requirements of these rules in the future for that well as an existing

well for purposes of future applications for new wells by other landowners in the general area.

5. A variance from the well spacing requirements of this Section may be requested under District Rule 3-1.25.

J. The District may preserve registered Historic Use Status to the maximum extent practicable and consistent with the District Management Plan.

3-1.13. REVOCATION, TERMINATION, CANCELLATION, OR MODIFICATION OF PERMITS.

A. A permit is not a vested right of the holder. After notice and an opportunity for hearing, a permit may be revoked, suspended, terminated, canceled, modified, or amended in whole or in part for cause, including, but not limited to:

1. Violation of any terms or conditions of the permit,

2. Obtaining the permit by misrepresentation or failure to disclose relevant facts, or

3. Failure to comply with any applicable Rules, regulations, Fee Schedule, special provisions, requirements, or Orders of the District.

B. After notice and an opportunity for a hearing, a Production Permit upon renewal may be reduced if the authorized withdrawal volume is deemed to be no longer commensurate with reasonable non-speculative demand. Reasonable demand will be assessed on the basis of industry and regional standards for conservation and efficiency. The Permit may also be reduced if actual production from a well is substantially less than the authorized permit amount for multiple years without any rationale that reasonably relates to efforts to utilize alternative water supplies, conserve, or improve water use efficiency.

C. After notice and an opportunity for a hearing, the Permit may be reduced or curtailed if the authorized withdrawal volume is determined to cause unreasonable impacts on existing wells or failure to achieve the applicable DFC of the aquifers.

D. The permittee shall furnish to the District upon request and within a reasonable time, any information to determine whether cause exists for revoking, suspending, terminating, canceling, modifying, or amending a permit.

3-1.14. AGGREGATION.

Multiple wells that are part of an aggregate system that are owned and operated by the same permittee and serve the same subdivision, facility, or area served by a PUC-issued CCN and are of the same use type consistent with the intended and permitted purpose, may be authorized under a single permit. Groundwater production from separate registered

nonexempt wells may be authorized under a single Production Permit. Separate drilling authorization applications shall be submitted for each well and the District will require separate records of each well's location and characteristics. Geographic location of wells and integrated distribution systems will be considered in determining whether or not to allow aggregation.

For the purpose of categorizing wells by the amount of groundwater production, when wells are permitted with an aggregate withdrawal, the aggregate value shall be assigned to the group, rather than allocating to each well its prorated share or estimated production.

3-1.15. REPORTS.

A. Production and Transport Reports. Permittees shall submit monthly records of meter readings for all permitted, individual wells and records on transporting groundwater outside the District, including all information recorded as required by Rule 3-1.11(A)(5), to the District on forms approved by the District. Meter readings must be read within one or two days of the end of the reporting month and submitted to the District on or before the fifth day of the following month, even if there is zero pumpage or transport for the time period. Permittees may mail, e-mail, or fax (but shall not call in over the telephone) the required information to the District to meet this deadline (see also Rules 2-10 and 2-11).

B. Water Quality Reports.

1. All permittees required by statute or regulation to conduct water quality analyses (including water utilities) shall, at the time of obtaining results of the analyses, submit a duplicate copy to the District.
2. If a water utility is required by the TCEQ to notify its customers that water fails to meet TCEQ standards, the permittee shall immediately notify the District and submit a copy of the TCEQ's notice to the District.

3-1.16. FEES AND PAYMENT OF FEES.

A. Production Fees. The production fee rate shall be established by Board Resolution annually prior to the end of the fiscal year. The rate shall be applied to the total authorized annual pumpage for each permit (and amendments if appropriate) issued during the fiscal year the rate is in effect. The District will review the account of any permittee changing the use of a well from nonexempt to exempt to determine if additional water production fees are due or if a reimbursement of water production fees is warranted. Reimbursements exceeding $250 must receive Board approval.

B. Application, Registration, and other Fees. The Board, by Resolution, shall establish a schedule of fees. The District will set fees for administrative acts of the District (including services performed outside the boundaries of the District) and such fees may not unreasonably exceed the cost to the District of performing the

administrative function for which the fee is charged. The General Manager may exempt any well from fees, or reduce fees if the well is used only for scientific or water quality monitoring purposes and all data collected from said well are made available to the District upon request.

C. Payment of Fees. All fees are due at the time of application, registration, or permitting. The annual production fee for a permit shall be paid in annual, quarterly or monthly installments, at the election of the permittee. Permittees whose annual production fee is $50 or less are required to pay annually. New permittees electing to pay by installments shall make the first installment at the time of permit issuance with subsequent payments due as described below.

1. Annual production fees shall be paid at the time of permit issuance or are due on the fifth day of September of each year upon permit renewal.

2. Quarterly production fee payments of four equal installments shall be due on or before the fifth day of the months of September, December, March, and June.

3. Monthly production fee payments of 12 equal installments shall be due on or before the fifth day of each month.

4. Permit renewal fees are due on the fifth day of September of each year.

5. Payments received within the ten days following the due date will not be subject to a late payment fee. Thereafter, the late payment fees set forth in Rule 3-8.9 shall be imposed monthly and must be paid monthly, regardless of the installment payment schedule for the underlying production fees (see also Rules 2-10 and 2-11).

6. All fees other than production fees are due at the time of assessment and are late after ten days (see also Rules 2-10 and 2-11).

D. Alternate Production Fees. The Board may, by Resolution, establish different production fee rates for pumpage of water from the various management zones in order to facilitate achieving the goals and objectives of the District's Management Plan.

E. Minimum Production Fees. The Board may, by Resolution, establish a minimum production fee.

F. Inspection and Plan Review Fees. The Board may, by Resolution, establish fees for: the inspection of wells, meters, or other inspection activities; review of Water Pollution Abatement Plans (WPAPs), development plans, or other plan reviews; special inspection services requested by other entities; or other similar services that require significant involvement of District personnel or its agents. Fees may be

based on the amount of the District's time and involvement, number of wells, well production, well bore casing size, size of transporting facilities, or amounts of water transported.

G. Special Fees. Wells drilled in aggregate, such as closed loop heat exchange wells, may qualify for reduced fees for review, registration, and inspection. An increased fee rate may be applied to certain large volume permit applications based on any additional time and effort needed to conduct extraordinary technical review, field work, and other necessary activities associated with complex permit applications. These fees shall be assessed on a case-by-case basis.

H. Excess Pumpage Base Fees. The Board may, by Resolution, establish additional production fees for any pumpage exceeding the annual permitted pumpage volume.

I. Returned Check Fee. The Board may, by Resolution, establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other problem causing a check to be returned by the District's depository.

J. Accounting Fee. The Board may, by Resolution, establish a fee for permittee-requested accounting of pumpage reports, production fee payments, or other accounting matters pertaining to the permittee's account which the District does not routinely maintain in its accounting of a permittee's records. Should a District error be discovered, the accounting fee, if any, will be fully refunded. Permittees may request one review of their account per fiscal year without charge.

K. Processing Fee. The application must be accompanied by the application processing fee, inspection fee, or other fees as appropriate. Such fees must be paid before notice is published and mailed. Payments of all fees including production fees remain the responsibility of the property owner.

3-1.17. RESERVED.

3-1.18. EMERGENCY APPROVALS.

A. Emergency Transfer of a Permit to another Well. Upon application to the District, the General Manager shall authorize a permit, including a permit associated or consolidated with a Transport Permit, to be transferred to another well, including a permit transfer to a well with an existing permit so that the recipient of the emergency approval can use water from an existing permittee via an interconnect or a replacement well, in the immediate vicinity of the permitted well upon a satisfactory demonstration by the applicant that:

1. The action is necessary in order to alleviate an immediate and serious threat to human life or health, or to prevent extensive or severe property damage to economic loss to the person proposing or requesting to make the transfer, and

2. The replacement or transfer well will not endanger human life or health, and will not cause what would, under the particular circumstance, be unreasonable property damages or economic loss to others. The provisions of this subdivision of the Rules does not apply to a Temporary Transfer Permit that may be issued as a general permit by rule during a Stage 3 Exceptional Stage Drought and/or Stage 4 Emergency Response Period and subsequent to establishing acceptable contractual provisions between certain permittees (see Rule 3-7.6).

The General Manager may issue a temporary order authorizing the withdrawal of water including transfer of water between permittees via a system interconnection authorizing the withdrawal of water by one permittee from another permittee's well without notice and hearing, or with such notice and hearing as the General Manager, in his/her judgment, deems practical under the circumstances. The permittee transferring the water via a system interconnection shall notify the General Manager immediately of the transfer agreement, including a proposed length of time for the transfer. Notice may be given via email to ensure timeliness. The emergency transfer through an interconnection between permittees does not authorize overpumpage.

B. Emergency Withdrawals. Upon application to the District, the General Manager shall authorize withdrawal of water not covered by a permit upon a satisfactory demonstration by the applicant that:

1. An emergency exists due to acts of God or nature or other disaster, not including drought conditions,

2. The withdrawal of water 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

3. The withdrawal will not endanger human life or health and will not cause what would under the particular circumstances be unreasonable property damage or economic loss to others.

The General Manager may issue a temporary order authorizing the withdrawal of water without notice and hearing, or with such notice and hearing as the General Manager, in his/her judgment, deems practical under the circumstances.

C. Procedural Requirements. A copy of every Order entered by the General Manager under this Section shall be sent by certified mail to the person or persons to whom it is directed. However, when the time factor is critical, the Order may be delivered in person, transmitted by telephone or email, or delivered by any other satisfactory method, but it shall be promptly followed by the written Order sent by certified

mail. If the Order authorizes a new, transfer, or replacement well, the person to whom the Order is issued may not cause or undertake drilling of the well under the Order except in strict compliance with its terms and conditions.

Any such emergency ruling by the General Manager shall be approved or disapproved by the Board at its next meeting. Pending the Board's action, the General Manager's Order shall be given full effect.

If applicable, any applicant receiving a temporary order under this Section shall make timely application for permit or permit amendment and pay all applicable fees. The application shall be processed in the manner provided in these Rules.

3-1.19. CITY OF AUSTIN WATER USE FEE.

A. In order to establish the water use fee authorized by S.B. 988 of the 70th Texas Legislature, H.B. 2294 of the 74th Texas Legislature, H.B. 3405 of the 84th Texas Legislature, and Chapter 36, Texas Water Code, the Board shall, by Resolution, establish an annual water use fee for the City of Austin at the time that it adopts the fee schedule.

B. Computation of the City of Austin Water Use Fee. Each fiscal year, the District shall calculate the fee using the following method:

1. The District shall derive an estimate of the total amount of permitted pumpage authorized for any nonagricultural purpose for the next fiscal year by considering various factors including historical growth rates, future growth rates, the amount of permitted pumpage, historical permitted pumpage, and any pending applications for permitted pumpage.

2. Total production fees shall be calculated using the estimated total amount of permitted pumpage authorized for nonagricultural purposes for the next fiscal year and a production fee rate not to exceed 17 cents per thousand gallons regardless of the rate actually imposed on or remitted by the permittee.

3. When combined with the estimated total production fees anticipated to be received in the next fiscal year, the City of Austin water use fee shall not exceed 60 percent of the total funding.

4. If the addition of the Shared Territory causes the annual City of Austin water use fee to exceed $1 million, the District shall not require an assessment of greater than $1 million annually as adjusted to reflect the percentage change during the preceding year in the Consumer Price Index.

C. Payment of Fees. Payment of the City's water use fee may be made on a quarterly basis, with one quarter of the City's annual payment due on or before each of the

following dates: September 5, December 5, March 5, and June 5. Payments received after the 15th day of the month will be considered late and subject to late payment fees set forth in Rule 3-8.9 (see also Rules 2-10 and 2-11).

3-1.20. GENERAL PERMITS BY RULE.

For wells of certain characteristics and in certain prescribed situations, the District may issue several different types of permits by rule, generally with abbreviated application documentation and timelines. General permits by rule do not require notice and public hearings and are used for administrative convenience when their use is not inconsistent with the District's overall mission. The District may issue a general permit by rule as an administrative action, provided the requirements of the permit are met.

A. General Requirements and Conditions for General Permits by Rule.

1. Unless otherwise prohibited by the District and subject to the conditions and eligibility requirements specified for each general permit, wells are authorized to operate pursuant to this Section without an individual permit from the District.

2. A completed Well Registration form shall be submitted with the appropriate fees in accordance with Rule 3-1.2.

3. Wells authorized by this Section shall be registered in accordance with Rule 3-1.1.

4. A well authorized pursuant to this Section is not subject to production fees.

5. In lieu of authorization pursuant to this Section, the Board at its sole discretion may require authorization by obtaining an individual permit.

6. Wells authorized pursuant to this Section are subject to the Rules, regulations, Orders, special provisions, and other requirements of the Board, and laws of the State of Texas.

B. Limited Production Permit.

The purpose of this provision is to permit by rule the drilling and completion of nonexempt domestic and livestock use wells and the production of groundwater from wells.

1. Eligibility Criteria. To be eligible for authorization under this general permit, wells must:

a. not meet Exempt criteria under Rule 3-1.3(B), and

b. not be located in an area in which a water supplier has a valid CCN or, if located in an area where a water supplier has a valid CCN, the supplier is not readily able to supply water without extraordinary additional cost or time delay to the applicant, and

c. for a well to be completed in the Upper, Middle, or Lower Trinity Management Zone, be located on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully conveyed prior to October 16, 2026, and that has not been further subdivided on or after that date. Only one Limited Production Permit may be authorized for such a tract, and production under it shall be from a single Trinity Management Zone. A tract platted or otherwise lawfully conveyed on or after October 16, 2026, is not eligible for a Limited Production Permit, and a nonexempt well completed in a Trinity Management Zone on such a tract requires a Conditional Trinity Production Permit subject to District Rule 3-1.24.2.

2. Conditions and Requirements. Each authorization under this general permit shall be subject to the following conditions and requirements:

a. The well does not produce more than 500,000 gallons per year for applications filed prior to December 14, 2023,

b. The well does not produce more than 250,000 gallons per year for applications filed on or after December 14, 2023, and prior to October 16, 2026.

c. The well does not produce more than 125,000 gallons per year and has a maximum production capacity of not more than 10,000 gallons per day for applications filed on or after October 16, 2026.

d. The well is equipped with a meter under Rule 3-2.1,

e. The permittee shall keep accurate records and meter readings on an annual basis for the amount of groundwater withdrawn, the purpose of the withdrawal, and such records shall be submitted to the District office on an annual basis no later than September 5th of each year,

f. The permittee shall adopt, and implement a UCP consistent with Rule 3-6,

g. Any well completed in the Freshwater Edwards Management Zones and authorized for production under this General Permit may be subject to temporary curtailments during a District-declared Stage 4 Emergency Response Period, pursuant to Rule 3-7.6(C) related to

Drought, and as deemed necessary by the Board to preserve the DFC, and

h. Any other conditions that the District may require.

3. Wells authorized by this permit are subject to the permit conditions and requirements of Rule 3-1.11, the well spacing requirements of Rule 3-1.12, and the provisions of Rule 3-4.

4. A permittee may apply to redrill or replace a currently permitted well while preserving the Limited Production Permit designation if it complies with the requirements of this Section and Rule 3-4.6.

5. An authorization under this general permit is renewed in accordance with District Rule 3-1.8 and does not require an application for renewal.

C. Nonexempt Monitor Well Permit.

The purpose of this provision is to permit by rule the drilling and completion of nonexempt monitor wells and the production of restricted amounts of groundwater from nonexempt monitor wells.

1. Conditions and Requirements. Each authorization under this general permit shall be subject to the following conditions and requirements:

a. The applicant shall submit along with the appropriate fees, an application using forms provided by the District for presenting the following information:

i. a detailed statement describing the nature and purpose of the proposed monitor well(s),

ii. a map clearly indicating the location of each well,

iii. a sampling and monitoring plan,

iv. a water well closure plan, or a declaration that (1) the applicant will comply with well plugging and capping guidelines set forth in these Rules, and (2) will report well closures as required in Rule 3-5, and

v. any other information required by the District that is pertinent to the evaluation of the application.

b. Groundwater produced from the well is not in excess of the volume that is necessary for the sole purpose of conducting sampling and monitoring consistent with the sampling and monitoring plan;

c. The well is equipped with a meter under Rule 3-2.1. This condition may be waived by the General Manager provided that the applicant demonstrates that the well is not equipped with a dedicated pump;

d. The permittee shall keep accurate records on a monthly basis of the dates of each sampling event, the meter reading or the estimated volume of groundwater withdrawn with each sampling event, the purpose of the withdrawal, and such records shall be submitted to the District office on a monthly basis;

e. Authorization under the general permit shall be renewed on an annual basis. With renewal, the permittee shall submit the following:

i. an annual renewal fee,

ii. an updated monitoring and sampling plan,

iii. an annual report describing the project status, a summary of monthly records maintained pursuant to A(5) of this Section, any water level or analytical data associated with each sampling event, and any other pertinent information required by the District, and

iv. any studies or reports generated using data acquired from the monitor well(s).

f. The District shall be provided access to the monitor well(s) for sampling and data collection upon reasonable prior notice; and

g. The District may require other conditions on the basis of site-specific or use-specific circumstances.

2. Wells authorized by this permit are subject to the permit conditions and requirements of Rule 3-1.11 and the provisions of Rule 3-4.

3. This general permit is applicable to nonexempt monitor well(s) registered on or after January 26, 2006.

D. Test Well and Aquifer Test Permit.

The purpose of this provision is to permit by rule the drilling and completion of temporary test wells and the temporary production of restricted amounts of groundwater from test wells.

1. Application Requirements. The applicant shall submit, along with the appropriate fees, an application using forms provided by the District for presenting the following information:

    a. a detailed statement describing the nature and purpose of the proposed test well and anticipated production volume,

    b. an aquifer test work plan to include the required information as specified in the District's *Hydrogeological Report and Aquifer Test Guidelines (Guidelines),*

    c. a map clearly indicating the location of the test well,

    d. a proposed well design schematic with specifications to include: the total depth, borehole diameter, casing diameter and depth, annular seal interval(s), annular sealing method, surface completion specifications, and any other pertinent well construction information,

    e. a water well closure plan or a declaration that the applicant will (1) comply with well plugging and capping guidelines set forth in these Rules, and (2) report well closures as required in Rule 3-5, and

    f. any other information required by the District that is pertinent to the evaluation of the application.

2. Aquifer Tests and Hydrogeological Reports.

    a. The District will not accept an aquifer test or Hydrogeological Report conducted on a temporarily completed test well, for the purposes of satisfying the application requirements of an individual Production Permit.

    b. The District may consider an aquifer test and Hydrogeological Report that is conducted on a test well if the well is completed and equipped to a design that is representative of permanent completion, such that the target production zone is isolated.

    c. If the applicant intends to conduct an aquifer test on a test well and prepare a Hydrogeological Report to support an individual Production Permit application, the applicant shall submit the following information:

i. an aquifer test work plan to include the required information as specified in the District's *Guidelines* subject to review and approval by the General Manager. For anticipated annual Production Permit volumes more than 200,000,000 gallons, the applicant must submit an aquifer test monitoring plan and establish an aquifer test monitoring network in accordance with Rule 3-1.4(D).

ii. a proposed well design schematic for the alternate completion design with specifications to include: the total depth, borehole diameter, casing diameter and depth, annular seal interval(s), annular sealing method, surface completion specifications, and any other pertinent well construction information.

d. If an aquifer test and Hydrogeological Report are conducted on a test well for the purposes of satisfying the application requirements of a Production Permit, an additional aquifer test may be required as a special permit provision after the well is permanently completed for its ultimate planned use.

3. Conditions and Requirements. Each authorization under this permit by rule shall be subject to the following conditions and requirements:

a. Groundwater produced from the well is not in excess of the volume that is necessary to conduct an aquifer test as specified in the aquifer test work plan.

b. The well shall be equipped with a meter in accordance with Rule 3-2.1.

c. The permittee shall keep accurate records of the metered pumpage during the aquifer test. Such records shall be submitted to the District upon completion of the test.

d. Authorization under this permit by rule shall expire upon completion of the aquifer test as specified in the aquifer test work plan or within six months of approval, whichever occurs first. Temporary test wells shall either be plugged or modified and permanently completed in accordance with District Rules and Well Construction Standards within six months of completion of the wells.

e. The well shall be completed in accordance with the District's Well Construction Standards and, at minimum, shall not be open at the

surface or allow water zones of different chemical quality to commingle.

f. The District may require other conditions on the basis of site-specific or use-specific circumstances.

g. Authorized Testing Volume. The District will authorize a temporary testing volume. A fee will be assessed for volumes over 10 million gallons in accordance with the fee schedule.

4. This general permit by rule is subject to the permit conditions and requirements of Rule 3-1.11 and the provisions of Rule 3-4.

5. This general permit is applicable to test well(s) registered on or after September 10, 2009.

E. General Conservation Permit.

The purpose of this provision is to provide a protected, accumulative permit by rule that will be the holding vehicle for all Historic Use groundwater that was previously authorized groundwater production but is now associated with permanently retired permitted pumpage with Historic Use Status. Appropriate volumes associated with such retired water shall be added to the Conservation Permit. There is only one Conservation Permit and it is held by the District. The groundwater volume in the Conservation Permit is considered a committed use under permit as part of the Extreme Drought MAG and is included in the Ecological Flow Reserve. Volumes added to the Conservation Permit permanently reduce the EDWL.

F. ASR Pilot Test Permit. The purpose of this provision is to permit by rule the temporary production and recovery of restricted amounts of Class D Fresh Edwards groundwater for the purpose of ASR pilot testing as defined in these rules.

1. Application Requirements. The applicant shall submit, along with the applicable fees, an application using forms provided by the District for presenting the following information.

a. Nature and Purpose. Provide a detailed statement describing the nature and purpose of the proposed ASR project including the proposed end uses of the waters stored and recovered.

b. Site Location. Provide detailed maps describing:

i. The extent and boundary of the ASR test project area;

ii. The location of all source water wells;

iii. The wellfield layout design including all proposed ASR recovery wells, source production wells, monitoring wells, and the regional hydraulic gradient flows;

iv. The distribution system for the ASR test project, including the route for how source water will be distributed to the storage and recovery well location; and

v. The location of all other wells in the half mile radius of the ASR well.

c. Pumpage Volume. Provide a detailed statement describing:

i. The total anticipated production volume for the test;

ii. The estimated pumping rate of production from the source groundwater well;

iii. The estimated rate of recharge into the storage/recovery well; and

iv. The estimated rate of recovery from the storage/recovery well.

d. Work Plan. Provide a testing work plan to include the required information as specified in the District's *Guidelines for Hydrogeological Reports and Aquifer Testing*. The test work plan shall be coordinated with District staff.

e. Accounting Plan. Provide a detailed reporting format and diagrams describing how all ASR waters will be accounted for and reported. The accounting plan shall depict where the meters will be located on the system piping, and the type of meters that will be installed. The plan shall describe how the following will be metered, calculated, and reported on a monthly basis:

i. The volume of source water produced (Class D);

ii. The volume of source water(s) stored (total for each source water); and

iii. The volume of recovered water from storage (total volume recovered);

iv. The total storage volume of all source waters remaining after recovery (total for each source water);

v. The volume of native groundwater withdrawn from the ASR well (if applicable);

vi. Monthly average recharge pressures for each ASR well.

f. Related Authorizations. The applicant is responsible for obtaining required permit authorizations from TCEQ. The applicant shall obtain and submit a copy, of the TCEQ authorization applicable to this testing effort, to the District.

g. Any other information required by the District that is pertinent to the evaluation of the application.

2. Conditions and Requirements. Each authorization under this permit by rule shall be subject to the following conditions and requirements:

a. Testing During Drought. Any test that commences shall be allowed to continue or complete testing of fully authorized volume until the District declares Stage 2 Critical Drought. Upon declaring Stage 1 Alarm Drought the applicant will receive notice from the District that any source production and storage associated with this testing must be completed before the declaration of Critical Stage 2 Drought. Recovery of the stored water associated with this test is allowable during any drought stage. Permittees with other source water may inject volumes during any drought stage but will be subject to the provisions of that permit. An applicant may request a variance to this condition pursuant to District Rule 3-1.25.

b. Related Authorizations. The permittee is responsible for compliance with all applicable statutes and TCEQ rules associated with the Edwards Aquifer Protection Zone, and injection of water for storage, or the use of recovered water.

c. Term. Authorizations will expire within 2 years of the effective date of the issued authorization. An applicant may only request one ASR testing authorization per well field. The General Manager may consider and approve a 1 year extension request if a testing program is underway and will be completed during the one year extension. Extension request must be made in writing 30 days prior to original expiration date.

d. Authorized Testing Volume. For the purposes of aquifer testing, the District will authorize a limited production volume of Edwards water, not to exceed 30 million gallons per authorization. Volumes over 10 million gallons of authorized Edwards water will be

assessed a production fee in accordance with the fee schedule. Authorized Edwards volumes are to be used for testing purposes only. Any unused or unrecovered Edwards testing volumes will not be credited towards other permitted uses. The Permittee may use other permitted source waters for the ASR test project in accordance with TCEQ 30 §TAC 331.19, TCEQ 30 §TAC 331.186.

e. Metering. The wells associated with this ASR testing shall be equipped with one or more meters to account for the storage and recovery of water. The permittee shall keep accurate records and meter readings on a monthly basis and such records shall be submitted to the District office on a monthly basis no later than the 5th of each month.

f. Reporting. In accordance with District Rule 3-2 and Rule 3-1.15, ASR permittees shall monitor each ASR well and submit:

i. Monthly records of meter readings for the following:

a. The volume of source water produced (Class D);

b. The volume of source water(s) stored (total for each source water); and

c. The volume of recovered water from storage (total volume recovered);

ii. Monthly volume calculations for the following:

a. The total storage volume of all source waters remaining after recovery (total for each source water); and

b. The volume of native groundwater withdrawn from the ASR well (if applicable);

iii. Monthly average recharge pressures for each ASR well.

g. Status Report. One year after the initial pilot testing authorization is issued the permittee shall provide a project status report describing the current status of activities related to TCEQ permitting efforts, storage and recovery activities, sampling and analyses, and any changes to the pilot test work plan.

h. Summary Report. Provide a project summary report detailing all results from testing, monitoring and analyses, and all conclusions

reached from the information to the District within 60 days after the completion of pilot testing.

3-1.21. RESERVED.

3-1.22. HISTORIC USE STATUS.

A. Purpose. The District seeks to achieve and not exceed the sustainable yield of groundwater resources in the District, protect springflow, achieve the DFCs, and protect existing water wells and historic users to the maximum extent practicable.

B. Designation of Historic Use Status.

1. Authorization issued by the District for groundwater withdrawals for a specified amount and designated use from (1) all registered nonexempt wells in the Saline Edwards, (2) all registered nonexempt wells in the Upper, Middle, and Lower Trinity Management Zones approved by the District prior to October 16, 2026, and (3) all registered nonexempt wells in the Eastern and Western Freshwater Edwards Management Zones approved by the District prior to September 9, 2004 shall be designated under a Historic Use Status designation and subject to any and all applicable Rules, regulations, and requirements as set forth by the District, excluding those Rules, regulations, and requirements specific only to Conditional Production Permits. Historic Use Status is recognized in Historical Edwards Production Permits and in Historical Trinity Production Permits, as described further herein.

2. For all Historic-Use wells:

a. a change in primary use type of such withdrawals terminates the Historic Use Status and transforms it to Conditional Use; for a well in the Upper, Middle, or Lower Trinity Management Zone, the resulting Conditional Trinity Production Permit is subject to District Rules 3-1.24.1(E) and 3-1.24.2; and

b. agreement by the permittee to the alternative accelerated curtailment schedule consistent with District Rule 3-7.6(B)(5) does not terminate the Historic Use Status or change its applicable water production fees.

C. Transfer of Historic Use Status. Historic Use Status is not a vested right of the permittee. The District may transfer a Historic Use Status designation upon receiving an administratively complete District-approved permit application form stating a request for a permit amendment specific to a request in Change of Ownership, provided the amendment does not change the type of use. Said application shall comply with all appropriate District Rules and regulations relating to permit amendments relative to change in ownership status.

D. Replacement Wells. A permittee may apply to redrill or replace a currently permitted well while preserving Historic Use Status designation if it complies with the requirements of Rule 3-4.6.

E. Retirement of Historic Use in the Freshwater Edwards Management Zones.

1. Unless the total amount of water that will be allowed to be withdrawn from the aggregated Eastern and Western Freshwater Edwards Management Zones in the District, including both exempt and nonexempt wells, in those aquifers does not exceed the prevailing Extreme Drought MAG in Rule 3-1.23(A)(1) of these Rules, all groundwater production authorized with designated Historic Use Status that is subsequently retired is assigned to a general permit by rule designated the Conservation Permit.

2. Retired Historic Use becomes and remains part of the Ecological Flow Reserve and is not subject to additional groundwater withdrawal authorization during Extreme Drought. Such retirement permanently reduces the EDWL. Retired Historic Use may support an Offset Curtailment Schedule under District Rule 3-7.6(C)(7).

3. Retirement of Historic Use may be by permanent abandonment of all or part of the permit, or by acquisition of the rights to withdraw all or part of the water under the Historical Production Permit either on a full-time basis or during a specified District-declared drought stage(s) for purposes of decreasing total aquifer demand.

4. Upon completion of a transaction to retire Historic Use by acquisition of rights, the permittee relinquishing the rights shall file a minor amendment application with the District in accordance with District Rule 3-1.9(A)(2) to memorialize the transaction, modify UDCPs as needed, and assign all retired Historic Use to the Conservation Permit and the Ecological Flow Reserve.

F. Reduction Upon Loss of Associated Acreage. The annual volume authorized under a Historical Trinity Production Permit is contingent upon the permittee maintaining the right to produce groundwater from the contiguous controlled acreage associated with that permit as of October 16, 2026. If on or after that date the permittee sells, conveys, or leases such acreage without reserving the right to produce groundwater, or otherwise loses that right, and another person obtains authorization to produce groundwater from that acreage under a Production Permit, a Limited Production Permit, or an exempt well registration, the District shall reduce the volume authorized under the Historical Trinity Production Permit by the production allowable per acre for the applicable management zone for each such acre. The District shall also reduce the volume authorized under a Historical Trinity Production Permit by the production allowable per acre for each acre of such

associated acreage that the permittee subsequently uses to support a Conditional Trinity Production Permit. For a permittee that is a retail public utility, this Subsection applies only to acreage that was within the utility's CCN or corporate boundaries and actually being served by the utility as of October 16, 2026, or acreage owned or leased by the utility for the right to produce groundwater. A reduction under this Subsection applies when such acreage is no longer served by the utility because another person has obtained authorization to produce groundwater from that acreage under a Production Permit, a Limited Production Permit, or an exempt well registration. The permittee shall notify the District upon the loss of the right to produce groundwater from such acreage. The District shall amend the Historical Trinity Production Permit at the time the acreage is authorized for use by another person, or in any event no later than the permit's next renewal. Production during the fiscal year in which the reduction occurs shall be reasonably prorated by the District.

3-1.23. MAXIMUM ALLOWABLE WITHDRAWALS FOR MANAGEMENT ZONES.

A. Western and Eastern Freshwater Edwards Management Zones.

1. The Extreme Drought DFC and MAG. GMA 10 has adopted an Extreme Drought DFC for this aquifer that the monthly average springflow at Barton Springs during a recurrence of the drought of record shall be no less than 6.5 cfs. This DFC relates to minimizing, to the greatest extent practicable, the likelihood of wells drying and of deleterious reduction of springflow at the natural aquifer outlets. On the basis of the latest MAG determination by the TWDB, the Extreme Drought MAG for these management zones is 5.2 cfs on an average annual basis. The Extreme Drought MAG represents the best available modeled estimate of the aggregate annual amount of groundwater withdrawals from both exempt and nonexempt wells in the Eastern and Western Freshwater Edwards Management Zones that is projected to achieve the Extreme Drought DFC during a recurrence of the drought of record. The total amount of water actually withdrawn from these two zones during Extreme Drought shall be limited to the lesser of the Extreme Drought MAG or the Extreme Drought Withdrawal Limitation (EDWL). This groundwater production limitation is a drought-period cap imposed on pumping from these two hydrogeologic units that is demonstrably required to achieve the adopted DFC applicable to these Management Zones, and it shall be the target amount of the District’s Extreme Drought Withdrawal Limitation (EDWL) in any Extreme Drought. The EDWL is the District’s operative aggregate limitation, implemented through the curtailments, UDCP requirements, and Board Orders provided in these Rules, and shall be reduced until it no longer exceeds the Extreme Drought MAG. The EDWL may be more restrictive than the Extreme Drought MAG. Because the Extreme Drought MAG is derived from predictive modeling and projected hydrologic conditions, actual aquifer and drought conditions may indicate that aggregate groundwater withdrawals

less than the Extreme Drought MAG are necessary to achieve the Extreme Drought DFC. Accordingly, the District may establish and implement an EDWL that the District determines is reasonably necessary to achieve the Extreme Drought DFC under actual conditions. In establishing and implementing the EDWL, the District may consider actual springflow conditions, aquifer levels, drought severity, exempt well withdrawals, hydrologic interconnection among aquifers, actual and projected groundwater production patterns, and other relevant hydrogeologic and operational information. In addition to the regulatory curtailments required by these Rules, the District will seek additional voluntary pumpage reductions or issue Board Orders during Stage 4 Emergency Response Period conditions if necessary to achieve the Extreme Drought MAG. The District shall maintain a current accounting of the prevailing EDWL, the aggregate authorized production after curtailment plus estimated exempt production, and the remaining difference between that amount and the Extreme Drought MAG.

2. The All-Conditions DFC and MAG. GMA 10 has adopted an All-Conditions DFC for these management zones, which states that the long-term springflow of Barton Springs during average recharge conditions, as indicated by a seven-year rolling average springflow, shall be no less than 49.7 cfs. This DFC is expressly designed to ensure that groundwater withdrawals during average recharge conditions do not accelerate the onset of drought conditions in the aquifer beyond a rate that is acceptable to the District Board, as ratified and adopted by GMA 10. The TWDB has determined through modeling that the corresponding All-Conditions MAG for this DFC is monthly-average groundwater withdrawals of no more than 16.0 cfs from all exempt and nonexempt wells in the aggregated Eastern and Western Freshwater Edwards Management Zones. To the extent practicable, aggregated authorized withdrawals from such wells during non-drought conditions shall not exceed this MAG. In administering permits and groundwater production limits applicable to these management zones, the District may consider actual aquifer conditions, springflow conditions, recharge patterns, estimated exempt groundwater withdrawals, projected groundwater demands, hydrologic interconnection among aquifers, and other relevant hydrogeologic and operational information.

3. No new individual Production Permits will be issued in and for the Western Freshwater Edwards Management Zone. All new groundwater withdrawals must be only from wells either exempt from permitting under Rule 3-1.3 or from Limited Production Permit wells generally permitted under Rule 3-1.20.

B. Saline Edwards Management Zone.

Total permitted pumpage from the Saline Edwards Management Zone shall not exceed the amount required to achieve the DFC for this aquifer, which can be found

in the most recently adopted and approved GMA 10 explanatory report The primary purpose of this DFC is to avoid detrimental impacts in the Eastern Freshwater Edwards Management Zone. To the extent practicable, aggregated authorized withdrawals from such wells in the District shall not exceed the TWDB-established MAG for this DFC.

C. Upper Trinity Management Zone.

After July 16, 2015, authorized groundwater withdrawals from new nonexempt wells completed in the Upper Trinity Management Zone shall be limited to production from only the portion of the Upper Trinity Aquifer where there is no significant hydrological connection to the overlying Edwards Aquifer. Upon a determination by the General Manager, exempt and Limited Production Permit wells may be allowed in areas where there is limited yield and saturated thickness from the overlying units of the Edwards Group. On and after October 16, 2026, authorized groundwater withdrawals from new nonexempt wells completed in the Upper Trinity Management Zone shall be limited to domestic or livestock use and are subject to the production allowable per acre for that management zone under District Rule 3-1.24.2(C). Notwithstanding the foregoing:

1. A nonexempt well completed in the Upper Trinity Management Zone that was permitted by the District before October 16, 2026, may be changed to a purpose of use other than domestic or livestock use; upon approval of such a change, the Historic Use Status of the affected volume terminates under District Rule 3-1.22(B)(2), and the volume shall be authorized as a Conditional Trinity Production Permit subject to the production allowable per acre for the Upper Trinity Management Zone under District Rule 3-1.24.2(C); and

2. A well completed in the Upper Trinity Management Zone before October 16, 2026 that was exempt from permitting and is no longer exempt in accordance with District Rule 3-1.3 may be issued a Production Permit for a purpose of use other than domestic or livestock use if the well is not located in an area in which a water supplier has a valid CCN, or, if located in an area where a water supplier has a valid CCN, the supplier is not readily able to supply water without extraordinary additional cost or time delay. Such a permit shall be issued as a Conditional Trinity Production Permit subject to the production allowable per acre for the Upper Trinity Management Zone under District Rule 3-1.24.2(C).

D. Middle Trinity and Lower Trinity Management Zones.

Total permitted pumpage from the Middle and Lower Trinity Management Zones, including that from both exempt and nonexempt users, shall not exceed the amount required to achieve the applicable GMA-adopted DFC for the Trinity Aquifer. Aggregated authorized withdrawals from such wells in the District relative to the

availability under the applicable MAG allocation shall be considered as a factor in setting groundwater production limits. The District may also set production limits on wells completed in these management zones based on the District's analysis of the aquifer test and Hydrogeologic Report if required in accordance with 3-1.4(D).

3-1.24. CONDITIONAL EDWARDS PRODUCTION PERMITS.

A. Purpose. The purpose of this Section is to provide for the effective and sustainable management of the Barton Springs segment of the Edwards Aquifer by regulating the production of groundwater from new permitted wells or existing wells with increased permitted pumpage. The continuing usage and reliance upon such wells during Stage 1 Alarm, Stage 2 Critical, and Stage 3 Exceptional Droughts may exceed the Extreme Drought MAG of the aquifer, and thereby may pose an interference between water wells and potentially cause the cessation of springflow.

B. Applicability and Limitation.

1. All applications for new Production Permits and Production Permit amendments for wells proposing to withdraw groundwater from the Eastern or Western Freshwater Edwards Management Zones and issued after September 9, 2004, shall be designated as Conditional Edwards Production Permits.

2. The total annual actual production of groundwater from the Freshwater Edwards Management Zones, aggregating estimated exempt use and all production under both Historical Edwards Production Permits and Conditional Edwards Production Permits shall, to the maximum extent practicable, not exceed the applicable All-Conditions MAG, which is 16.0 cfs. Under the All-Conditions MAG, total annual actual production under Historical Edwards Production Permits and Class A, B, and C Conditional Edwards Production Permits including estimated exempt well production, shall not exceed 14.0 cfs, reserving 2.0 cfs for Class D Conditional Edwards Production Permits.

C. Class A Conditional Permits. Class A Conditional Permits shall be designated in accordance with the following criteria and shall be subject to the following provisions.

1. Permits satisfying the following criteria shall be designated as Class A Conditional Edwards Production Permits:

a. The Permit was approved and issued prior to April 12, 2007.

b. An application for a pumpage amendment or a new Production Permit was in process by the District as of April 12, 2007.

c. A permit is issued for an existing nonexempt and previously unpermitted well:

i. that was drilled before April 12, 2007,

ii. that maintains the type of use that existed on or before April 12, 2007, and

iii. whose authorized groundwater production does not exceed 2,000,000 gallons annually from the Edwards Aquifer.

d. A permit is issued for an existing well that:

i. is no longer exempt in accordance with Rule 3-1.3,

ii. was drilled before September 9, 2004,

iii. is not in an area in which a water supplier has a valid CCN or, if located in an area where a water supplier has a valid CCN, the supplier is not readily able to supply water without extraordinary additional cost or time delay, and

iv. is permitted for groundwater production that does not exceed 2,000,000 gallons annually from the Edwards Aquifer.

e. The pumpage is authorized by District Rule 3-1.20(B) relating to Limited Production Permits.

2. Except for Limited Production Permits authorizing production under Rule 3-1.20(B) from certain wells in the Freshwater Edwards Management Zones and permits satisfying the criteria of Subsection (C)(1)(c) and (d) of this Section, existing Class A Conditional Permits shall be irrevocably reclassified as Class B Conditional Permits upon the declaration of a Stage 3 Exceptional Drought. Upon reclassification, these permits shall be subject to all of the requirements applicable to Class B Conditional Permits including production fees and drought curtailment requirements.

D. Class B Conditional Permits. Class B Conditional Permits shall be designated in accordance with the following criteria and shall be subject to the following provisions.

1. Permits satisfying the following criteria shall be designated as Class B Conditional Permits:

a. A permit or permit application was not in process or approved prior to April 12, 2007, and the permit was approved and issued on or before March 24, 2011.

b. An amendment to authorize pumpage under a Historical or Class A Conditional Permit is issued before October 16, 2026, for increased pumpage where the aggregate total of the authorized pumpage volume at the time the amendment application was submitted and the amendment volume does not exceed 2,000,000 gallons annually from the Edwards Aquifer (the volume of any increase in authorized pumpage greater than 2,000,000 gallons annually shall be classified as a Class C).

c. On or after October 16, 2026, an application to authorize increased pumpage under a Historical or Class A Conditional Permit for increased pumpage from the Edwards Aquifer shall not be eligible for designation as a Class B Conditional Permit, but may be designated as Class C Conditional Permit.

2. Class B Conditional Permits shall not be reclassified as Class A Conditional Permits.

E. Class C Conditional Permits. Class C Conditional Permits shall be designated in accordance with the following criteria and shall be subject to the following provisions.

1. The permit was approved and issued after March 24, 2011.

2. Monthly groundwater production shall be limited to the monthly baseline permitted volumes established in the approved UDCPs of each individual permit. For permits issued prior to October 11, 2012, this provision shall not be enforced until after October 11, 2013.

3. Class C Conditional Permits shall not be reclassified as Class A or B Conditional Permits.

4. A permit issued under District Rule 3-7.6(C)(7) is a Class C Conditional Edwards Production Permit, notwithstanding the curtailment schedule applicable to it under that Subsection.

F. Class D Conditional Permits. Class D Conditional Permits shall be designated in accordance with the following criteria and shall be subject to the following provisions.

1. 2.0 cfs of authorized production under a Class D Conditional Permit shall be reserved for groundwater production associated with Aquifer Storage

and Recovery projects where stored water is recovered and used to supplement Freshwater Edwards supplies during District-declared drought or for supply management in times of need.

2. The total aggregate volume of pumpage authorized by Class D Conditional Permits shall not exceed 2.0 cfs (471,778,000 gallons/year).

3. Class D Conditional Permits shall not be reclassified as Class A, B or C Conditional Permits.

G. New Production Permit Applications. Applications for new Conditional Edwards Production Permits shall be processed pursuant to District Rule 3-1.4, including as applicable the demonstration required for Class B and C Permit applications to the satisfaction of the District Board. Satisfaction of the requirements of District Rule 3-7.6(C)(7) is an alternative means of satisfying the demonstration required for Class C Permit applications under this Subsection to the extent of the eligible volume authorized under that Subsection.

H. Pumpage Amendment Applications. Applications for pumpage amendments to existing Conditional Edwards Production Permits shall comply with District Rule 3-1.9 and all other applicable District Rules and regulations.

1. An applicant with a Historical Edwards Production Permit in the Freshwater Edwards Management Zones who is applying for a pumpage amendment, upon receiving said amendment after consideration and if approved by the Board, shall be issued a Conditional Edwards Production Permit only for the authorized additional withdrawal amount of groundwater, which shall be separate from but associated with the Historical Edwards Production Permit for the duration of the Historical Permit, unless terminated by the permittee or the District pursuant to District Rules. (Example: Permittee X has a Historical Edwards Production Permit for 50 million gallons per year and files and receives a permit amendment of 70 million gallons per year. The District would issue permittee X a Conditional Edwards Production Permit for 70 million gallons per year, giving permittee X a combined total available authorized pumpage volume of 120 million gallons per year. The 50 million gallon Production Permit would retain its Historic Use Status.) Under no circumstance shall the pumpage amendment, as a Conditional Edwards Production Permit, be considered for Historic Use Status designation.

2. Applicants seeking a permit amendment to an existing Conditional Edwards Production Permit of the same class, upon receiving said amendment after consideration and if approved by the Board, shall have the original Conditional Edwards Production Permit amended to reflect the authorized increase in groundwater withdrawal.

I. Term of Conditional Edwards Production Permits.

1. All Class A Conditional Edwards Production Permits are effective for the fiscal year of issuance, and unless otherwise stated on the permit, shall not be issued for a term longer than one year, except as provided for in District Rule 3-1.7(C). Renewal of all Class A Edwards Conditional Production Permits are governed by Rule 3-1.8, Permit Renewal.

2. All Class B and C Conditional Edwards Production Permits are effective for the fiscal year of issuance, unless otherwise stated on the permit, and are issued for a term of one year. Such permits will be renewed annually, provided an annual review confirms:

   a. all infrastructure, contracts, rates, and facilities for 100 percent substitution with an alternative water supply that were demonstrated to the Board as a condition of initial permit approval have been effectively deployed within the first year and effectively remain in place for all subsequent years, except to the extent the eligible volume is authorized under District Rule 3-7.6(C)(7); and

   b. all other Rules of the District are met, including Rule 3-1.8, Permit Renewal.

   Failure to comply with both provisions (a) and (b) of this Subsection, in the sole judgment of the Board, shall result in the expiration of the Conditional Edwards Production Permit, or such other action as the Board may take.

3. All Class D Conditional Edwards Production Permits are effective for the fiscal year of issuance and, unless otherwise stated on the permit, shall not be issued for a term longer than one year, except as provided in District Rule 3-1.7(C).

J. Other Limitation on Volumes Authorized Under Certain Conditional Edwards Production Permits. Conditional Edwards Production Permits using Designated Alternative Water Supply Well(s) as the required alternative supply will be permitted up to a volume not to exceed the non-speculative water demand during the term of the Production Permit minus the volume of the Historical Edwards Production Permit, if any.

3-1.24.1. CONDITIONAL TRINITY PRODUCTION PERMITS.

A. Purpose. The purpose of this Section is to provide for the effective and sustainable management of the Upper, Middle, and Lower Trinity Management Zones, and to achieve the applicable adopted desired future conditions for the Trinity Aquifer, by regulating the production of groundwater from new and existing permitted wells, including existing wells with increased permitted pumpage.

B. Applicability and Limitation.

1. All applications for new Production Permits and Production Permit amendments to increase authorized production or change the purpose of use for wells proposing to withdraw groundwater from the Upper, Middle, and Lower Trinity Management Zones and received in administratively complete form after October 16, 2026, shall be processed for issuance as Conditional Trinity Production Permits or amendments to such permits. All such permits issued and applications received in administratively complete form on or before October 16, 2026, shall be processed for issuance as or reclassified as, as applicable, Historical Trinity Production Permits.

2. The total annual actual production of groundwater from the Upper, Middle, and Lower Trinity Management Zones, aggregating estimated exempt use and all production under both Historical Trinity Production Permits and Conditional Trinity Production Permits shall, to the maximum extent practicable, not exceed the amount required to achieve the applicable GMA-adopted DFC for the Trinity Aquifer.

3. The maximum annual volume of groundwater that may be authorized under a Conditional Trinity Production Permit is the production allowable per acre for the applicable management zone multiplied by the applicant's contiguous controlled acreage, less the deductions and exclusions, as provided in District Rule 3-1.24.2.

4. Wells with Drilling Authorizations Approved Before October 16, 2026. Notwithstanding Subsection (B)(1) of this Section, an applicant that held a Well Drilling Authorization for a well in the Upper, Middle, or Lower Trinity Management Zones that was approved by the District on or before October 16, 2026, and for which a Production Permit had not been issued as of that date, may elect, at the time the applicant submits its application for a Production Permit for that well, to apply for either:

   a. a Historical Trinity Production Permit, in an annual authorized volume not to exceed the anticipated annual pumpage volume stated in the applicant’s application for the Well Drilling Authorization; or

   b. a Conditional Trinity Production Permit under these Rules.

   An election under this Subsection must be made in writing at the time the application is submitted and is irrevocable. A permit issued under this Subsection (B)(4) is subject to all other requirements applicable to a Production Permit, including District Rules 3-1.4 and 3-1.6, and the volume authorized may be less than the amount sought in the election. An applicant electing Subsection (B)(4)(a) of this Section is not thereby entitled to any

volume in excess of the amount authorized by the District, and any subsequent increase in authorized production is governed by District Rule 3-1.24.1(E).

(District Rule 3-1.24.1(B)(4) expires without further action by the Board on the later of December 31, 2028, or the date the District takes final action on all Production Permit applications submitted under this Subsection before that date.)

C. New Production Permit Applications. Applications for Conditional Trinity Production Permits shall comply with District Rule 3-1.4, all other applicable District Rules and regulations, and additionally be subject to the contiguous controlled acreage maximum limit on annual authorized volume in District Rule 3-1.24.2.

D. Pumpage Increase Applications. Applications for pumpage increases to Trinity Production Permits shall comply with District Rule 3-1.9 and all other applicable District Rules and regulations, and additionally be subject to the contiguous controlled acreage maximum limit on annual authorized volume in District Rule 3-1.24.2.

E. An applicant who already holds a Historical Trinity Production Permit who is applying to increase pumpage or change the historic purpose of use must apply for and obtain a Conditional Trinity Production Permit in order to do so, as amendments are not allowed for either such purpose under a Historical Trinity Production Permit. A change in the historic purpose of use terminates the Historic Use Status of the affected volume under District Rule 3-1.22(B)(2), and the converted volume shall be authorized as a Conditional Trinity Production Permit. Upon receiving such authorization after consideration and if approved by the Board, the applicant shall be issued a Conditional Trinity Production Permit only for the authorized additional withdrawal amount of groundwater or new purpose of use, which shall be separate from but associated with the Historical Trinity Production Permit for the duration of the Historical Permit, unless terminated by the permittee or the District pursuant to District Rules. (Example: Permittee X has a Historical Trinity Production Permit for 5 million gallons per year and holds 3,000 acres of contiguous controlled acreage overlying the Middle Trinity Management Zone. At the production allowable per acre of 10,000 gallons, that acreage supports 30 million gallons per year, from which the 5 million gallons authorized under the Historical Trinity Production Permit is deducted, leaving 25 million gallons available. Permittee X files an application for and receives authorization to produce an additional 25 million gallons per year based upon, and subject to, a finding of no unreasonable impacts. The District would issue Permittee X a Conditional Trinity Production Permit for 25 million gallons per year, giving Permittee X a combined total available authorized pumpage volume of 30 million gallons per year. The 5 million gallon Production Permit would retain its Historic Use Status.)

Applicants seeking a permit amendment to an existing Conditional Trinity Production Permit, upon receiving said amendment after consideration and if approved by the Board, shall have the original Conditional Trinity Production Permit amended to reflect the authorized increase in groundwater withdrawal.

F. Term of Conditional Trinity Production Permits.

All Conditional Trinity Production Permits are effective for the fiscal year of issuance, and unless otherwise stated on the permit, shall not be issued for a term longer than one year, except as provided in District Rule 3-1.7(C).

3-1.24.2. CONTIGUOUS CONTROLLED ACREAGE AND PRODUCTION LIMITS ON CONDITIONAL TRINITY PRODUCTION PERMITS.

A. A Conditional Trinity Production Permit is required for the operation of any new well not authorized under a Historical Trinity Production Permit, as well as for an existing well authorized under a Historical Trinity Production Permit where the permit holder wishes to increase the authorized annual production from the well or amend the authorized use from the well to include a non-historic purpose of use.

B. The maximum annual production amount that may be authorized under a Conditional Trinity Production Permit shall not exceed the lesser of the following:

1. the amount determined by the District under the considerations set forth under District Rule 3-1.6; or

2. the product of the applicable annual production allowable per acre described under Subsection (C) of this Section. multiplied by the number of contiguous controlled acres of the applicant at the well site, then subtracting from that product the amount of annual production authorized under any Historical Trinity Production Permit or other permitted or exempt well of the applicant or another person that is tied to the same acreage and authorized to produce groundwater from the same management zone.

C. The initial annual production allowable per acre for the Middle Trinity and Lower Trinity Management Zones is 10,000 gallons per acre per year per zone, and for the Upper Trinity Management Zone is 5,000 gallons per acre per year. The initial production allowable per acre established under this subsection is substantially greater than the Minimum Production Allowable Per Acre. The District has intentionally set the initial amount at that higher level so that current and future permittees may produce larger quantities of groundwater until reduction becomes necessary to achieve the applicable DFC, accounting for anticipated future increases in aggregate demand under Conditional Trinity Production Permits from both new permittees and increases by Historical Trinity Production Permit holders. The production allowable per acre is therefore expected to decrease over time, and no permittee acquires a vested right in the initial amount. Authorizations under this

subsection remain subject to the aggregate production limitations of District Rule 3-1.24.1 and to temporary curtailment or cessation of permitted pumpage during declared drought under District Rule 3-7.6, including proportional adjustment of the production allowable per acre under District Rule 3-7.6(C)(4). Therefore, the District by Board order or amendment to these rules may at any time decrease the production allowable per acre for both then-existing and new Conditional Trinity Production Permits as necessary or appropriate to achieve applicable DFCs. In determining whether to decrease the production allowable per acre, the Board shall consider the District's progress toward achieving the applicable DFC, as well as the District's performance relative to any interim values identified for the DFCs under Section 36.108(d-1a), Texas Water Code. However, to ensure that landowners overlying a Trinity Management Zone have the opportunity to produce their fair share of available groundwater, the Board shall not reduce the production allowable per acre below the Minimum Production Allowable Per Acre, as determined by the Board at or before the time of the reduction.

D. If an applicant does not have sufficient contiguous controlled acreage to support the requested production authorization under Conditional Trinity Production Permit, the applicant may obtain additional contiguous acreage or groundwater rights through purchase or lease. For an applicant that also holds a Historical Trinity Production Permit from the same management zone, the District shall not deduct authorized production under the historical permit from any acreage acquired through purchase or lease of land or groundwater rights after October 16, 2026. For purposes of the calculation under Subsection (B) of this Section, the District shall not subtract production authorized under an applicant's Historical Trinity Production Permit from contiguous controlled acreage that the applicant acquired after October 16, 2026, by purchase, lease, expansion of the CCN or corporate boundary of a retail public utility, or otherwise. This Subsection does not affect the subtraction of production authorized under any other permit, or of estimated production from exempt wells, as otherwise required by Subsection (B).

E. Retail Public Utilities. When determining contiguous acreage under this Section for an applicant that is a retail public utility, consistent with Water Code Section 36.116(c), the District shall consider all acreage within the utility's service area that is inside the District and overlies that management zone. Acreage associated with any other permit within that service area for wells producing from the same management zone shall be excluded. The District may also reduce the calculated amount under Subsection (B)(2) of this Section by an estimate of total groundwater annually produced from exempt wells within the service area completed in the same management zone.

F. For purposes of calculating the initial total acreage (before subtractions or exclusions) of a utility's service area under E. the following rules apply:

1. For a utility holding a bounded service area CCN, all acreage within that boundary shall be counted.

2. For a utility operating under a Facilities +200 Feet CCN, a Facilities Only CCN, or for an investor-owned utility or water supply corporation registered with the PUC as exempt from CCN requirements, only the acreage of properties actually receiving service shall be included.

3. For a utility that is a political subdivision without a CCN, all acreage within its corporate limits, along with any additional acreage actually served, shall be included.

4. For a political subdivision with a CCN that does not match its corporate boundaries, the total acreage shall include both the CCN area and the corporate limits, as well as any additional acreage actually served.

5. Where a utility's CCN overlaps with the corporate limits of another political subdivision, the overlapping acreage shall be attributed to the CCN holder unless there is a written agreement stating otherwise.

6. In areas with dual certification approved by the PUC, acreage shall be allocated in accordance with any written agreement between the utilities. If no agreement exists, acreage actually served shall be assigned to the serving utility, and the remaining acreage shall be divided equally.

7. If a utility owns a well located outside its CCN or corporate limits, the contiguous acreage attributed to that well shall be limited to land owned or controlled by the utility at the well site.

8. For utilities operating multiple independent public water systems under the same CCN or under separate CCNs that are not physically interconnected, the acreage associated with each system shall be evaluated and authorized separately under this Section.

9. For a water utility providing wholesale public water supply, the utility's service area shall be based on the service areas of the retail public utilities that it serves, after accounting for any such acreage that must be deducted because it is utilized under another permit.

G. A utility that does not have sufficient contiguous acreage to support its requested production authorization may obtain additional acreage or groundwater rights through purchase, lease, or expansion of its service area. For a utility applicant that also holds a Historical Trinity Production Permit from the same management zone, the District shall not deduct authorized production under the historical permit from the acreage acquired through service area expansion, or through purchase or lease

of land or groundwater rights outside of its service area, as the service area existed on October 16, 2026.

H. Acreage Accounting and Effect of Limitation. An acre may be credited only once per management zone and only to a management zone it overlies, and no acre shall be counted under more than one Production Permit, Limited Production Permit, or exempt well registration for the same management zone. Subdivision or replatting of a tract after October 16, 2026, does not create additional acreage, additional production allowable, or Limited Production Permit eligibility. The production allowable per acre established under this Section is a maximum limitation on the volume the Board may authorize and does not entitle an applicant to that volume; each application remains subject to the site-specific evaluation, aquifer test and Hydrogeological Report requirements, and unreasonable impacts analysis under District Rules 3-1.4(D) and 3-1.6, and the Board may authorize a lesser volume or deny the application on that basis. A permit issued within the production allowable per acre remains subject to District Rules 3-1.23, 3-1.24.1, 3-6, and 3-7, including UDCP requirements and drought curtailments. The maximum volume that may be authorized from contiguous controlled acreage under this Section applies regardless of the number of wells or well systems producing from that acreage.

3-1.25. VARIANCE REQUESTS: GENERAL.

A. Application. An applicant or well registrant may by written petition to the Board request a variance from the requirements of District Rule 3-1, with the exception of District Rules 3-1.23, 3-1.24, 3-1.24.1, 3-1.24.2, and 3-1.12(G)(1). A variance may not be granted from the production allowable per acre established under District Rule 3-1.24.2. A variance request under this Section shall be accompanied with any variance request fee set by the Board pursuant to District Rule 3-1.16. A petition for a variance request shall include the following information:

1. the specific rule citation for which the variance is sought,

2. the nature of the variance requested,

3. a detailed explanation as to why the variance should be granted, and

4. any additional information, materials, maps, or documents required by the General Manager or the General Manager's designated representative.

B. This Section is not applicable for variance requests relating to drought as addressed under District Rule 3-7.9.

C. Basis for Variance Approval. In evaluating a request, the Board shall act based on the following considerations:

1. There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, hydrogeology,

surrounding conditions, and location that do not apply generally to other properties in the vicinity;

2. A variance is necessary to permit the applicant the same rights in the use of property that are presently enjoyed by other properties in the vicinity, but which rights are denied to the property on which the application is made;

3. The granting of the variance on the specific property will not adversely affect any other provision of the District's Rules and Bylaws;

4. The variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity for such activities that are under the jurisdictional authority of the District;

5. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there;

6. Whether alternative options are available to the applicant such that if pursued a variance would not be required;

7. Whether the operations proposed are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the authorization or permit conditions to be imposed;

8. Granting the variance would be in accordance with the intent of the District's Mission Statement, Rules and Bylaws, and certified Management Plan; and

9. The recommendations of the General Manager or the General Manager's designated representative.

D. District Action. A variance request shall be considered by the Board after public notice and hearing pursuant to the requirements of District Bylaw 4-9 and completion of a 28-day public response period pursuant to District Rule 3-1.4(B). The applicant requesting the variance shall receive written notification of the District's action.

E. Variance Conditions.

1. The Board may grant a variance for a term and with any conditions the Board deems appropriate, which shall be set out in the Order granting the variance request.

2. The Board may require an applicant granted a variance to file reports with the District containing such information as is relevant to monitoring the continuing appropriateness of the variance and compliance with the terms and conditions of the variance.

F. Rescission of Variance. By Order, the Board may rescind an Order granting a variance at any time due to changed circumstances, new information, or failure of the holder of the variance to abide by the terms and conditions of the variance or any Order of the Board.

G. Variances from Well Spacing Requirements. A request for a variance from a minimum well spacing distance required under District Rule 3-1.12 is governed by this Section, subject to the following:

1. In addition to the notice required under Subsection (D) of this Section, the applicant shall provide notice to each owner of land located within, and each registered well owner whose well is located within, the otherwise applicable minimum spacing distance from the proposed well location or one-quarter mile, whichever is greater. The notice shall identify the spacing requirement for which the variance is sought, describe the requested variance, and state the date, time, and location of the hearing.

2. The General Manager may administratively grant or deny a variance request for a well with a maximum production capacity of 10,000 gallons per day or less if no person entitled to notice under Subsection (G)(1) files an objection within the public response period. This subsection does not apply to a well completed in the Saline Edwards Management Zone. Any other request, and any request to which a timely objection is filed, shall be referred to the Board.

3. In addition to the considerations under Subsection (C) of this Section, the Board or General Manager shall consider whether the proposed well would cause unreasonable impacts under District Rule 3-1.6, whether a lesser reduction in the minimum spacing distance would be sufficient, and whether the need for the variance was created by the applicant's own subdivision or conveyance of the property after October 16, 2026.

4. The burden of proof is on the applicant.

5. A well authorized under a variance granted under this Subsection is not protected as an existing well by the minimum spacing requirements of District Rule 3-1.12 with respect to any well subsequently permitted or registered by the District on property from which the existing well did not meet the spacing requirements of these rules because of a variance granted.

3-1.26. AQUIFER STORAGE AND RECOVERY.

An ASR project shall be designed and operated to recharge source waters into a well and geologic formation, to isolate the stored water from the native groundwater, and to

subsequently retrieve the same stored waters, to the highest extent practicable, for the purpose of beneficial use.

A. Permissible Sources of Water for Recharge into an Aquifer

1. Source water for ASR projects located within Edwards Aquifer Management Zones or projects that transect the Edwards into the Trinity Aquifer Management Zones must comply with 30 TAC §§331.19 and 331.186. Any other source water for ASR projects located outside the Edwards Aquifer Management Zones or projects that do not transect the Edwards shall comply with standards set forth in 30 TAC §331.186.

2. The following District groundwater production permits are available for recharge and storage:

   a. Edwards Class D Conditional Permits pursuant to District Rule 3-1.24(F); and

   b. Historical Trinity and Conditional Trinity Production Permits and Freshwater Edwards Permits pursuant to District Rules 3-1.22 and 3-1.24.1, as applicable.

3. If the proposed source water is from outside of the District, then the applicant shall cooperate with each entity that has jurisdiction over the source water to ensure compliance with applicable rules and permitting.

B. Well Construction Standards for ASR Wells

1. All ASR wells shall be completed in accordance with the well construction standards set forth in District Rule 5 and 30 TAC §331.183.

2. District Rules for well completion shall prevail over less restrictive or less protective state, federal, or local requirements relating to well construction standards.

C. Site Location

1. All ASR wells associated with a single ASR well field project shall be located:

   a. Within a continuous perimeter boundary on one parcel of land, or

   b. Within two or more adjacent parcels of land under the common ownership, lease, joint operating agreement, or contract.

D. Permit Authorizations for ASR Activities. Any permit or authorization for an ASR test project or ASR operational project shall be in accordance with District Rule 3-1.4.

1. Source and Recovery Permits authorize the following:

a. the production of Class D source water for use with an ASR projects;

and

b. the production a recoverable amount of water from an ASR well in which source waters were stored for the purpose of recovery.

E. Authorization of ASR Recovery

1. Recoverability Analysis. Applicants seeking to obtain or amend a Source and Recovery Permit shall complete a recoverability analysis to determine a recoverable amount as defined in the District's Rule 2. Upon application, a report shall be submitted and describe the applicant's methods for estimating the percentage of stored water that will be recovered. The District will authorize a recoverable amount as determined by the recoverability analysis. In making this determination the District will consider the following:

a. Whether storage in the receiving formation can successfully be recovered for beneficial use, taking into account the recharged water may be commingled with the native groundwater;

b. Stored water volumes;

c. Buffer zone water;

d. Estimated recovery efficiency based on target water quality criterion;

e. Potentiometric data;

f. Porosity, permeability, and transmissivity data;

g. Migration and regional flow gradients;

h. Natural discharge;

i. Relevant groundwater modeling; and

2. At any time, the General Manager may request a revised recoverability analysis and, through a staff-initiated amendment, adjust the recoverable amount if data supports the permit amendment.

3. An ASR permittee is prohibited from recovering groundwater that exceeds the authorized recoverable amount unless the permittee holds a production permit for the native groundwater source. Unauthorized withdrawals are subject to enforcement pursuant to District Rule 3-8.

4. ASR recovery and the recoverable amount are not subject to drought rules required under Rule 3-7 "Drought".

5. An ASR permittee shall not recover water attributed to natural recharge or floodwater recharge through natural or improved sinkholes, caves, or other karst features.

F. Accounting and Reporting. A District approved accounting plan shall be in place for all ASR projects in a report format that provides meter readings and/or volume calculations of all ASR waters.

1. In accordance with District Rule 3-2, functioning water meters shall be installed to account for all ASR waters. Digital and bidirectional meters are an accepted form of metering for ASR projects.

2. Monthly Reporting. In accordance with District Rule 3-2 and Rule 3-1.15, ASR permittees shall monitor each ASR well and submit:

a. Monthly records of meter readings for the following:

i. The volume of source water produced (Class D);

ii. The volume of source water(s) stored (total for each source water); and

iii. The volume of recovered water from storage (total volume recovered);

b. Monthly volume calculations for the following:

i. The total storage volume of all source waters remaining after recovery volume of source water(s) stored (total for each source water); and

ii. The volume of native groundwater withdrawn from the ASR well (if applicable);

c. Monthly average recharge pressures for each ASR well.

3. Water Quality Monitoring and Reporting. ASR permittees shall take all necessary steps to ensure the water quality of the aquifer is protected due the operations of an ASR project.

   a. On an annual basis, the ASR permittee is required to conduct water quality testing pursuant TCEQ rule TAC 331.185 (b).

   b. Additional water quality testing will be required during the first year of operation and when more than 50 percent of the stored water has been recovered.

   c. The General Manager may require, when deemed necessary, more frequent water quality testing, additional constituents for analysis, or a geochemical analysis.

4. Annual Reporting. For each Fiscal Year (FY), ASR permittees shall submit a concise report that provides a summary of water accounting, operations and any data collected from the previous FY. No later than September 30th, the permittee shall submit a concise annual report that may include the following information:

   a. The total volume of source water produced;

   b. The total volume of source water stored (all sources), including monthly rates;

   c. The total volume of stored water recovered, including monthly rates;

   d. The total storage volume of all source waters remaining after recovery (total for each source water);

   e. The total volume of native groundwater produced (if applicable);

   f. Water quality and geochemistry data;

   g. Water level data;

   h. Observation well data (if applicable);

   i. Injection pressure data,

   j. Infrastructure or operation changes, and;

   k. Other information deemed relevant by the General Manager.

5. Operations Report. No later than September 30th of every five years after the issuance of a Source and Recovery Permit, ASR permittees shall submit a detailed report that may include the following information:

   a. An overview of the operations and maintenance of the ASR project;

   b. A comparison of project performance with projections or complications that have been encountered during the operation of the project; and

   c. A meter calibration report of all meters.

3-2. METERING.

3-2.1. WATER METERS.

A functioning water meter with register, meeting AWWA standards for the line size, pressures, and flows, that is properly installed according to the manufacturer's specifications or other measuring device approved by the District, is required on all nonexempt wells and/or nonexempt Aggregate Wells, at the point each permitted pumpage amount applies. Meters are not required to be installed on exempt wells but exempt well owners are strongly encouraged to install meters for their own use and benefit.

3-2.2. METERING AGGREGATE WITHDRAWAL.

Where wells are permitted in the aggregate, each well in the aggregate system must be metered individually, and pumpage for each well must be reported on an individual basis. In addition, one water meter may also be used for the aggregate well system if the water meter is installed so as to measure the groundwater production from all wells covered by the aggregate, and approval of aggregate metering is obtained from the District.

3-2.3. WATER METER VERIFICATION.

The General Manager may require the well owner or primary operator to test and calibrate, at the well owner's or primary operator's expense, the water meter on each permitted well and provide the District with a certification in affidavit form of the test results and accuracy calibrations on a form provided by, or in a format approved by, the General Manager, but not more often than once every three years. At the District's expense and at any time, the District may also undertake random investigations for the purposes of verifying water meter readings, acquiring data for alternate calculations of groundwater withdrawal, estimating the capability of a well, determining water levels, and acquiring such other information helpful to the District in carrying out goals under the Act. If the District's verification reveals that a water meter is not within an accuracy of five percent (5%), the

permittee must reimburse the District for its cost of verification and undertake immediate repair, replacement, or correction of the water meter.

3-2.4. VIOLATION OF METERING AND REPORTING REQUIREMENTS.

False reporting or logging of meter readings, intentionally tampering with or disabling a meter, or similar actions to avoid accurate reporting of groundwater use and pumpage shall constitute a violation of these Rules and shall subject the person performing the action, as well as the well owner and/or the primary operator who authorizes or allows that action, to such penalties as provided in the Act and these Rules.

3-2.5. WATER METER SEALS.

If the General Manager finds it necessary, the District may, at its expense, seal by physical means those water meters required to be installed by these Rules and may red tag such water meters to indicate they have been sealed. The well owner or primary operator shall report any alteration, damage, or removal of the water meter seal at once to the District and request repair of the seal. Tampering with, altering, damaging, or removing the water meter seal or red tag, or in any way violating the integrity of the seal or red tag shall constitute a violation of these Rules and shall subject the person performing the action, as well as any well owner and/or primary operator who authorizes or allows that action, to such penalties as provided in the Act and these Rules.

3-2.6. METERING LUBRICATING/COOLING WATER.

Water used for cooling pumps which is recirculated from the system back into the well or aquifer may be metered and subtracted from monthly pumpage amounts when calculating total pumpage, provided the return flow is metered at the wellhead return. The water used for lubricating and cooling pumps must be fresh water and must not have been contaminated through the process. Water used for this purpose must be kept away from any sources of contamination through isolation in a watertight jacket. Meters used to measure recirculated water must meet AWWA standards and must be reported along with actual pumpage volumes. District inspection and approval of the lubricating/recirculating system is required prior to subtracting recirculated volumes from system use.

3-2.7. SUB-METERING OF MULTI-USER WELLS.

For wells permitted as Multi-user Wells, each off-property connection shall be equipped with a sub-meter located on the well owner's property directly upstream of the off-property connection. Each sub-meter shall be operated, maintained, and shall comply with all relevant standards in accordance with this Section. Usage from each sub-metered connection shall be reported on an individual basis as a supplement to the monthly reported pumpage required in accordance with District Rule 3-1.15(A).

3-3. WASTE/POLLUTION/PROSCRIBED USE.

3-3.1. WASTEFUL USE.

Groundwater produced from within the District shall not be used in such a manner or under such conditions as to constitute waste.

3-3.2. WASTEFUL PRODUCTION.

Any person producing or using groundwater shall use every possible precaution to stop and prevent waste of such water.

3-3.3. SUBSURFACE POLLUTION.

No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by causing or allowing the introduction of salt 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. SURFACE POLLUTION.

No person shall pollute or harmfully alter the character of the groundwater reservoir by activities on the surface of the ground that will cause or allow pollutants to enter the reservoir through recharge features, whether natural or man-made.

3-3.5. GENERAL PROHIBITION.

No person shall intentionally or negligently commit waste.

3-3.6. ORDERS TO PREVENT WASTE/POLLUTION.

After providing notice to affected parties and opportunity for a hearing, the Board may adopt Orders to prohibit or prevent waste or pollution. If the factual basis for the Order is disputed, the Board shall direct that an evidentiary hearing be conducted prior to entry of the Order. If the Board determines that an emergency exists, requiring the immediate entry of an Order to prohibit waste or pollution and protect the public health, safety, and welfare; it may enter a temporary order without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of 15 days or until a hearing can be conducted.

3-3.7. PROSCRIBED WATER USE DURING DECLARED DROUGHTS.

A. Failure to conserve and preserve groundwater through the excessive use of water during District-declared drought conditions constitutes a threat to and harmful

alteration of the character of groundwater or the groundwater reservoir and is prohibited.

B. Failure to conserve and preserve groundwater during drought conditions is wasteful use and is therefore waste.

C. Domestic use that meets the following criteria is presumed to be excessive use that harms the groundwater reservoir and aquifer resources and is therefore proscribed use.

1. Water use in occupied houses in excess of 15,000 gallons per connection per month, or 4,000 gallons per capita per month, whichever is greater, during a Stage 1 Alarm Drought, and in excess of 10,000 gallons per connection per month, or 3,000 gallons per capita per month, whichever is greater, during a Stage 2 Critical or Stage 3 Exceptional Drought, indicating excessive use for purposes other than protection of human health and welfare.

2. Water use for newly constructed, never occupied housing in excess of 6,000 gallons per house/lot per month during a Stage 1 Alarm Drought, and any substantive use for such purposes during a Stage 2 Critical or Stage 3 Exceptional Drought, which would indicate excessive use for purposes other than protection of human health and welfare.

3. During a Stage 1 Alarm Drought, water use for common areas within a service area in excess of an amount proportional to the total volume represented by the number of service connections multiplied by 6,000 gallons (the allocation specified in C(2) of this Section). This proportion shall be calculated based on the ratio of common area relative to non-common area. All such water use during Stage 2 Critical and Stage 3 Exceptional Drought is proscribed.

D. The presumptions in Subsection (C) of this Section may be rebutted by presenting clear and convincing evidence to the Board that:

1. A person without a metered connection has implemented water use reductions including, but not limited to, curtailment of all outdoor water uses that are not essential to protection of human health and welfare such as lawn irrigation, washing impervious cover, filling or topping off pools and water features, and washing cars; and/or in the alternative has installed a water meter and demonstrated such curtailment.

2. A person with a metered connection demonstrates water use essential to protection of human health and welfare that exceeds that component of the presumed criterion of Subsection (C)(1) of this Section.

3. A person demonstrates a component of use that is essential, non-domestic use (e.g., agricultural, livestock, commercial truck gardens, etc.).

E. No person who uses groundwater shall make, cause, or permit the excessive use of such water by failing to conserve during drought conditions, whether or not the person is a permittee or served by a permittee. Any person using groundwater shall take all actions necessary to conserve groundwater and stop excessive use during drought conditions.

F. To conserve and preserve groundwater, the District prohibits excessive use of groundwater by any person during drought. The Board may adopt Orders to prohibit excessive water use and require water conservation in the manner prescribed under these rules for adoption of Orders to prevent waste/pollution.

G. Groundwater from wells located in the Hill Country Priority Groundwater Management Area shall not be used to provide water to amenity ponds having an aggregate cumulative capacity of more than 30,000 gallons, and those wells installed for such purposes shall not be permitted. Use of groundwater from any well in this area for such purposes during drought shall be considered wasteful use of groundwater and is proscribed.

3-4. DRILLING OF WELLS AND INSTALLATION OF WELL PUMPS AND EQUIPMENT.

3-4.1. DRILLING AUTHORIZATION.

A person who seeks to construct, drill, or modify a well to be used for nonexempt use must obtain a Well Drilling Authorization prior to drilling, removing casing, boring, altering the size of the bore, cleaning the bore, reboring the existing hole, or performing other modification activities. A person who requests authorization to produce groundwater from such a well used for nonexempt purposes or to transport groundwater out of the District must also obtain a Production Permit or a Transport Permit. No drilling or modification activities authorized by the District shall commence until the District has been provided with 24-hour advance notification.

3-4.2. DRILLING AUTHORIZATION TERM.

Unless the Board specifies otherwise, an approved Well Drilling Authorization is effective for one year from the date of issuance provided no change in ownership or proposed use occurs prior to drilling. A request for an extension shallbe made in writing to the General Manager thirty (30) calendar days before the Drilling Authorization expires. The request shall include reasons for delays and a projected new schedule for well construction.

3-4.3. DRILLING RECORDS.

A. Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping, and completion of all wells drilled in the District. Such records shall include an accurate driller's log, depth to water, any electric log that

shall have been made, and such additional data concerning the description of the well, its discharge, and its equipment as may be required by the Board. Such records shall be filed with the District within 60 days after drilling and/or completion of the well.

B. No person shall operate any well drilled and equipped within the District, except operations necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller's log, any special purpose log or data which have been generated during well drilling and development, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

3-4.4. DRILLING AND COMPLETION OF WELLS.

Drilling and completion of wells must satisfy applicable requirements of the TCEQ, the TDLR's Water Well Drillers and Pump Installers Program, and the District Well Construction Standards. The Board of Directors shall adopt, and may periodically amend, Well Construction Standards for wells drilled within the District. Well Construction Standards shall be developed for and applied to each management zone. Approved Well Construction Standards will be made available to the public at the District office.

3-4.5. INSTALLATION OF WELL PUMPS AND EQUIPMENT.

Well pumps and equipment shall only be installed or serviced in wells registered with the District.

3-4.6. REPLACEMENT WELLS.

A. A well owner may apply to redrill or replace a currently permitted or registered (exempt) deteriorated well if the following conditions apply:

1. the replacement well must be drilled on same tract of land and within 250 ft. of the original well;

2. the replacement well must not be completed or equipped in a manner that would increase the production capacity (e.g. modification);

3. the replacement well complies with all applicable District Rules and regulations, including current District Well Construction Standards;

4. the well has a cone of depression similar to that of the original well;

5. the replacement well will be used to produce the same or less amount of groundwater and for the same purpose and type of use of the original well; and

6. the well that is being replaced is permanently plugged.

B. A well owner may only apply to redrill or replace a registered exempt well while preserving an exempt designation if it complies with the exemption criteria pursuant to 3-1.3(B)(2) or (4).

C. An aquifer test and Hydrogeological Report may be required as determined by the General Manager.

3-4.7. SUSPENSION.

The General Manager may suspend an authorization for a permit or a permit amendment for failure to comply with the requirements of Rules 3-4.1, 3-4.2, 3-4.3, 3-4.4, and 3-4.5.

3-4.8. APPLICABILITY TO EXEMPT WELLS.

The requirements of Rule 3-4 are applicable to all wells drilled in the District, including exempt wells.

3-5. ABANDONED, DETERIORATED, OPEN, OR UNCOVERED WELLS.

3-5.1. REGISTRATION.

Any landowner or other person who possesses an abandoned, deteriorated, open, or uncovered well must register the well with the District. Any well not registered with the District shall be classified as abandoned.

3-5.2. ABANDONED WELL CAPPING.

At a minimum, non-deteriorated open or uncovered abandoned wells must be completed and capped in accordance with the applicable requirements of the TCEQ; the laws and rules of the TDLR's Water Well Drillers and Pump Installers Program; District Rules; and Well Construction Standards. The landowner or other person who possesses the well shall keep the well properly capped with a water tight covering capable of sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand except when the well is in actual use. The well must also be completed to prevent entrance of surface pollutants into the well itself, either through the well bore or well casing.

3-5.3. ABANDONED WELL PLUGGING.

Unless granted an exception by the General Manager or Board, all abandoned wells that are not capped in accordance with Rule 3-5.2, and all deteriorated wells must be plugged in accordance with the applicable requirements of the TCEQ, 16 TAC §76.1004 of the TDLR's Water Well Drillers and Pump Installers Program Rules, District Rule 3-5, and

other applicable Rules and Well Construction Standards adopted by the Board of Directors. Prior to plugging a well, the District Well Construction Standards require as a minimum, registration of the well with the District, a site inspection by District staff, submission to the District for review and approval a Plug and Abandonment Plan by the owner or the well driller, and payment of the Well Abandonment fee. The General Manager may require the well owner to take a water sample and have a water quality analysis conducted as part of or prior to the plugging operation at the well owner's expense.

3-5.4. REPORTING.

In accordance with Section 16 TAC §76.700, TDLR's Texas Water Well Drillers and Pump Installers Administrative Rules, within 30 days of completing the plugging of a well located within the District, the person that plugs the well shall deliver or send by first-class mail, the District a copy of the State of Texas Plugging Report.

3-5.5. ENFORCEMENT.

Pursuant to Texas Occupations Code, Title 12 - Practices and Trades Related to Water, Health, and Safety (TOC) §1901.256, the District may pursue enforcement against a landowner or other person who possesses an abandoned or deteriorated well for failure to comply with the provisions of TOC §1901 and District Rules. If the owner or lessee fails or refuses to plug or cap the well in compliance with this Rule and District standards within 35 days after being requested to do so in writing by an officer, agent, or employee of the District, then, upon Board approval, any person, firm or corporation employed by the District may go on the land (pursuant to Texas Water Code Sections 36.118 and 36.123) and plug or cap the well safely and securely. Should the well remain abandoned 180 days after the date that the landowner or other person who possesses the well learns of its condition, the District may pursue further enforcement in cooperation with the TDLR in accordance with the provisions of Texas Occupations Code §1901.255.

3-5.6. LIEN FOR RECOVERY OF EXPENSES INCURRED BY DISTRICT.

A. Reasonable expenses incurred by the District in plugging or capping a well constitute a lien on the land on which the well is located.

B. The District shall perfect the lien by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

1. The existence of the well;

2. The legal description of the property on which the well is located;

3. The approximate location of the well on the property;

4. The failure or refusal of the owner or lessee, after notification, to close the well within ten days after the notification;

5. The closing of the well by the District, or by an authorized agent, representative, or employee of the District; and

6. The expense incurred by the District in closing the well.

3-5.7. PENALTIES.

Rule 3-8 penalties shall be applicable in cases of failure or refusal to plug abandoned wells, or cap wells not currently in use.

3-6. CONSERVATION.

3-6.1. CONSERVATION-ORIENTED RATE STRUCTURE.

The District encourages all water utilities to employ conservation-oriented rate structures as a matter of course.

3-6.2. CONSERVATION POLICY.

The District may implement conservation policies through incentive fee structures and amendments to its own production fees.

3-6.3. USER CONSERVATION PLANS.

Each permittee is required to prepare, adopt, and implement UCPs consistent with these Rules.

A. Contents of UCP. UCPs shall consider, as a minimum, the following:

1. Implementation of a conservation-oriented rate structure,

2. Promotion and encouragement of voluntary conservation measures,
3. Promotion and encouragement, installation, and use of water-saving devices,

4. Promotion and encouragement of water efficient landscape practices,

5. Financial measures that encourage conservation,

6. Distribution of conservation information and other educational efforts, and

7. Provision for ordinances, regulations or contractual requirements necessary for the permittee to enforce the UCP.

B. Compliance. The District shall approve UCPs if they satisfy the objectives of this Rule. The permittee may revise or amend the UCP, as necessary, with approval by the District. Permittees must have a District-approved UCP prior to receiving a permit amendment. UCPs shall be prepared as part of the permit application and presented for District approval.

C. Update upon Renewal. The UCP of each permit shall be updated upon permit renewal no less often than every five years. District staff will assist permittees in providing the latest and most appropriate guidance for such updates.

3-7. DROUGHT.

3-7.1. PURPOSE.

The purpose of these Rules is to provide guidelines and procedures for the District to implement and administer a UDCP. Drought, or other uncontrollable circumstances, can disrupt the normal availability of groundwater supplies, causing water availability and water quality emergencies. This Rule establishes procedures intended to preserve the availability and quality of water during such conditions. The implementation of drought severity stages, aquifer warning conditions, and other procedures shall be at the direction of the District.

3-7.2. APPLICABILITY.

These Rules apply to all permittees within the District, although certain provisions differ in how they are applied within certain management zones. In addition, the District shall utilize public education and assistance programs to encourage compliance with this Rule by owners of wells exempt from permitting and all other water users located within the District's jurisdictional area.

These Rules are applicable to water users of the Barton Springs segment of the Edwards Aquifer and to users of groundwater from all other aquifers and water-bearing formations located within its jurisdictional boundaries.

3-7.3. DROUGHT STAGES AND TRIGGERS.

Drought severity stages for all management zones are triggered by declines in the rate of discharge at Barton Springs and/or increases in depth to water in the District’s Drought Indicator Well. Drought stages may have different applicability and requirements among the management zones. A decision to change the drought status of the aquifer may consider other factors that influence or reflect aquifer conditions (Subsection (F) of this Section).

The drought severity stages include Stage 1 Alarm, Stage 2 Critical, Stage 3 Exceptional, and Stage 4 Emergency Response. A Water Conservation Period will be in place when not in a declared drought stage, during which voluntary reductions in water use are requested of all groundwater users. The implementation of required demand reduction measures will begin with the requirements of Stage 1 Alarm Drought. More stringent reduction measures will be required in Stage 2 Critical Drought, and even more stringent measures will be required for certain wells in Stage 3 Exceptional Drought and Stage 4 Emergency Response Period.

A. Water Conservation Period. The District will be in a "Water Conservation Period" when, for a period of ten or more days, the rate of discharge at Barton Springs is above the Stage 1 Alarm Drought flow rate of 38.0 cfs, and the elevation of the water level in the Lovelady Drought Indicator Well (State well number 58-50-301) is above the Stage 1 Alarm Drought level of 478.4 feet, relative to mean sea level datum (msl). During this condition, the District will maintain and conduct a routine aquifer monitoring program. This stage shall be determined and administered at the discretion of the District's General Manager. Groundwater users will be asked to reduce their water use voluntarily and will be expected to follow the voluntary measures described in their UDCP's (District Rule 3-7.5) during this period.

B. Stage 1 Alarm Drought. A Stage 1 Alarm Drought commences when a ten-day running average rate of discharge from Barton Springs is equal to or less than 38.0 cfs, or the elevation of the water level in the Lovelady Drought Indicator Well is equal to or less than 478.4.0 feet (msl), and the District's Board of Directors determines that conditions warrant the declaration of this stage.

C. Stage 2 Critical Drought. A Stage 2 Critical Drought commences when a ten-day running average rate of discharge from Barton Springs is equal to or less than 20.0 cfs, or the elevation of the water level in the Lovelady Drought Indicator Well is equal to or less than 462.7 feet (msl), and the Board determines that conditions warrant the declaration of this stage.

D. Stage 3 Exceptional Drought. A Stage 3 Exceptional Drought applies only to the Freshwater Edwards Management Zones and commences when a ten-day running average rate of discharge from Barton Springs is equal to or less than 14.0 cfs, or the ten-day running average elevation of the water level in the Lovelady Drought Indicator Well is equal to or less than 457.1 feet (msl), and the Board determines that conditions warrant the declaration of this stage.

E. Discontinuance of Drought Stages.

1. Stage 1 Alarm Drought will be discontinued when the rate of discharge from Barton Springs rises above a ten-day running average of 38.0 cfs and the water level elevation in the Lovelady Drought Indicator Well is above 478.4

feet (msl), and/or when in the judgment of the District's General Manager or Board, a Stage 2 Alarm Drought situation no longer exists.

2. Stage 2 Critical Drought will be discontinued when the rate of discharge from Barton Springs rises above a ten-day running average of 20.0 cfs and the water level elevation in the Lovelady Drought Indicator Well is above 462.7 feet (msl), and/or when in the judgment of the District's General Manager or Board, a Critical Drought situation no longer exists.

3. Stage 3 Exceptional Drought will be discontinued when the rate of discharge from Barton Springs rises above a ten-day running average of 14.0 cfs, and the ten-day running average water level elevation in the Lovelady Drought Indicator Well is equal to or above 457.1 feet (msl) and/or when in the judgment of the Board, an Exceptional Drought situation no longer exists.

4. Stage 4 Emergency Response Period (ERP). The District Board may declare an ERP, applicable to the Western and Eastern Freshwater Edwards Management Zones, during Extreme Drought conditions when a ten-day running average rate of discharge from Barton Springs is at or below 10 cfs or the ten-day running average water level elevation in the Lovelady Drought Indicator Well is equal to or less than 453.4feet (msl) (this trigger level may be revised as additional scientific information on the low flow characteristics of Barton Springs is developed). In addition to possible measures to be directed or ordered at the Board's discretion during an ERP, as characterized in District Rule 3-7.6 below, the Board may take emergency actions under District Rule 4-10.3 and request other governmental agencies to implement structural measures designed to minimize take and prevent jeopardy of endangered species populations (e.g. the USFWS Barton Springs Salamander Recovery Plan).

F. Drought Factors. In addition to the rate of discharge at Barton Springs and the elevation of the water level in the Lovelady well, the District may consider other factors that may have some relevance to the urgency of declaring a drought or that may indicate that a drought is likely to continue regardless of spring discharge or water levels. These factors may be related to hydrogeologic or climatological conditions that have a bearing on aquifer conditions. Some factors that may be considered include:

1. Water levels in other District monitor wells,

2. Number of consecutive prior months with below average rainfall and related climatological outlook,

3. Rainfall deficit for previous 12-month or longer period,

4. Palmer Drought Severity Index,

5. Flow in Blanco River at Wimberley,

6. Number of months since last creek flow in major contributing creeks,

7. Recent pumping rates, and

8. Saturated thickness of the aquifer.

3-7.4. WATER QUALITY.

As aquifer level elevations approach historical lows, the District may monitor the water quality of public water supply wells along or near the bad water line, in the water table zone, in the artesian zone, and in Barton Springs.

3-7.5. USER DROUGHT CONTINGENCY PLANS.

Each permittee is required to prepare, adopt and implement User Drought Contingency Plans (UDCPs) consistent with these Rules.

A. Contents of UDCP. UDCPs shall consider, as a minimum, the following:

1. A declaration of intent to comply with all District Rules and permit conditions related to Drought and implement all the measures of the UDCP.

2. Establishment of a permittee's baseline monthly permitted pumpage volume and target monthly pumpage volumes in accordance with mandatory reduction percentages of the two or three drought stages, as applicable, and the Stage 4 Emergency Response Period, if applicable,

3. Voluntary compliance restrictions to achieve a 10 percent reduction goal relative to the monthly target during the Water Conservation Period,

4. Demand reduction measures which may include prohibition of water waste, alternative and/or supplemental water supply sources, adjustment to water rates, and use of water saving devices,

5. Additional demand reduction measures developed by the permittee which achieve reduction goal percentages associated with and specified by each drought stage,

6. Financial measures which encourage compliance with the UDCP and UCP while maintaining financial stability of the permittee during drought stages,

7. Provision for ordinances, regulations, or contractual requirements necessary for the permittee to enforce the UDCP,

8. Provisions for reporting pumpage, and

9. UDCP special provisions for Conditional Edwards Production Permits shall include:

   a. For Class A Conditional Edwards Production Permits, demonstration of demand reduction measures for a temporary curtailment of 50 percent of monthly pumpage during a Stage 3 Exceptional Stage Drought pursuant to District Rule 3-7.6(C)(1)(d)(i).

   b. For Class A Conditional Edwards Production Permits, demonstration of demand reduction measures, including specification of alternative water supplies, if available, and operational processes used for causing substitution should the Board issue an Order for temporary monthly permitted pumpage curtailments greater than that of Stage 3 Exceptional Stage Drought or the cessation of production of groundwater during an ERP pursuant to District Rule 3-7.6(C)(1)(e)(i).

   c. For Class B Conditional Edwards Production Permits, demonstration of demand reduction measures including specification of alternative water supplies, if available, for a temporary curtailment of 50 percent and 75 percent of total permitted pumpage withdrawals during Stage 1 Alarm and Stage 2 Critical Stage Drought, respectively, pursuant to District Rule 3-7.6(C)(1)(b)(ii) and (c)(ii).

   d. For Class B and Class C Conditional Edwards Production Permits, demonstration of demand reduction measures including specification of alternative water supplies and operational processes used for causing substitution, as required under District Rule 3-1.11(A)(16), should the Board issue an Order for the cessation of production of groundwater during a Stage 3 Exceptional and/or a Stage 1 Alarm Drought pursuant to District Rule 3-7.6(C)(1)(d)(ii) and (b)(iii).

   e. For Class C Conditional Edwards Production Permits, a monthly baseline permitted volume applicable during non-drought conditions. For permits issued prior to October 11, 2012, this provision shall not be enforced until after October 11, 2013.

B. Compliance. Permittees must have a District-approved UDCP prior to receiving a permit amendment or renewal. The District shall approve a UDCP if it satisfies the objectives of this Section. The permittees may revise the monthly permitted pumpage allocation of the UDCP as necessary during the permit year but not more

than once per fiscal year. The General Manager may administratively approve new or revised UDCPs on behalf of the Board, provided that the UDCP is substantively similar to the most current staff-prepared guidance, or the associated permit action is within the approval authority of the General Manager in accordance with District Rule 3-1.6(C). Any other revisions or amendments must be approved by the Board.

C. Update upon Renewal. The UDCP of each permit shall be updated upon permit renewal no less often than every five years. District staff will assist permittees in providing the latest and most appropriate guidance for such updates.

D. Consistency with CCN Drought Contingency Plans. Any permittee that is also a holder of a Certificate of Convenience and Necessity (CCN) issued by PUC shall assure that all drought-management provisions in the TCEQ Drought Contingency Plan (DCP) and in the District permit's UDCP are aligned and internally consistent. The CCN holder shall modify its TCEQ DCP to conform to requirements of the District UDCP, if necessary, upon the earlier of 12 months from the effective date of this provision or when the DCP is next amended.

E. UDCP Enforcement. All provisions of the UDCP must be implementable and enforceable by the permittee. Any District permittee that is a water utility or otherwise a holder of a CCN issued by PUC shall:

1. Include the procedures for the enforcement of mandatory water use restrictions, including specification of water rate surcharges for violation of such restrictions, as authorized under 30 Tex. Admin. Code §288.20(a)(1)(J) and 288.22(a)(10), and

2. Inform each of its customers of its authority, its physical ability, and its intent to enforce the mandatory drought restrictions contained within its permit with the District.

3-7.6. PERMITTEE DROUGHT CURTAILMENT REQUIREMENTS.

Upon declaration of each drought stage, permittees shall reduce water usage, report to the District the monthly water volumes pumped from the aquifer, and implement UDCPs.

A. General Permitted Pumpage Reduction Requirements. Monthly permitted pumpage reduction recommendations are 10 percent during the Water Conservation Period. Monthly permitted pumpage shall be curtailed by 20 percent, 30 percent, and 40 percent for the Stage 1 Alarm, Stage 2 Critical, and Stage 3 Exceptional Drought stages, respectively. These reductions are based on monthly baseline pumpage established for each permittee and are included as part of the UDCP. Additional reduction conditions are placed on all Conditional Production Permits pursuant to District Rules 3-1.24, 3-1.24.1, 3-7.5(A)(9), and Subsection (C) of this Section.

1. All permittees not granted a variance from the Drought Rules shall achieve individual monthly (prorated for partial months) target pumpage volumes for each drought stage by reducing established monthly baseline pumpage by the respective percentage reductions associated with each drought stage.

2. If a permittee cannot develop a baseline pumpage volume, one shall be established by the District by using a monthly average percentage of annual use based on other permittees with similar water use.

3. The target pumpage volume for a permittee that does not have historical pumpage data available shall be derived from the District-generated baseline described in A.(2) above, or it may be based on their current permitted pumpage until a more accurate baseline can be established.

B. Implementation of UDCPs. Upon notification from the District that drought stages are triggered, permittees not granted a variance from the Drought Rules are required to initiate action according to their UDCP. Conditional Production Permits may have additional mandatory compliance requirements pursuant to Subsection (C) of this Section, including temporary curtailment of pumpage or cessation of pumpage.

1. For Stage 1 Alarm Drought, mandatory compliance with a 20 percent reduction in monthly permitted pumpage is required.

2. For Stage 2 Critical Drought, mandatory compliance with a 30 percent reduction in monthly permitted pumpage is required.

3. For Stage 3 Exceptional Drought, mandatory compliance with a 40 percent reduction in monthly permitted pumpage is required for all permittees in the Freshwater Edwards Management Zones. Permittees with permits classified for public water supply using Freshwater Edwards groundwater shall issue individualized, separate notice to all retail, end-user customers that their public water supply may be in peril, and that physical restriction of water use and reporting of excessive users to the District may be required. All permittees will be encouraged to supplement supplies with all available alternative sources, if available, to achieve a reduction in permitted pumpage of more than 40 percent.

4. Implementation of User Drought Contingency Plans during a Stage 4 Emergency Response Period (ERP).

   a. During an ERP declared after October 11, 2015, each permittee with a Historical Edwards Production Permit whose Edwards well is located within a Freshwater Edwards Management Zone, is required to curtail monthly permitted pumpage by 50 percent, as measured on a three-month average basis, beginning three months after declaration of an ERP. For the initial three-month period following

declaration of ERP, the curtailments required by a Stage 3 Exceptional Drought will continue to apply.

b. If the Edwards Extreme Drought MAG is subsequently determined by the District to be able to be achieved by less than 50 percent curtailment of Historic Production Permits during an ERP, then the required curtailment to achieve the MAG will be implemented by Board Order during that ERP to all Historical Edwards Production Permittees.

c. Permittees with permits classified for public water supply using Freshwater Edwards groundwater shall issue individualized, separate notice to all retail, end-user customers that their public water supply is in peril and that physical restriction of water use and reporting of excessive users to the District will be required.

5. Alternative Curtailment Schedule for Historic Edwards Wells in Exchange for Additional Water Withdrawals during a Water Conservation Period.

a. Historic Edwards production permittees may voluntarily commit to amending their permit and modifying their UDCPs to follow a more accelerated curtailment schedule during declared drought, in exchange for the authorization to withdraw additional volumes of water during non-drought conditions by a specified percentage above their current annual authorization.

b. The curtailment schedule shall be determined by the percent increase authorized by the amended permit during non-drought, with a maximum of 40 percent increased production and a maximum of 100 percent curtailment. The mandatory curtailments during drought will be calculated as the standard drought-stage curtailments described in Subsections (B)(1) through (B) (4) of this Section plus twice the permitted percent increase in authorized pumpage during non-drought. For example, for a 120 percent increase in authorized water use during non-drought, in a Stage 2 Critical Drought, the alternative curtailment amount in the UDCP would be, in lieu of the 30 percent of the standard schedule, equal to that 30 percent plus twice the 20 percent increase during non-drought, or 70 percent curtailment during Stage 2 Critical drought.

c. Once drought is declared by the District, accelerated curtailments under this Section shall be extended through the duration of the drought event.

d. Pursuant to Rule 3-1.23(A)(2), increased withdrawals authorized under this Section, when added to the aggregate authorized

withdrawals from Freshwater Edwards Management Zones, shall not exceed the All-Conditions MAG.

C. Special Drought Requirements of Conditional Production Permits.

1. Compliance with Drought Stages. All Conditional Production Permits shall comply with all applicable drought rules and protocols required elsewhere in this Section dealing with "Drought," and in addition the requirements and conditions as enumerated below:

a. Water Conservation Period.

i. Permittee's Conditional Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought" including the Water Conservation Period measures specified in their UDCPs.

b. Stage 1 Alarm Drought.

i. Except for Limited Production Permits authorizing production under Rule 3-1.20(B), permittees with Class A Conditional Edwards Production Permits and Conditional Trinity Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and shall comply with a mandatory monthly permitted pumpage curtailment of 20 percent.

ii. Permittees with Class B Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and shall comply with a mandatory monthly permitted pumpage curtailment of 50 percent.

iii. Permittees with Class C and D Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and shall completely curtail monthly permitted pumpage during District-declared drought.

c. Stage 2 Critical Drought.

i. Except for Limited Production Permits authorizing production pursuant to Rule 3-1.20(B), permittees with Class A Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under District Rule 3-7 "Drought," and shall

comply with a mandatory monthly permitted pumpage curtailment of 30 percent. If the ten-day average discharge at Barton Springs falls to 17 cfs or below, Class A permittees subject to Rule 3-1.24(C)(2) (related to Class A to B Permit reclassification) will receive notice from the District of the possible permit reclassification and the associated requirement to completely curtail monthly permitted pumpage if and when a Stage 3 Exceptional Drought is declared. Once triggered, this reclassification will be a permanent change.

ii. Permittees with Class B Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and shall comply with a mandatory monthly permitted pumpage curtailment of 75 percent.

iii. Permittees with Class C and D Conditional Edwards Production Permits in the Freshwater Management Zones shall continue the complete curtailment initiated in the preceding Stage 1 Alarm Drought. Such curtailment shall continue until the District discontinues District-declared Drought.

iv. Permittees with Historical or Conditional Trinity Production Permits shall comply with a mandatory monthly permitted pumpage curtailment of 30 percent.

d. Stage 3 Exceptional Drought.

i. Except for Limited Production Permits authorizing production pursuant to Rule 3-1.20(B), permittees with Class A Conditional Edwards Production Permits after the permit reclassification triggered in this drought stage shall comply with all applicable drought rules and protocols required under District Rule 3-7 "Drought," and shall comply with a mandatory monthly permitted pumpage curtailment of 50 percent.

ii. Permittees with Class B Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and shall completely curtail monthly permitted pumpage during District-declared drought.

iii. Permittees with Class C and D Conditional Edwards Production Permits in the Freshwater Management Zones shall continue the complete curtailment initiated or continued in the preceding Stage 2 Critical Drought. Such curtailment shall continue until the District discontinues District-declared Drought.

iv. Permittees with Historical or Conditional Trinity Production Permits shall continue to comply with a mandatory monthly permitted pumpage curtailment of 30 percent.

e. Stage 4 Emergency Response Period.

i. Except for Limited Production Permits authorizing production pursuant to Rule 3-1.20(B), permittees with Class A Conditional Edwards Production Permits shall comply with all applicable drought rules and protocols required under this Rule 3-7 "Drought," and may be subject to temporary monthly permitted pumpage curtailments greater than the mandatory 50 percent of Stage 3 Exceptional Drought. Temporary pumpage curtailments applied to Limited Production Permit holders may be required, upon Board Order, if and as deemed necessary by the Board to preserve the DFC.

ii. Permittees with Class B, C, and D Conditional Edwards Production Permits shall continue the complete curtailment initiated or continued in the preceding Stage 3 Exceptional Drought. Such curtailment shall continue until the District declares the ERP is discontinued.

iii. Permittees with Conditional Edwards Production Permits are not eligible to receive a Temporary Transfer Permit.

iv. Permittees with Historical or Conditional Trinity Production Permits shall continue to comply with a mandatory monthly permitted pumpage curtailment of 30 percent.

2. Other Temporary Curtailment or Cessation of Pumpage. All Conditional Production Permits are subject to temporary curtailment up to and including cessation by Board Order, based upon a determination that one or more of the following conditions exist:

a. During Stage 1 Alarm, Stage 2 Critical, or Stage 3 Exceptional Drought conditions, the Extreme Drought MAG will be exceeded

for a duration of time sufficient to potentially cause severe and detrimental impacts to water wells or springflow,

b. a lowering of the water-table and/or the reduction of artesian pressure to such a degree that it negatively impacts water wells, or

c. degradation of water quality, subsidence, or other adverse groundwater quantity or quality conditions are occurring or will potentially occur in the immediate future such that said unreasonable impacts will negatively affect water wells.

3. Ordering Curtailment. The Board may issue an Order for curtailment under Subsection (C)(1) of this Section or temporary curtailment or cessation of pumpage under Subsection (C)(2) without holding a public hearing, inasmuch as these are agreed conditions of all Conditional Permits. However, the permittee may request a hearing to appeal the Board Order, and the permittee and any other interested party as defined by District Bylaw 4-9.13 may appear before the Board during such an appeal and give testimony pursuant to District procedures as set forth in District Bylaw 4-9. During the appeal, the Order shall remain in full force and effect.

4. Proportional Adjustment. To the maximum extent practicable, the Board shall observe the principle of proportional adjustment within Conditional Permit classes within any one management zone, meaning an Order issued by the Board for the temporary or permanent curtailment or cessation of pumpage of a Conditional Production Permit of one class is proportional when the adjustment of the maximum available and authorized groundwater withdrawals are maintained at a constant ratio in relation to the adjustment of the maximum available and authorized groundwater withdrawals of all other Conditional Production Permits of the same class in that management zone. In the Trinity Aquifer Management Zones, this can be accomplished by a reduction in the production allowable per acre applicable to all Conditional Trinity Production Permits. This Subsection does not preclude an Offset Curtailment Schedule granted under Subsection (C)(7) of this Section.

5. Consideration of Alternative Provisions for Conditional Production Permits. Nothing in this Section of these Rules should be construed as preventing an applicant from proposing alternative provisions to these conditional permitting requirements. Any proposed variance from these provisions must demonstrate to the Board that:

a. Management flexibility arising from unique or unusual resource management circumstances is warranted and where such variances are required;

b. The proposed alternative approach would not be overly burdensome to implement or administer effectively;

c. The proposed alternative provides an overall benefit to existing users and the groundwater resources of the District that is equal to or superior to what would be achieved under the prevailing Rules; and

d. The alternative approach will ultimately preserve the Extreme Drought DFC or tend to reduce the EDWL.

6. Use of Designated Alternative Water Supply Wells for Curtailment. If a Conditional Edwards Production Permit proposes to use a Designated Alternative Water Supply Well as a substitute water supply during drought-period curtailment, the Designated Alternative Water Supply Well must demonstrate that it is capable of producing, at a minimum, a volume equivalent to the conditional Edwards permitted volume without causing unreasonable impacts or waste. Such demonstration should be provided by appropriate aquifer (pump) testing unless the District General Manager agrees to some alternative demonstration. A Designated Alternative Water Supply Well remains subject to all requirements applicable to its Production Permit. If the well is authorized under a Conditional Trinity Production Permit, the volume authorized may not exceed the volume determined by the production allowable per acre under District Rule 3-1.24.2.

7. Offset Curtailment Schedule for Conditional Edwards Production Permits. An applicant that permanently retires Historic Use may apply for a Class C Conditional Edwards Production Permit authorizing an eligible volume subject to an Offset Curtailment Schedule, subject to the following:

a. The applicant must permanently retire Historic Use under District Rule 3-1.22(E), or fund the permanent retirement of Historic Use by another permittee under that Rule. The retirement must be irrevocable, and the retired volume shall be assigned to the Conservation Permit and included in the Ecological Flow Reserve.

b. The eligible volume authorized under the permit may not exceed 75 percent of the annual volume permanently retired. The eligible volume shall be authorized under a Class C Conditional Edwards Production Permit issued separately from, but associated with, any other Production Permit held by the applicant for the same well, and shall have its own monthly baseline permitted volume established in the permittee's UDCP.

c. For the eligible volume, the curtailment percentages applicable to Historical Edwards Production Permits under Subsections (B)(1)

through (B)(4) of this Section apply in lieu of the curtailment otherwise required for the class of the applicant's Conditional Edwards Production Permit. All authorized volume in excess of the eligible volume remains subject to the curtailment required for that class.

d. In determining the annual volume permanently retired, the Board may consider metered production under the retired permit and may limit the eligible volume to the maximum annual volume actually produced under that permit during a representative period established by the Board that did not involve curtailment.

e. An Offset Curtailment Schedule is available to any applicant satisfying the requirements of this Subsection, regardless of the type or location of use, and shall be set out in the Order granting the permit or permit amendment and in the permittee's UDCP.

f. An Offset Curtailment Schedule does not confer Historic Use Status. A permit issued under this Subsection remains a Class C Conditional Edwards Production Permit for all other purposes, including permit class, term, reclassification, production fees, and the monthly production limit under District Rule 3-1.24(E)(2).

D. Saline Edwards Management Zone Exemption. The curtailments specified in this Section of the Rules do not apply to wells in the Saline Edwards Management Zone.

E. Designated Alternative Water Supply Well Exemption. The curtailments specified in this Section of the Rules do not apply to Middle or Lower Trinity Management Zone wells that are Designated Alternative Water Supply Wells for Conditional Production Permits in the Western or Eastern Edwards Management Zones, or that part of the permitted pumpage of such Designated Alternative Supply Wells that is used for substitution of conditional production during drought. Any volume of groundwater from a Designated Alternative Water Supply Well that is in excess of the minimum substitution volume would be subject to the same drought curtailments as Historical Permits.

F. Reporting. During each drought stage all permittees shall report to the District the actual monthly volumes pumped.

3-7.7. DISTRICT ACTION.

During each drought stage, the District will take action to inform the public and to monitor conditions. The District's minimum actions may include:

A. Implementation Mechanism. The District shall declare the commencement or discontinuance of a Stage 1 Alarm, Stage 2 Critical, or Stage 3 Exceptional Drought

Stage. Upon declaration, the District shall notify all permittees of the drought condition so that appropriate permittee actions can be undertaken. When the 10-day running average discharge rate at Barton Springs declines to 17 cfs or below, the District shall notify all permittees in the two Freshwater Edwards Management Zones of the possible imposition of a future Stage 3 Exceptional Drought Stage to provide an early warning of possible additional, substantial curtailments in use, including complete curtailment of both classes of Conditional Production Permits, and for certain permittees of an upcoming requirement to notify retail customers of both the peril for their water supply and other measures specified in Rule 3-7.6(B)(3) and (4).

B. Public Awareness. The District may provide press releases to local newspapers and electronic media that may include information on discharge from Barton Springs, water levels in wells, water quality, and groundwater declines whenever the District declares a change in drought status.

C. Aquifer Monitoring. District staff shall monitor aquifer conditions on a regular basis during non-drought periods so that staff will be aware of impending drought conditions. Staff will review USGS-telemetered data made available through the USGS web site to monitor conditions at Barton Springs. Staff will also review District-telemetered data made available through the web to monitor conditions at the Lovelady Drought Indicator Well and other monitoring wells. Periodic visits to the Lovelady well and Barton Springs may be used to verify conditions. District staff may contact the USGS directly for verification of data on the USGS web site, or District staff may manually measure discharge from Barton Springs. During periods of District-declared drought, District staff will check the telemetered data at least weekly.

D. Forecast of Water Level Elevations. The District may perform forecasts of water level elevations and water quality changes. If drought conditions or changes in stages are projected, the District may notify all permittees. Notification may include a description of pending drought or non-drought conditions (stages) and expected permittee response.

E. Wells Requiring a New Production Permit or Pumpage Amendment Applications. All applications for wells that require the issuance of a Production Permit or an amended Production Permit submitted during any District-declared drought will be referred to the Board for consideration and/or public hearing under Rules 3-1.4(C) and 3-1.6(A), and 3-1.9(B). Generally, the District will delay the effective date of such permits until the No-Drought Stage exists. The District recognizes that some applicants may be required to maintain a state-mandated sufficiency of water service under TCEQ Rules for Public Drinking Water Sections 290.44D and/or 291.93, or other appropriate Sections of TAC 30 and will work with these applicants to ensure that both state and District requirements are satisfied.

3-7.8. IMPOSITION OF REGULATORY FEES.

During periods of District-declared drought, and starting after one full month of a drought period, a drought management fee (DMF) will be imposed on individual permittees 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.

3-7.9. VARIANCE.

A variance to the Rules of this Section and other drought-related provisions of these Rules may be granted by the Board to prevent severe economic or financial hardship, to prevent health hazards, to alleviate immediate and serious threat to public health and safety, to prevent severe property damage, or to enable construction of public works projects by a political subdivision of the State.

The Board recognizes that some permittees may be using water at some minimal level necessary to maintain basic human domestic needs and minimum human and animal health and safety standards. However, the Board also recognizes the serious nature of drought conditions and the need to reduce pumpage to ensure, to the extent possible, the availability and equitable use of groundwater. Therefore, the Board encourages permittees who are having difficulty meeting drought pumpage reduction targets needed to comply with their UDCP, to meet with District staff and discuss their situation and the possibility of qualifying for a variance.

The District recognizes that some applicants may be required to maintain a State-mandated sufficiency of water service under TCEQ Rules for Public Drinking Water Sections 290.44D and/or 291.93, or other appropriate Sections of TAC 30, and will work with these applicants to ensure that both state and District requirements are satisfied.

A. Application. Applications for a variance from the requirements of this Rule shall be filed with the District and accompanied with information and data supporting the request. The permittee will be required to identify the requirement(s) for which the variance is sought, to specify the equitable relief proposed to justify and implement the variance, and to identify the demand reduction measures that will be implemented. A variance request must be justified by a unique economic or financial hardship or health hazard, which is not experienced more generally by other similar permittees.

B. District Action. All variance cases will be presented to the Board for approval. The District shall evaluate each variance request on the merits described in the

application. In evaluating a request, the District will consider factors such as the permittee's water use, including its amount, its water-use efficiency and its authorized pumpage history; demonstrated health and safety concerns; and economic/financial considerations. The District may conduct a public hearing on variance requests, and shall approve or disapprove each request in accordance with established procedures. The approval shall specify the period of time that the variance will be in effect. The permittee shall receive written notification of the District's action.

3-7.10. ENFORCEMENT/PENALTIES DURING DROUGHT.

Pursuant to Rule 3-8, the District may initiate enforcement actions to suspend, cancel, revoke, or otherwise restrict and limit a permit and/or assess penalties for each act of violation of this Rule 3-7 and for each day of violation, as deemed appropriate and warranted. The District will exercise its discretion in determining an enforcement action and/or the amount of a civil penalty and may consider factors included but not limited to the nature, circumstances, extent, history, duration, and gravity drought violation. Each day a violation continues may be considered a separate, specific violation. Penalties may be assessed for the maximum penalty specified in this Section.

A. Maximum Penalty

1. For specific violations of this Rule 3-7 and other drought-related provisions of the District Rules during a Stage 1 Alarm Drought, penalties may be assessed in accordance with the following:

    a. Penalties for violations of District Rules 3-1.11(A)(5), 3-1.15, and/or 3-8.10 for failure to timely report, or failure to report accurate, meter readings may be assessed at a maximum of $250 per violation per day.

    b. Penalties for violations of Rule 3-2.4 for falsifying or tampering with meter readings may be assessed at a maximum of $1,000 per violation per day.

    c. Penalties for violations of Rule 3-3 related to water use that constitutes waste/pollution/proscribed use may be assessed at a maximum of $1,000 per violation per day.

    d. Penalties for violations of Rule 3-7.5 for failure to implement measures of the UDCP may be assessed at a maximum of $500 per violation per day.

2. Penalties for the violations in Subsection (A)(1) of this Section during Stage 2 Critical Drought may be assessed at twice the maximum amount.

3. Penalties for the violations in Subsection (A)(1) of this Section above during Stage 3 Exceptional Drought may be assessed at three times the maximum amount.

4. Maximum Penalty Violations of Rule 3-7.6.

   a. Penalties for violations related to failure to reduce pumpage during Stage 1 Alarm Drought may be assessed at a maximum $5,000 per day.

   b. Penalties for violations related to failure to reduce pumpage during Stage 2 Critical Drought and Stage 3 Exceptional Drought may be assessed at a maximum $25,000 per day.

B. Determination of daily penalties for failure to reduce pumpage during District declared drought.

1. When a permittee's reported monthly pumpage exceeds the Permittee's target (i.e., drought curtailed) pumpage for the month under its User Drought Contingency Plan (UDCP), the District will use the methodology that follows to determine daily penalties.

2. The District will calculate an average daily usage by dividing the monthly total pumpage by the number of days in the month.

3. The average daily usage will be summed until the total equals permittee monthly target (i.e., drought curtailed) pumpage for that month under the Permittee's UDCP (referred to as "First Day of Exceedance").

4. Each day that the average daily usage exceeds the target monthly pumpage beginning with the First Day of Exceedance constitutes a separate daily violation.

5. Daily penalties will be assessed in accordance with Subsection (A) of this Section.

6. The product of the number of days of overpumpage multiplied by the appropriate daily penalty amount constitutes the total monthly penalty.

7. The District will provide notice of the total monthly penalty, if any, for every partial or full month of overpumpage within 30 days of the receipt of permittee's monthly pumpage.

8. Payment must be made by permittee within 30 days of notification of the total monthly penalty amount by the General Manager.

C. At its sole discretion, the District may use the above-described process to calculate and notify permittee of continuing monthly violations of Rule 3-7.6 in lieu of District preparing a report of findings and Notice of Alleged Violation as described under Rule 3-8.4.

D. If in its sole discretion the District uses the above-described process to calculate and notify permittee of continuing violations of Rule 3-7.6, the process will end the first full month that the District is out of drought and in a Water Conservation Period.

3-7.11. SPECIAL RESERVE ACCOUNTS FOR AQUIFER PROTECTION.

Fees that are collected pursuant to Rule 3-7.8 and drought-related penalties pursuant to Rule 3-7.10 shall be placed in special reserve accounts. One account is designated the Aquifer Protection Reserve Account – Well Plugging that is initially funded by the amount of funds existing in the Drought Reserve Account as of September 1, 2022. The Aquifer Protection Reserve Account – Well Plugging exists solely to support the funding of plugging of abandoned wells. The other account is designated Aquifer Protection Reserve Account – Drought Management that will be used to respond to drought-related problems and needs, including the procurement of resources necessary to monitor and communicate about drought, manage the District's monitoring-well network, and manage the aquifers in general without further restriction and at the discretion of the District Board of Directors or General Manager. These Aquifer Protection Reserve Accounts are to be replenished with any collected enforcement penalties, any drought management fees imposed on larger nonexempt permittees that do not meet their drought curtailments, and an annual budgeted supplement at the discretion of the Board of Directors.

3-8. ENFORCEMENT.

3-8.1. NOTICE AND ACCESS.

Pursuant to Texas Water Code Section 36.123, any authorized officer, agent, employee, or representative of the District, when carrying out technical and other investigations necessary to the implementation of the Rules or the Act, and after reasonable notice to the owner or operator, may enter upon private property for the purpose of inspecting and investigating conditions relating to the withdrawal, waste, water quality, pollution, or contamination of groundwater or other acts covered by these Rules or the Texas Water Code.

3-8.2. SHOW CAUSE ORDERS AND COMPLAINTS.

The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties ten days prior to the scheduled hearing, cite any person owning or operating a well within the District, or any person in the District violating the Act, these Rules, or a Board Order. Under the citation,

that person is ordered to appear before the Board in a public hearing and required to show cause why an enforcement action should not be initiated or why the person's operating authority or permit should not be suspended, cancelled, or otherwise restricted and limited, for failure to abide by the terms and provisions of the permit, these Rules, or the Act.

3-8.3. CONDUCT OF INVESTIGATION.

When investigations or inspections require entrance upon private property, such investigations and such inspections shall be conducted at reasonable times, and shall be consistent with all applicable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present District identification upon request by the owner, operator, lessee, management in residence, or person in charge.

3-8.4. NOTICE OF ALLEGED VIOLATION.

After the District conducts investigations of an alleged or apparent violation, it shall issue a report of findings, and the Board or the General Manager if delegated by the Board, shall determine whether a Notice of Alleged Violation (NOAV) is warranted. Each NOAV, in addition to its specification of specific violation, indicated penalties, sanctions and/or compliance requirements, may also specify an "early-resolution" condition, which offers a limited-time option to the respondent to acknowledge the violation in writing and accept a reduced penalty as an incentive for making a commitment to fulfill all necessary requirements and achieve rapid compliance. Failure to timely accept the conditions of the final early resolution offer, or failure to respond within the specified time frame, defaults to a show-cause enforcement hearing under Rule 3-8.2 and the penalties and sanctions that would be specified in the NOAV.

3-8.5. NOTICE OF VIOLATION FOR OVERPUMPAGE OF ANNUAL PRODUCTION PERMIT.

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. Each NOV documents 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 methodology in Rule 3-8.8.

3-8.6. SEALING OF WELLS.

The District may seal wells that are prohibited by the Act, Rules, or Board Orders from withdrawing groundwater within the District when the General Manager determines that such action is reasonably necessary to assure that a well is not operated in violation of the Act, Rules, or Board Orders. This authorization to seal a well or to take other appropriate action to prohibit the withdrawal of groundwater extends to, but is not limited to, the following circumstances in which: (1) a permit has been granted but the applicable fees have not been paid within the time period provided for payment, (2) representations have been made by the well owner or primary operator that no groundwater is to be withdrawn

from a well during a particular period, (3) no application has been made for a permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater, (4) the Board has denied, cancelled, or revoked a permit, (5) permit conditions have not been met, or (6) a threat of, or potential for, contamination to the Aquifer exists.

The well may be physically sealed and red-tagged to indicate that the District has sealed the well. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal or red tag of a sealed or red-tagged well, or in any other way violating the integrity of the seal or red tag, or the pumping of groundwater from a well that has been sealed or red-tagged shall constitute a violation of these Rules and shall subject the person performing that action, as well as any well owner and/or primary operator who authorizes or allows that action, to such penalties as provided by the Act and these Rules.

3-8.7. REQUEST FOR INJUNCTIVE RELIEF AND ASSESSMENT OF PENALTIES.

If it appears that a person has violated, is violating, or is threatening to violate any provision of the Act or any Rule, regulation, permit, Board Order, or other order of the District, the Board may institute and conduct a suit in the name of the District for injunctive relief, for recovery of a civil penalty, or for both injunctive relief and penalty.

3-8.8. ENFORCEMENT/PENALTIES FOR OVERPUMPAGE OF ANNUAL PRODUCTION PERMIT.

The District may initiate enforcement actions to suspend, cancel, revoke, or otherwise restrict and limit a permit and/or assess penalties for pumpage in excess of annual authorized volume under the Production Permit, as deemed appropriate and warranted. The District will exercise its discretion in determining an enforcement action and/or the amount of a civil penalty and may consider factors included but not limited to the nature, circumstances, extent, history, duration, and gravity of the overpumpage. Each day a violation occurs may be considered a separate, specific violation. Penalties may be assessed for the maximum penalty specified in this Section.

A. Penalty for violation of Rule 3-8.8.

1) The District will review monthly production reports to determine when the actual production volume exceeds the annual authorized permitted volume. After the District determines that a permittee's actual production for any month, except August, exceeds annual authorized 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 below and enforcement mechanisms available to the District.

2) For the month of August, if the permittee exceeds the annual authorized permitted volume, based on the August production report, the permittee's actual production for the month of August will be divided by the number of days in the month 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.

Maximum Penalty

For specific violations of this Section relating to exceeding the annual authorized production volume amounts, penalties may be assessed in accordance with the following:

a. Penalties for violations for exceeding the volume amount authorized to be withdrawn in accordance with the Production Permit issued by the District based on their monthly production reports may be assessed at a maximum of $1,000 per violation per day.

B. Enforcement.

Once a permittee is found to have exceeded the annual authorized permitted volume, and be in violation, the permittee will be notified by certified mail and email of the following:

1. The District has documented a permit violation for over pumping;

2. The amount overpumped; and

3. The amount of daily penalties that may be assessed for each day of over pumping as determined using the tables and methodology above.

3-8.9. LATE PAYMENT FEES FOR FAILURE TO PAY WATER PRODUCTION FEES.

A. Failure of New permittees to Make Initial Water Use Fee Payment. Failure of new permittees to make the initial annual water use fee payment or the initial installment payment within ten days following issuance of a new permit constitutes grounds for the District to declare the permit void. Unless there are extenuating circumstances, the District may declare the permit void if the initial payment is not made within ten days.

B. Failure to Make Fee Payments. Failure to make complete and timely payments of a fee as required by Rule 3-1.16 shall automatically result in a late payment fee of 10 percent of the amount not paid. The fee payment plus the late payment fee must be made within 30 days following the date the payment is due, otherwise the permit may be declared suspended by the Board (see also Rules 2-10 and 2-11).

C. Loss of Installment Payment Option. The option of making payment of the annual water use fee in installments is made available by the District primarily in order to avoid causing cash flow problems for retail water utilities. Any permittee who, two or more times during the permit term, makes late payment of fee installments, may be required to pay production fees during the following two years as an annual payment upon permit issuance, without an installment payment option, unless just cause is shown and an exception granted by the Board.

D. After a permit is declared void for failure to make payment of production fees, all enforcement mechanisms provided by this Rule 3-8 and the Act shall be available to prevent unauthorized use of the well, and may be initiated by the General Manager without further authorization from the Board.

3-8.10. FAILURE TO REPORT PUMPAGE AND/OR TRANSPORTED VOLUMES.

The accurate reporting and timely submission of pumpage and/or transported volumes is necessary for the proper management of water resources. Failure of the permittee to submit complete, accurate, and timely pumpage, transport and water quality reports as required by District Rule 3-1.15 may result in late payment fees under Rule 3-8.9, forfeiture of the permit, payment of increased meter reading and inspection fees as a result of District inspections to obtain current and accurate pumpage and/or transported volumes and water quality reports (see also Rules 2-10 and 2-11), or enforcement action.

3-8.11. EMERGENCY ORDERS.

The District will develop Emergency Contingency Plans to deal with water quality or water quantity emergencies. The Board prior to adoption shall conduct public hearings on Emergency Contingency Plans. To implement Emergency Contingency Plans, the Board or the General Manager if specifically authorized by an Emergency Contingency Plan, may adopt emergency orders of either a mandatory or prohibitory nature, requiring remedial action by a permittee or other party responsible for the emergency condition.

3-8.12. CIVIL PENALTIES.

A. If a person violates any District Rule, the District may assess a civil penalty against that person as provided by this Section.

B. Any person who violates any District Rule is subject to a civil penalty of not less than $50 or more than $25,000 for each act of violation and for each day of violation, as a court may deem proper. Each day a violation continues may be considered a specific violation for purposes of penalty assessment. In an enforcement action brought by the District, the court may assess a penalty greater than the maximum penalty under this Subsection if the court determines that the person gained an economic benefit as a result of the violation that was greater than that maximum penalty, as provided by Section 36.102(f), Texas Water Code.

C. All civil penalties recovered by the District shall be paid to the Barton Springs/Edwards Aquifer Conservation District.

D. A penalty under this Section may be enforced by complaints filed in the appropriate court of jurisdiction in Travis County.

E. A penalty under this Section is in addition to penalties provided under Section 8802.107 Texas Special District Local Law Codes.

F. The District in determining the amount of a civil penalty it will seek and the court in determining the amount of a civil penalty it will award under this Section shall consider the factors provided by Section 36.102(b-1), Texas Water Code. A court may defer payment of a portion of a civil penalty on the conditions provided by Section 36.1021, Texas Water Code, and may authorize a water and sewer utility to recover all or part of a civil penalty from customers as provided by Section 36.1022, Texas Water Code.

3-8.13. ENFORCEMENT PLAN.

The District may use specific polices to exercise its discretion in enforcement proceedings including the assessment of violations and civil penalties, as well as, adjustments that may be made after reviewing case-specific information. The implementation of enforcement procedures and processes shall be carried out in accordance with these District rules and the District's adopted Enforcement Plan. The Enforcement Plan will be reviewed and updated periodically, as deemed necessary.

4. BYLAWS.

4-1. BOARD OF DIRECTORS.

4-1.1. COMPOSITION AND OFFICERS.

The Board is composed of five Directors, elected according to provisions of the Act. Unless otherwise required by law, three Directors shall be President, Vice-President, and Secretary. Officers shall be elected annually for terms of one year at the Board's first meeting in December or at such time as is necessary to fill a vacancy.

4-1.2. COMPENSATION OF DIRECTORS.

Unless disqualified, and upon completion and approval of compensation form of record, Directors may receive compensation up to the maximum allowed by law for time spent performing duties as a Director pursuant to Texas Water Code Section 36.060 provided the Director claims compensation within three months of the performance of the duty.

4-1.3. INDEMNIFICATION OF DIRECTORS AND EMPLOYEES.

Each Director and employee is indemnified by the District against any liability imposed upon them and for any expense reasonably incurred by them in connection with any claim made against them, or any action, suit or proceeding to which he/she may be a party by reason of his/her being, or having been, a Director or employee, and against such sums as counsel selected by the Board shall deem reasonable payment made in settlement of any such claim, action, suit, or proceeding; provided however, that no Director or employee shall be indemnified with respect to actual damages arising out of a cause of action for a willful act of omission, an act or omission constituting gross negligence or official misconduct, or with respect to matters for which such indemnification would be unlawful or against public policy. Any right of indemnification granted by this Section is in addition to and not in lieu of any other such right of which any Director or employee of the District may at any time be entitled under the laws of the State of Texas; and if any indemnification that would otherwise be granted by this Section is disallowed by any competent court or administrative body as illegal or against public policy, then any Director or employee with respect to whom such adjudication was made, and any other Director or employee, shall be indemnified to the fullest extent permitted by law and public policy, it being the express intent of the District to indemnify its Directors and employees to the fullest extent possible in conformity with these Bylaws, all applicable laws and public policy. The District may purchase and maintain insurance on behalf of any person who is a Director or employee of the District in any capacity, or arising out of his/her status as such. The indemnification provided herein shall inure to the benefit of the heirs, executors, and administrators of the Directors and employees of the District.

4-1.4. CONFLICT OF INTEREST.

A. Directors: In accordance with Chapter 171 of the Local Government Code, before any vote or decision on a business entity or real property in which a Director has a "substantial interest," a Director will publicly disclose the interest during a meeting of the Board, file a completed affidavit with the Secretary of the Board, and abstain from further participation in the matter, including attending a closed meeting related to the matter and, except as provided by Section 36.058(b)(2), Water Code, voting, if:

1. The action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

2. It is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property that is distinguishable from its effect on the public.

B. For purposes of this policy, a Director has a "substantial interest" in a business entity if the member or a relative within the first degree of consanguinity or affinity owns 10 percent or more of the voting stock or shares of the business entity, owns either 10 percent or more or $15,000 or more of the fair market value of the business

entity, or received over 10 percent of his or her gross income for the previous year from the business entity. For purposes of this policy, a Director has a "substantial interest" in real property if his or her interest or that of a relative within the first degree of consanguinity or affinity is an equitable or legal ownership with a fair market value of $2,500 or more in real property.

C. Directors, General Manager, and any employee who exercises discretion in the planning, recommending, selecting, or contracting of a vendor must also file a conflicts disclosure statement in accordance with Local Government Code Chapter 176, whenever a Director or General Manager becomes aware that a vendor or contractor of the District, or a potential vendor or contractor, has an employment or business relationship with a Director, General Manager, or a family member of the Director or General Manager (the spouse, parent, child, father-in-law, mother-in-law, sons-in-law, and daughters-in-law). The disclosure statement must also be filed in the following circumstances:

1. When a Director, General Manager, or a family member of a Director or General Manager receives taxable income from a vendor or contractor or a potential vendor or contractor, other than investment income, that exceeds $2,500 during the 12-month period preceding the date a contract is signed or first considered by the District, or

2. When a vendor has given to a Director, General Manager, or a family member of a Director or General Manager one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date a contract is signed or first considered.

A Director and General Manager must sign the disclosure statement (on a form prescribed by the Texas Ethics Commission) before a notary, under oath, acknowledging that it applies to the Director's family members, then file it with the District's records custodian by the seventh business day after the Director becomes aware of facts requiring the form to be filed.

A conflict-of-interest disclosure statement is not required to be filed in relation to a gift accepted by the Director, General Manager or family of the Director or General Manager if the gift is food accepted as a gift.

D. For contracts entered into on or after January 1, 2016, between the District and a business entity that require an action or vote by the Board, the District may not enter into such contracts unless the business entity submits a disclosure of interested parties to the District at the time the business entity submits the signed contract to the District. The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission. Within 30 days after the date of

receiving the disclosure form from the interested parties, the District shall submit a copy to the Texas Ethics Commission.

1. For purposes of this Subsection (D), "business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.

2. For purposes of this Subsection (D), "interested party" means a person who has a controlling interest in a business entity with whom the District contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

4-1.5. STANDARDS OF CONDUCT.

A. No Director or employee should accept or solicit any gift, favor, or service that might reasonably tend to influence him/her in the discharge of his/her official duties or that he/she knows or should know is being offered him/her with the intent to influence his/her official conduct.

B. No Director or employee should accept employment or engage in any business or professional activity that he/she might reasonably expect would require or induce him/her to disclose confidential information acquired by reason of his/her official position.

C. No Director or employee should accept other employment or compensation that could reasonably be expected to impair his/her independence of judgment in the performance of his/her official duties.

D. No Director or employee should make personal investments that could reasonably be expected to create a substantial conflict between his/her private interest and the public interest.

E. No Director or employee should intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his/her official powers or performed his/her official duties in favor of another.

4-1.6. BOARD MEETINGS.

A. Regular Meetings. The Board shall hold regular quarterly meetings. It may hold meetings at other times as required for the business of the District. At the request of the President, or in the President's absence the presiding officer, or by written request of at least three Directors, the Board may hold special meetings. All such meetings shall be open to the public in accordance with the Texas Open Meetings Act. To the extent necessary for orderly conduct of proceedings, the guidelines of

"Parliamentary Procedure at a Glance," New Edition, by O. Garfield Jones, 1971, revised edition may be followed.

B. Work Sessions. From time to time and as may be necessary, the Board may hold work sessions to discuss and evaluate issues in such detail as to require open and free discussion not normally possible in regular Board meetings. During work sessions of the Board, no public comment will be heard, unless specifically requested by a Director and recognized by the Board chair. Public comment may be made at the time the item(s) is up for discussion at a regular Board meeting.

4-1.7. PUBLIC COMMENT.

During Board meetings other than a work session, the Board shall hear public comment. Public comment during an open Board meeting will be of two types:

A. Public comments of a general nature may be made under the Citizens Communications item on the agenda.

B. Specific comments on any other posted agenda item may be made after the presentation of the item if the speaker is called upon.

The Board chair shall accept public comments of either type only after the person wishing to speak has completed an information card, which is available at the meeting. The card must contain the speaker's name, address, phone number, Director's precinct in which speaker resides if applicable, and the number of the agenda item that will be addressed. Speakers shall address only the item for which they signed up. A speaker may speak for three minutes or less on any single posted item, and no more than two other speakers who are present and signed up to speak on that topic will be allowed to pass his/her time to another individual speaker. Speakers are not permitted simply to repeat comments made by another, except to state they concur with those remarks.

Directors may request the Board chair to allow additional time to be given to those who are in the course of properly providing input to the Board. This Bylaw is not intended to restrict Directors from requesting the Board chair to allow a specific question or comment from a specific member of the public in attendance during Board deliberations. The provisions of this Bylaw do not apply to those members of the public who have otherwise been scheduled to provide testimony to the Board as part of the Board's deliberation of that District business.

4-1.8. CANCELLATION OF POSTED MEETINGS.

All meetings requiring posting in accordance with the Texas Open Meetings Act will be held unless, in the judgment of the Board President, weather conditions or other situations make convening of a quorum of the Board unlikely or unnecessary.

4-2. COMMITTEES.

4-2.1. COMMITTEES.

The Board President may establish and designate Directors for advisory committees and shall appoint the committee chairs for formulation of policy recommendations to the Board or for such other purposes as the Board President may designate. All meetings of such committees shall be open to the public.

4-2.2. COMMITTEE MEMBERSHIPS.

Members of the various committees shall be appointed from residents of the District as much as is feasible. Membership may include individuals residing outside the District when it would be in the best interest of the committee's work efforts and the District. Membership is voluntary and without compensation. The appointing Director shall consult the Director of the precinct in which the proposed appointee resides if applicable, when appointing someone from outside of the Director's precinct.

A. Members of committees will be selected from persons recommended to the Board by Directors, public officials, and citizen request.

B. All members appointed to a committee by the Board or Board President shall have a single vote on any issue before the committee.

C. Written proxy votes may be accepted when the vote is cast by an informed and active committee member as determined by the committee chair.

D. Members of the committees are appointed by the Directors. The Board, based on recommendations from the General Manager, appoints technical representatives.

E. Committee size will be limited to a number which may reasonably address an issue, and will be determined by the Board. Subcommittees appointed by the committee chair may be formed to create a work product for the Board and/or full committee review and input.

F. Members of committees who miss three or more consecutive committee meetings may, at the request of the committee chair, be replaced by the appointing Director.

4-3. ADMINISTRATION.

4-3.1. GENERAL MANAGER.

The person employed by the Board as General Manager shall be the chief operating officer of the District and shall have full authority to manage and operate the affairs of the District, subject only to Board Orders. The General Manager is responsible for employing all

persons necessary for the proper handling of the business and operation of the District and for determining their compensation. The General Manager is empowered to obtain official or legal status in matters of concern or interest to the District in public hearing processes, or other proceedings, when the opportunity to obtain such status presents itself and Board action to establish an official Board or District position cannot be obtained in a timely manner. Such matters will be brought to the Board for action at the earliest possible convenience.

4-3.2. DELEGATION OF AUTHORITY.

The General Manager may delegate his/her administrative duties as may be necessary to effectively and expeditiously accomplish his/her duties, provided, however, that no such delegation shall ever relieve him/her of responsibilities which are ultimately his/her under the Act, Rules and Bylaws, or Board Orders.

4-3.3. TRAVEL EXPENSES.

A. The General Manager, with the Board's approval, shall provide and periodically revise a written policy concerning the incurring and reimbursement of travel expenses on District business. Directors and employees shall be entitled to reimbursement for actual and necessary expenses incurred in performing District business in accordance with this policy.

Transportation costs for Directors on days when there are scheduled District meetings will not be paid. These transportation costs are included in the payment for attending meetings. Any Director who declines per diem compensation for his/her duties as a Director may receive transportation expenses for attending meetings.

The General Manager or Board President, or the Board Vice President in the absence of the Board President, must approve travel expenditures submitted for reimbursement.

Travel by privately owned vehicle will be reimbursed at the current mileage rate established by the Internal Revenue Service.

B. Normal Reimbursable Expenses. “Actual and necessary expenses” generally includes:

1. Mileage - All mileage traveled in behalf of District-related matters.

2. Travel - All actual costs incurred in out-of-town District-related business (taxi, bus, air, car, rental, gasoline, etc.).

3. Parking/Tolls - All, anywhere.

4. Telephone - All for District business.

5. Lodging - All costs for lodging and meals on out-of-town trips and other District business.

6. Conventions/Seminars - The General Manager has the privilege and discretion to attend or approve District staff attendance at conventions and/or seminars where matters pertinent to District business are to be discussed or where there is to be an exchange in regards to information, education, or legislation pertinent to District business. The General Manager will seek approval of the Board to attend out-of-state conventions and/or seminars of interest and value to the District.

7. Purchasing - The General Manager is entrusted and has the authority to purchase education, conservation, and/or pollution-related materials to be used by the District while attending meetings with state agencies, political subdivisions, conventions, seminars, or other conferences.

8. Food/Beverage - The General Manager is entrusted with the privilege and discretion of purchasing food and/or non-alcoholic beverages within budget constraints. The District may provide a per diem allowance to Directors or staff to cover food and/or beverage expenses incurred while on District business.

Original receipts or proper documentation are required for reimbursement of non-incidental expenses.

4-4. OPERATIONAL PROCEDURES.

The Board or the General Manager may establish and approve operational procedures for the District and such other procedures mandated by state law.

4-5. USE OF CONSULTANTS.

The District may use a private consultant if a substantial need exists for the consulting services and the District cannot adequately perform the services with its own personnel. In selecting a private consultant, the District shall base its choice on demonstrated competence, knowledge, and qualifications, and on the reasonableness of the proposed fee for the services. Professional services contracts shall conform to Texas Water Code provisions for groundwater conservation districts.

4-6. ANNUAL REPORT.

At fiscal year end, the President and/or General Manager shall report to the Board on the status of the District and its programs. The report shall include at least the following: (1)

the status of the Aquifer and the District's programs to protect and conserve the Aquifer, (2) a financial report including a report from the Board's audit committee, and a report on the performance and security of District investments, (3) a review and evaluation of professional services rendered to the District during the year, (4) a report on the status of any capital projects of the District, and (5) an evaluation of the District's performance in light of long range plans developed pursuant to Section 36.107, Texas Water Code. The report shall be available to the Board not later than 120 days beyond fiscal year end for Board approval, and submission to the TCEQ not more than 135 days after the fiscal year ends.

4-7. DISTRICT.

4-7.1. DISTRICT ADDRESS.

The District's mailing address is 1124 Regal Row, Austin, Texas 78748. Such address may be changed by Resolution of the Board.

4-7.2. MINUTES AND RECORDS OF THE DISTRICT.

All documents, reports, records, taped recordings, and minutes of the District shall be available for public inspection in accordance with the Texas Public Information Act. Upon application of any person, the District, when appropriate, will furnish copies, certified or otherwise, of any of its proceedings or other official acts of record or of any paper, map, or document files in the District office. Certified copies shall be made under the hand of the office secretary or General Manager and affixed with the seal of the District. Persons who are furnished any such copies may be assessed a charge for the documents, pursuant to policies established by the General Manager based on the reasonable cost of furnishing such copies.

4-7.3. OFFICE HOURS.

The regular office hours of the District shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, except for District holidays, or as may be set from time to time by the General Manager.

4-7.4. OFFICIAL SEAL.

The Board by Resolution may adopt an official seal for the District to be used on permits and other official documents of the District.

4-8. FINANCIAL.

4-8.1. CONTRACTS, INSTRUMENTS, AND DOCUMENTS.

The Board may authorize the President or, if authorized by Resolution, the General Manager to enter into any contract or to execute and deliver any instrument or document in the name of and on behalf of the District. Such authority may be general or confined to specific instances. All contracts shall be executed by either the President or the General Manager, attested by the Board Secretary, and approved as to legal form by General Counsel. In the absence of the President and the General Manager, the Vice President of the Board is authorized to execute the documents; in the absence of the Board Secretary, the Assistant Secretary to the Board, as designated by Board Resolution, is authorized to attest the signature of execution.

4-8.2. LOANS.

No loans shall be contracted on behalf of the District, and no evidence of indebtedness shall be issued in its name unless authorized by Resolution of the Board, executed by the Board President, and attested to by the Board Secretary.

4-8.3. BANKING AND INVESTMENTS.

A. Checks, Drafts, etc. All checks, drafts, notes, or other orders for the payment of money issued in the name of the District shall be signed by such officers or employees of the District as shall from time to time be authorized by Resolution of the Board.

B. Depositories. All funds of the District, except petty cash, shall be deposited from time to time to the credit of the District in such banks or accounts as the Board may, from time to time, designate, and upon such terms and conditions as shall be fixed by the Board, unless otherwise required by Orders or Resolutions authorizing the issuance of the District's bonds or notes. The Board may, from time to time, authorize the opening and maintaining of general and special accounts within any such depository as it may designate, and may make such special rules and regulations with respect thereto as it may deem expedient. To the extent that the Federal Deposit Insurance Corporation does not insure funds in the depository bank or banks, they shall be secured as provided by Texas Water Code Section 36.155. The depository shall be located within the counties of the District unless the Board determines that a suitable depository cannot be found within the counties. The Board may also utilize the Texas Treasury Safekeeping Trust Company, commonly referred to as "TexPool" as a depository.

C. Investments. The Board may provide that an authorized representative of the District may invest and reinvest the funds of the District and provide for money to be withdrawn from the appropriate accounts of the District for such investments on terms as the Board considers advisable. Unless expressly authorized by the Board, such investments must be made in direct or indirect obligations of the United States, the State, or any county, city, school district or other political subdivision of the State, or in certificates of deposit of state or national banks, saving and loans associations within the State of Texas, or the Texas Treasury Safekeeping Trust

Company (TexPool), provided that such certificates are secured in the manner provided for the security of the funds of counties of the State of Texas.

4-8.4. AUDIT.

The Board, at the end of each fiscal year, shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants, which audit shall be open to public inspection. Such auditors shall have no personal interest directly or indirectly in the fiscal affairs of the District and shall be experienced and qualified in the accounting and auditing of public bodies. The audit shall be performed in accordance with generally accepted auditing standards and shall satisfy all requirements imposed by Chapter 36, Texas Water Code. It is provided, however, that the District's auditors may undertake consulting services for the District in addition to their duties in connection with the annual audit.

4-8.5. BUDGET.

Prior to the commencement of the fiscal year, the Board shall adopt an annual budget. The budget shall contain a complete financial statement, including a statement or estimate, if appropriate, of:

A. The outstanding obligations of the District,

B. The amount of cash on hand to the credit of each fund of the District,

C. The amount of money available to the District from all sources during the ensuing year,

D. The amounts of the balances expected at the end of the year in which the budget is being prepared,

E. The estimated amounts of revenues and balances available to cover the proposed budget,

F. The estimated water use fee that will be required, and

G. Salary adjustments, if any.

Before the Board adopts its annual operating budget, it shall conduct at least one public hearing and shall make a proposed budget available to the public at least ten days prior to the hearing. Notice of the hearing(s) on the annual budget shall conform to the requirements of Bylaw 4-9.2. Any resident of the District shall be allowed to participate and make comments in the budget hearing, subject to reasonable time limitations. The District may not make expenditures in excess of the total budgeted expenditures for a fiscal year unless the Board amends the budget.

4-8.6. SETTING FEE SCHEDULE.

A. Each year the Board shall, by Resolution, adopt a Fee Schedule to apply to all applications, registrations, inspections, and permits that are issued, renewed, or amended during the following fiscal year, as well as fees for other services the District performs, or fees to cover charges incurred by the District. The schedule shall establish a rate sufficient, when combined with City of Austin water use fees, to produce revenues required by the budget.

B. The Board may amend the Fee Schedule from time to time.

4-8.7. FISCAL YEAR.

The District's fiscal year shall begin on the first day of September and end on the last day of August.

4-8.8. PURCHASING.

A. Expenditures of District funds to acquire goods or services valued at greater than $5,000 require approval by the Board in advance, unless an emergency acquisition requiring an expenditure greater than $5,000 shall be presented to the Board for approval and validation at its next following meeting. Acquisitions valued at less than $5,000 may be made by the General Manager without prior Board approval and if within budget constraints.

B. No expenditures may be made that are not authorized by the budget. This requirement shall not, however, prevent the Board from amending the budget at the same time that it authorizes the expenditure, provided that funds are available in other budget categories or that reserve funds are available.

C. In the case of acquisitions of goods valued at $1,000 or more, competitive quotations shall be obtained from three vendors, if possible, and documented for the District records prior to making the purchase.

D. The Board may solicit proposals for professional services according to the Professional Services Procurement Act, Chapter 2254, Government Code, Subchapter A.

E. The Board authorizes purchasing through the State's cooperative local purchasing program established under Texas Local Government Code § 271.081, et seq.

F. Construction contracts and contracts for the acquisition of materials and machinery requiring the expenditure of $15,000 or more may be competitively bid.

4-9. NOTICE AND HEARING PROCESS.

4-9.1. SCHEDULING OF HEARING.

A. The General Manager or Board may schedule a hearing, as necessary, on (1) permit or permit amendment applications received by the District, as provided by District Rule 3-1.4(C); (2) on matters under Rule 3-8; and (3) on any other matter that the District General Manager or Board of Directors deems appropriate.

B. The General Manager or Board may schedule more than one application for consideration at a hearing.

C. Except for hearings conducted under Rule 4-9.16, a hearing must be held at the District office or regular meeting location of the board unless the board provides for hearings to be held at a different location.

4-9.2. NOTICE.

A. If the General Manager or Board schedules a hearing on a matter identified in Rule 4-9.1(A) above, the General Manager or Board shall give notice of the hearing as provided by this Section.

B. The notice must include, as appropriate to the circumstance:

1. The name of the applicant or subject,

2. The address or approximate location of the well or proposed well,

3. A brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use,

4. The time, date, and location of the hearing, and

5. Any other information the General Manager or Board considers relevant and appropriate.

C. Not later than the tenth day before the date of a hearing, the General Manager or Board shall:

1. Post notice in a place readily accessible to the public at the District office,

2. Provide notice to the county clerk of each county in the District,

3. Provide notice by placing a legal notice classified ad in at least one newspaper in general circulation within the county in which the subject well is located,

4. Provide notice by:

a. Regular mail to the applicant,

b. Regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (D) below, and

c. Regular mail to any other person entitled to receive notice under the Rules of the District.

D. A person may request notice from the District of a hearing on a matter identified in Rule 4-9.1(A) above. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

E. Failure to provide notice under Subsection (C)(4)(b) does not invalidate an action taken by the District at the hearing.

4-9.3. HEARING REGISTRATION.

A. The District shall require each person who participates in a hearing to submit a hearing registration form provided by the District stating:

1. The person's name,

2. The person's address, and

3. Whom the person represents if the person is not there in the person's individual capacity.

4-9.4. HEARING PROCEDURES.

A. A hearing must be conducted by:

1. A quorum of the Board,

2. An individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing, or

3. The State Office of Administrative Hearings (SOAH), if requested by either the Board or requested and paid for by an applicant or protestant, under the provisions of District Bylaw 4-9.16.

B. Except as provided by Subsection (C) of this Section, the Board President, a hearings examiner designated under Subsection (A)(2) above, or the SOAH Administrative Law Judge serving as a hearings examiner shall serve as the presiding officer at the hearing.

C. If the hearing is conducted by a quorum of the Board and the Board President is not present, the Directors conducting the hearing may select a Director to serve as the presiding officer.

D. The presiding officer may:

1. Convene the hearing at the time and place specified in the notice,

2. Set any necessary additional hearing dates,

3. Designate the parties regarding a contested application,

4. Establish the Order for presentation of evidence,

5. Administer oaths to all persons presenting testimony,

6. Permit the receipt of and rule on the admissibility of evidence consistent with Subchapter D, Chapter 2001, Texas Government Code,

7. Examine and allow cross-examination of persons presenting testimony,

8. Ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party,

9. Prescribe reasonable time limits for testimony and the presentation of evidence,

10. Recess any hearing from time to time and place to place,

11. Issue subpoenas, require depositions, or order other discovery consistent with Subchapter D, Chapter 2001, Texas Government Code,

12. Determine how to apportion among the parties costs related to a contract for the services of a presiding officer and the preparation of the official hearing record, and

13. Exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of the Presiding Officer.

E. The District may allow any person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested application.

F. The presiding officer may allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

G. If the Board has not acted on the matter in the hearing, the presiding officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the presiding officer not later than the tenth day after the date of the hearing, to any person who provided comments on an uncontested hearing matter or any party to a contested hearing. A person who receives additional written material under this Subsection may file a response to the material with the presiding officer not later than the tenth day after the date the material was received.

H. The presiding officer, at the presiding officer's discretion, may issue an Order at any time before Board action under District Bylaw 4-9.9 that:

1. refers parties to a contested hearing to an alternative dispute resolution procedure under District Bylaw 4-9.15 on any matter at issue in the hearing,

2. determines how the costs of the procedure shall be apportioned among the parties; and

3. appoints an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.

I. In general, the burden of proof is on the moving party by a preponderance of the evidence, except in an enforcement proceeding, the General Manager has the burden of proving by a preponderance of the evidence the occurrence of any violation and the appropriateness of any proposed technical ordering provisions. The respondent in an enforcement proceeding has the burden of proving by a preponderance of the evidence all elements of any affirmative defense asserted. The permit applicant bears the burden of proof by a preponderance of the evidence in an application proceeding, including a proceedings under Sections 4(e) through (h) of H.B. 3405.

4-9.5. EVIDENCE.

A. The presiding office shall admit evidence that is relevant to an issue at the hearing.

B. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

4-9.6. RECORDING.

A. Except as provided by Subsection (B) below, the presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to a contested hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this Subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this Subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this Subsection if the parties have agreed that the costs assessed against that party will be paid by another party.

B. If a hearing is uncontested, the presiding officer may substitute minutes or the proposal for decision required under District Bylaw 4-9.8 for a method of recording the hearing provided by Subsection (A) above.

4-9.7. CONTINUANCE.

The presiding officer may continue a hearing from time to time and from place to place without providing notice under District Bylaw 4-9.2. If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties. A continuance may not exceed the time limit for the issuance of a final decision under District Bylaw 4-9.11.1(B).

4-9.8. PROPOSAL FOR DECISION.

A. Except as provided by Subsection (E) below, the presiding officer shall submit a proposal for decision to the Board not later than the 30th day after the date the evidentiary hearing is concluded.

B. The proposal for decision must include:

1. a summary of the subject matter of the hearing,

2. a summary of the evidence or public comments received, and

3. the presiding officer's recommendations for Board action on the subject matter of the hearing.

C. The presiding officer or General Manager shall provide a copy of the proposal for decision to:

1. the applicant, and

2. each designated party.

D. A party may submit to the Board written exceptions to the proposal for decision.

E. If the hearing was conducted by a quorum of the Board and if the presiding officer prepared a record of the hearing as provided by District Bylaw 4-9.6(A), the presiding officer shall determine whether to prepare and submit a proposal for decision to the Board under this Section.

F. The Board shall consider the proposal for decision, any exceptions to the proposal for decision, and replies to the exceptions at a final hearing. Additional evidence may not be presented during a final hearing. The parties may present oral argument at a final hearing to summarize the evidence, present legal argument, or argue an exception to the proposal for decision. A final hearing may be continued as provided under District Bylaw 4-9.7.

G. In a proceeding for a permit application or amendment in which a district has contracted with the State Office of Administrative Hearings for a contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by an administrative law judge. The Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the Board determines:

1. that the administrative law judge did not properly apply or interpret applicable law, District Rules, written policies provided under District Bylaw 4-9.16(F), or prior administrative decisions;

2. that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

3. that a technical error in a finding of fact should be changed.

4-9.9. BOARD ACTION.

The Board shall act on a matter identified in Rule 4-9.1(A) above not later than the 60th day after the date the final hearing on the matter is concluded. The Board may take action on an uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The public hearing may be held in conjunction with a regularly scheduled or special called Board meeting. The Board action may occur at the same Board meeting as the public hearing. The Board

may issue a written order to grant an application, grant the application with special conditions or deny the application. The Board, on the motion of any party or on its own motion, may order a remand to reopen the record for further proceedings on specific issues of dispute. The Board's Order shall include instructions as to the subject matter of further proceeding and, for hearings conducted by other than the Board, the duties of the hearings examiner or administrative law judge in preparing supplemental materials or a revised Order for the Board's adoption, based upon those proceedings.

4-9.10. REQUEST FOR REHEARING OR FINDINGS OF FACT AND CONCLUSIONS OF LAW.

A. An applicant in a contested or uncontested hearing on an application, or a party to a contested hearing, may administratively appeal a decision of the Board on a permit or permit amendment application by requesting written findings of fact and conclusions of law not later than the 20th day after the date of the Board's decision unless the Board issued findings of fact and conclusions of law as part of the final decision.

B. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law regarding a decision of the Board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. A party to a contested hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings of fact and conclusions of law.

C. The Board shall consolidate requests for rehearing filed by multiple parties to the contested case hearing, but only one rehearing may be considered per matter.

D. A request for rehearing must be filed in the District office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing.

E. If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted.

F. If a motion for rehearing is filed and granted by the Board, the Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing.

G. The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

4-9.11. DECISION; WHEN FINAL.

A. A decision by the Board on a matter identified in Rule 4-9.1(A) above for which a hearing is held is final:

1. if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing, or

2. if a request for rehearing is filed on time, on the date:

a. the Board denies the request for rehearing, or

b. the Board renders a written decision after rehearing.

B. Except as provided by Subsection (C) below, an applicant or a party to a contested hearing may file a suit against the District under Section 36.251, Texas Water Code, to appeal a decision on a matter identified in Rule 4-9.1(A) above for which a hearing is held not later than the 60th day after the date on which the decision becomes final.

C. An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

4-9.11.1. DECISION; WHEN FINAL AFTER A CONTESTED CASE BEFORE SOAH.

A. A final decision of the Board after a contested case before SOAH must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the ALJ or include revised findings of fact and conclusions of law consistent with District Bylaw 4-9.8(G).

B. Notwithstanding any other provision of these rules, the Board shall issue a final decision after a contested case before SOAH not later than the 180th day after the date of receipt of the final proposal for decision from SOAH. The deadline may be extended if all parties agree to the extension.

C. The Board is considered to have adopted a final proposal for decision of the ALJ as a final order on the 181st day after the date the ALJ issued the final proposal for decision if the Board has not issued a final decision by:

1. adopting the findings of fact and conclusions of law as proposed by the ALJ; or

2. issuing revised findings of fact and conclusions of law as provided by District Bylaw 4-9.8(G).

D. A proposal for decision adopted under Subsection (C) of this Section is final, immediately appealable, and not subject to a request for rehearing.

4-9.12. CONSOLIDATED HEARING ON APPLICATIONS.

A. Except as provided by Subsection (B) below, the District shall process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant if the District requires multiple permits or permit amendments for a single well.

B. The District is not required to use consolidated notice and hearing procedures to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another application.

4-9.13. RULES GOVERNING PROTESTS AND REQUESTS FOR CONTESTED CASE HEARINGS.

A. Notice of Protest. In the event any person should desire to protest or oppose any pending application or other matter identified in Rule 4-9.1(A) above, the person wishing to protest must file by United States mail, facsimile, e-mail, or hand delivery to the General Manager, Board, or hearing officer, a written notice of protest or opposition, providing the basis for such protest and opposition as described in Subsection (B) of this Section, and request a contested case hearing on or before the date on which the public response period expires pursuant to District Rule 3-1.4(B).

B. Protest Requirements. Protests and request for contested case hearings shall be submitted in writing with a duplicate copy to the opposing party or parties and shall comply in substance with the following requirements:

1. Each protest shall show the name and address of the protestant.

2. The protestant shall identify any injury that will result from the proposed action or matter to be considered by the Board.

3. If the protest is based upon claim of interference with some present right of protestant, it shall include a statement of the basis of protestant's claim of right.

4. Protestant shall call attention to any amendment of the application or adjustment which, if made would result in withdrawal of the protest.

5. Protestant shall demonstrate a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest not common to members of the public that is within the District’s regulatory authority and affected by a permit or permit amendment application.

6. If a contested case hearing is desired, the party desiring the hearing must include a statement, "I/we request a contested case hearing."

7. If a party requesting a contested case hearing desires for the hearing to be referred to and conducted by the SOAH, then the hearing request must include a statement "I/we request that the SOAH conduct the contested case hearing." A party requesting a hearing before SOAH shall pay all costs associated with the contract for a SOAH hearing in accordance with District Bylaw 4-9.16.

C. The District shall limit participation in a hearing on a contested application to the General Manager, applicant, and only persons who 1) have timely requested a hearing in Subsection (A) of this Section, and 2) who must have a personal justiciable interest as defined by Subsection (B)(5) above.

D. Following an uncontested hearing, an applicant may, not later than the 20th day after the date the Board issues an Order granting the application, demand in writing a contested case hearing if the Order:

1. includes special conditions that were not a part of the application as finally submitted; or,

2. grants a maximum amount of groundwater production that is less that the amount requested in the application.

4-9.14. DISCOVERY.

The presiding officer may issue subpoenas, require depositions, or order other discovery consistent with the authority granted to a state agency under Subchapters C, D, and F, Chapter 2001, Texas Government Code.

4-9.15. ALTERNATIVE DISPUTE RESOLUTION.

The presiding officer may refer parties to a contested hearing to an alternative dispute resolution procedure in the manner consistent with the authority granted to a state agency under Chapter 2009, Texas Government Code.

4-9.16. HEARINGS CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).

A. If requested by the Board, by an applicant, or by other party to a contested case, the District shall contract with SOAH to conduct a hearing. A person opposing an application who requests a contested case hearing under Rule 4-9.13 must include in a timely hearing request the statement, "I/we request that SOAH conduct the contested case hearing," in order for the hearing to be referred to and conducted by SOAH.

B. An applicant desiring that SOAH conduct a contested case hearing must make a written request to the General Manager or Board for the SOAH referral at the time the applicant requests a contested case. When there is a contested case request from a person other than an applicant, and the applicant desires the District refer the contested case to SOAH, the applicant must make a written request for the SOAH referral no later than five business days after the determination that the District will grant a hearing under District Rule 3-1.4(C).

C. For a contested case referred to SOAH upon request of an applicant under Subsection (A) of this Section:

1. To the extent possible, SOAH shall expedite the hearing;

2. The applicant bears the burden of proof in the hearing and for SOAH to recommend overturning the District Order reducing the amount of groundwater authorized under the permit, the permit holder must demonstrate by a preponderance of the evidence that the production of the amount of groundwater authorized based upon the maximum production capacity will not cause:

a. a failure to achieve applicable desired future conditions for the aquifer; or

b. an unreasonable impact on existing wells as found in the District's Order.

D. A party requesting a hearing before SOAH shall pay all costs associated with the contract for a SOAH hearing and shall deposit with the District an amount determined by the District to pay the contract amount on a date determined by the District before the hearing begins. At the conclusion of the hearing, the District shall refund any excess money to the paying party. The District will not refer a case to SOAH until the costs are paid as provided herein.

E. SOAH shall conduct the hearing in accordance with Subchapters C, D, and F, Chapter 2001, Texas Government Code and Water Code Section 36.416(d).

F. The District shall provide the SOAH administrative law judge with a written statement of applicable rules and policies. The District may not attempt to influence the findings of fact or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

4-9.17. PRELIMINARY HEARING.

The Board shall schedule a preliminary hearing to hear a request for a contested case hearing filed in accordance with District Bylaw 4-9.13. The preliminary hearing may be

conducted as specified under District Bylaw 4-9.4(A). At a preliminary hearing, the Presiding Officer shall determine whether any person requesting a contested case hearing has standing to make the request, whether a personal justiciable issue related to the application has been raised, and a party's right to participate in a hearing. The Presiding Officer shall limit participation in a hearing to only persons who satisfy District Bylaw 4-9.13(C) above.

If it is determined at the preliminary hearing that no person who requested a contested case hearing had standing or that no personal justiciable issues were raised, the Board may treat the matter as uncontested as described by District Bylaw 4-9.9.

4-10. RULES OF PROCEDURE FOR RULEMAKING.

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

4-10.1. SPECIFIC RULES FOR RULEMAKING HEARINGS.

A. Not later than the 20th day before the date of a rulemaking hearing, the General Manager or Board shall:

1. post notice in a place readily accessible to the public at the District office,

2. provide notice to the county clerk of each county in the District,

3. publish notice in one or more newspapers of general circulation in the counties in which the District is located,

4. provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Subsection (F) of this Section, and

5. make available a copy of all proposed rules at a place accessible to the public during normal business hours and, if the District has a website, post an electronic copy on a generally accessible Internet site.

B. The notice provided under Subsection (A) of this Section must include:

1. the time, date, and location of the rulemaking hearing,

2. a brief explanation of the subject of the rulemaking hearing, and

3. a location or Internet site at which a copy of the proposed rules may be reviewed or copied.

C. The President of the Board or presiding officer shall conduct a rulemaking hearing in the manner the presiding officer determines to be most appropriate to obtain

information and comments relating to the proposed rules as conveniently and expeditiously as possible. Comments may be submitted orally at the hearing or in writing. The presiding officer may hold the record open for a specified period after the conclusion of the hearing to receive additional written comments.

D. The District shall require each person who participates in a rulemaking hearing to submit a hearing registration form stating:

1. the person's name,

2. the person's address, and

3. whom the person represents, if the person is not at the hearing in the person's individual capacity.

E. The President of the Board or presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

F. A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

G. The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.

H. A person who participates in a rulemaking hearing and who is affected by the rule adopted by the Board may administratively appeal a rulemaking decision of the Board by requesting a rehearing before the Board not later than the 20th day after the date of the Board's decision. A request for rehearing must be written, filed in the District office, and must state the grounds for the request. If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

A decision by the Board on a rulemaking is final:

1. if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing, or

2. if a request for rehearing is filed on time, on the date:

a. the Board denies the request for rehearing, or

b. the Board renders a written decision after rehearing.

Except as provided below, a person who participates in a rulemaking hearing and who is affected by the rule adopted by the Board may file a suit against the District under Section 36.251, Texas Water Code, to appeal a rulemaking decision not later than the 60th day after the date on which the decision becomes final.

A person who participates in a rulemaking hearing and who is affected by the rule adopted by the Board may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

I. Failure to provide notice under Subsection (A)(4) of this Section does not invalidate an action taken by the District at a rulemaking hearing.

4-10.2. CONSIDERATIONS IN RULEMAKING.

In adopting a rule under this chapter, the District shall:

A. Consider all groundwater uses and needs;

B. Develop rules that are fair and impartial;

C. Consider the groundwater ownership and rights described by Section 36.002 of the Texas Water Code;

D. Consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater from those groundwater reservoirs or their subdivisions; and

E. Consider the goals and objectives developed as part of the District's Management Plan under Section 36.1071 of the Texas Water Code.

4-10.3. EMERGENCY RULES.

A. The Board may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the Board:

1. finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

2. prepares a written statement of the reasons for its finding under Subsection (A)(1) of this Section.

B. Except as provided by Subsection (C) of this Section, a Rule adopted under this Section may not be effective for longer than 90 days.

C. If notice of a hearing on the final Rule is given not later than the 90th day after the date the Rule is adopted, the Rule is effective for an additional 90 days.

D. A Rule adopted under this Section must be adopted at a meeting held as provided by Chapter 551, Government Code.

4-10.4. PETITION FOR ADOPTION OR MODIFICATION OF RULES.

A. A person with a real property interest in groundwater located within the District may petition the District to request the adoption or modification of a rule.

B. Petitions shall be submitted in writing to the General Manager, and shall comply with the following requirements:

1. each rule requested must be submitted by separate petition;

2. each petition must be signed and state the name and address of the petitioner(s) and identify with a brief written description and drawing the petitioner's real property interest in groundwater within the District;

3. each petition shall include:

a. a brief explanation of the proposed rule;

b. the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any;

c. a statement of the statutory or other authority under which the proposed rule is to be promulgated; and

d. an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

C. The General Manager may reject a petition for failure to comply with the requirements of Subsection (B) of this Section.

D. Not later the 90th day after the date the District receives the petition that complies with this Section, the Board shall either deny the petition and provide an explanation for the denial in the minutes of the Board meeting or in a letter, or

engage in rulemaking consistent with the granted petition as provided by Section 36.101 of the Water Code.

E. There is no private cause of action for a decision to accept or deny a petition.

4-11. NOTICE AND HEARING IN AN APPEAL OF DESIRED FUTURE CONDITIONS; JUDICIAL APPEAL OF DESIRED FUTURE CONDITIONS.

A. An affected person may file a petition with the District requiring that the District contract with the SOAH to conduct a hearing appealing the reasonableness of the DFC. The petition must be filed not later than the 120th day after the date on which the District adopts a DFC under Water Code Section 36.108(d-4). The petition must provide evidence that the District did not establish a reasonable DFC of the groundwater resources in the management area.

B. In this Rule, "affected person" means:

1. An owner of land in Groundwater Management Area 9 or 10;

2. A groundwater conservation district or subsidence district in or adjacent to Groundwater Management Area 9 or 10:

3. A regional water planning group with a water management strategy in Groundwater Management Area 9 or 10;

4. A person who holds or is applying for a permit from a district in Groundwater Management Area 9 or 10;

5. A person with a legally defined interest in groundwater in Groundwater Management Area 9 or 10; or

6. Any other person defined as affected by Texas Commission on Environmental Quality rule.

C. Not later than the tenth day after receiving a petition, the District shall submit a copy of the petition to the TWDB. The TWDB Board shall conduct an administrative review and study required by Water Code Section 36.1083(e), which must be completed and delivered to SOAH not later than 120 days after the date the TWDB receives the petition. SOAH shall consider the study described and the desired future conditions explanatory report submitted to the development board under Water Code Section 36.108(dd)(3) to be part of the administrative record in the SOAH hearing; and the TWDB shall make available relevant staff as expert witnesses if requested by SOAH or a party to the hearing.

D. Not later than 60 days after receiving a petition appealing the reasonableness of the DFC filed under Water Code Section 36.1083(b), the District will submit to SOAH

a copy of the petition and contract with SOAH to conduct a contested case hearing.

E. The petitioner shall pay the costs associated with the contract with SOAH and shall deposit with the District an amount determined by the District, after consultation with SOAH, that is sufficient to pay the contract amount. The deposit must be received within 15 days of written notification by the District to the petitioner specifying the amount of the deposit. Failure to timely pay the deposit may result in dismissal of the petition. After the hearing is completed and all costs paid to SOAH, the District shall refund any excess money to the petitioner.

F. Unless provided by SOAH, the District shall provide notice of a hearing appealing the reasonableness of the DFCs. Not later than the tenth day before the date of a hearing the General Manager or Board shall provide notice as follows (unless notice provide by SOAH):

1. General Notice:

    a. Post notice in a place readily accessible to the public at the District office;

    b. Provide notice to the county clerk of each county in the District; and

2. Individual notice by regular mail, facsimile, or electronic mail to:

    a. The petitioner;

    b. Any person who has requested notice;

    c. Each nonparty district and regional water planning group located in Groundwater Management Area 9 or 10;

    d. The Texas Water Development Board; and

    e. The Texas Commission on Environmental Quality.

G. After the hearing and within 60 days of receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, the District shall issue a final order stating the District's decision on the contested matter and the District's findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge, as provided by Section 2001.058(e), Government Code.

H. If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with the administrative law judge's findings of fact and conclusions of law. The report shall

provide the policy, scientific, and technical justifications for the District's decision.

I. If the District in its final Order finds that a DFC is unreasonable, not later than the 60th day after the date of the final Order, the District shall reconvene in a joint planning meeting with the other districts in Groundwater Management Area 9 or 10 for the purpose of revising the DFC. The District and other districts in Groundwater Management Area 9 or 10 shall follow the procedures in Section 36.108 to adopt new DFCs applicable to the District.

J. A final Order by the District finding that DFC is unreasonable does not invalidate the adoption of a DFC by a district that did not participate as a party in the hearing conducted under this Rule.

K. A final District Order issued under this Rule may be appealed to a district court with jurisdiction over any part of the territory of the District. An appeal under this Rule must be filed with the district court not later than the 45th day after the date the District issues the final Order. The case shall be decided under the substantial evidence standard of review as provided by Section 2001.174, Government Code. If the court finds that a DFC condition is unreasonable, the court shall strike the DFC and order the districts in the Groundwater Management Area 9 or 10 to reconvene not later than the 60th day after the date of the court order in a joint planning meeting for the purpose of revising the DFC. The District and other districts in the management area shall follow the procedures in Water Code Section 36.108 to adopt new DFCs applicable to the District. A court's finding under this Rule does not apply to a DFC that is not a matter before the court.