Rules of Panhandle
Groundwater Conservation District

Preamble

The purpose of Panhandle Groundwater Conservation District (the District) is to provide for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions, within the defined boundary of the District, as authorized by Section 59 of Article XVI of the Texas Constitution, Chapter 36 of the Texas Water Code, and the District's Enabling Acts. To carry out this purpose, these rules and regulations are passed, adopted and will be enforced, among other things, to minimize as far as practicable the drawdown of the water table, depletion of the groundwater reservoirs and aquifers, interference between wells, reduction of artesian pressure; to prevent waste of groundwater and pollution or harmful alteration of the character of the groundwater and promote conservation to extend the longevity of groundwater resources; to protect and conserve water supplies for all uses; to manage the groundwater effectively based upon ecological and socio-economic systems unique to the aquifers within the Panhandle Groundwater Conservation District; and to achieve the desired future conditions of the groundwater resources established by and located within the Panhandle Groundwater Conservation District and adopted by Groundwater Management Area 1.

In adopting these rules, The District considered all groundwater uses and needs; developed rules that are fair and impartial; considered the groundwater ownership and rights described by Section 36.0015 and 36.002; considered the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution; and considered the goals developed as part of the district's management plan under Section 36.1071; and developed rules that do not discriminate based on usage.

Table of Contents

Panhandle Groundwater
Conservation District

*** * * * * * * * * * ***

RULES OF PANHANDLE GROUNDWATER CONSERVATION DISTRICT, IN TEXAS, AS AMENDED, ARE HEREBY PUBLISHED, AS OF APRIL 21, 2016.

In accordance with Chapter 36 of the Texas Water Code, as amended, the following rules are hereby ratified and adopted as the rules of the Panhandle Groundwater Conservation District, in Texas, by its Board. All rules or parts of rules, in conflict with these rules, are hereby repealed. Panhandle Groundwater Conservation District first adopted rules on February 18, 1956, and adopted amendments to its rules on July 1, 1957, November 29, 1957, June 6, 1958, May 31, 1964, October 31, 1964, September 6, 1965, August 29, 1967, May 26, 1977, February 3, 1984, January 20, 1986, May 18, 1987, July 27, 1987, August 7, 1990, April 8, 1992, January 19, 1994, July 19, 1995, March 18, 1998, March 24, 2004, May 26, 2004, December 15, 2004, September 20, 2006, December 16, 2009, March 24, 2010, March 31, 2011, April 4, 2012, March 18, 2014 and April 21, 2016.

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

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

RULE 1 -- DEFINITIONS

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

(a) "**Acre-foot**" means the amount of water necessary to cover one acre of land to the depth of one foot, or 325,851 U.S. gallons of water.

(b) "**Administratively Complete Application**" is an application that has been declared administratively complete either by the General Manager pursuant to Rule 4.3(b) or by the Board pursuant to Rule 10.3(h) based on a determination that the application contains the required information set forth in accordance with Sections 36.113, 36.1131 Texas Water Code, as amended, and Rules 4.1, 4.2, 4.3, 5.1 and 5.2 of the District, insofar as applicable.

(c) "**Approved Flow Meter**" means a water meter that has the ability to display current flow rate as well as total volume produced. A meter that is out of calibration by more than 10% as verified by a sonic flow meter may not be considered approved and must either be repaired or replaced. (Rule 4.4)

(d) "**Aquifer**" means all or part of any water bearing stratum or formation underlying the District's boundaries, including the Ogallala Aquifer, Dockum Aquifer, Blaine Aquifer, or any other aquifer present.

(e) An "**authorized well site**" shall be:

(1) the location of a proposed well on an application duly filed, until such application is denied, or

(2) the location of a proposed well on a valid permit. (An authorized well site is not a permit to drill.) (Rule 8.5)

(f) **"Best available science"** means 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.

(g) "**Board**" shall mean the Board of Directors of the Panhandle Groundwater Conservation District, in Texas, consisting of not fewer than five and not more than eleven duly elected members, as provided in Chapter 36, Texas Water Code, as amended.

(h) "**Conservation**" means those 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.

(i) "**Contiguous acreage**" means acres within the same continuous boundary associated with groundwater rights that are owned or leased by a person. Acreages must share a common boundary of at least one-quarter mile to be considered contiguous. Minimal breaks between contiguous acreage caused by railroads and public roads may not

disqualify property from being considered contiguous acreage (Rule 4.3)

(j) "**Desired Future Condition**" means a quantitative description, adopted in accordance with Chapter 36.108 of the Texas Water Code, of the desired condition of the groundwater resources in the management area (GMA 1) at one or more specified future times. (Rule 15.1)

(k) "**Discharge**" means the amount of water that leaves an aquifer by natural or artificial means.

(l) "**District**" shall mean the Panhandle Groundwater Conservation District in Texas, maintaining its principal office in White Deer, Texas. Where applications, reports and other papers are required to be filed with or sent to "the District", this means the District's principal office in White Deer, Texas.

(m) "**Exploratory hole**" shall mean any hole drilled to a depth greater than the top of any stratum containing groundwater, as "groundwater" is defined in Chapter 36, Texas Water Code, as amended, for the purpose of securing geological or other information, which may be obtained by penetrating the earth with a drill bit, and includes what is commonly referred to in the industry as "water well test holes", "slim hole test" or "seismograph test holes" and the like. (Rule 5.1)

(n) "**General Manager**" (GM) is the person employed by the Board as General Manager, is the chief administrative officer of the District, pursuant to the District Act, and shall have full authority to manage and operate the affairs of the District, subject to the will of the Board. After consultation and authorization of the Board, the General Manager is responsible for employing all persons necessary for the proper handling of the business and operation of the District and determining their compensation.

(o) **"Inflows"** means the amount of water that flows into an aquifer from another formation.

(p) **"Initial production allowable"** shall be 1 acre-foot per year allowable of water rights owned on each permit granted. This amount is subject to adjustment pursuant to the depletion rule. Acreage of water rights may be evidenced by information on file with the applicable county tax appraisal district and/or other legal documentation. (Rule 4.3)

(q) "**Modeled available groundwater**" means the amount of water that the Texas Water Development Board determines may be produced on an average annual basis to achieve a desired future condition established under Chapter 36.108 of the Texas Water Code.

(r) "**Monitoring well**" shall mean a well installed to measure some property of the groundwater or aquifer which it penetrates. (Rule 6.2)

(s) "**Owner**" shall mean and include any person that has the right to produce water from the land, except as those rights may be limited or altered by rules promulgated by the District, and Chapter 36 of the Texas Water Code, as amended, either by ownership, contract, lease, easement, or any other estate in the land.

(t) "**Permit"** means authorization granted by the Board to construct, drill, operate, install, equip, complete, or other work designed for the production of groundwater from the aquifer. The permits shall contain the production allowable. Permits may be renewed at any time prior to expiration. (Rule 4.3)

(u) "**Permitted well**" shall mean a well subject to the District's drilling and production permit requirements, which includes any artificial excavation constructed to produce, or which is not exempt pursuant to Chapter 36, Texas Water Code, as amended, and/or these rules. (Rule 4.3)

(v) **"Person"** shall mean any individual, partnership, firm, state agency, political subdivision, corporation, or other legal entity.

(w) "**Political subdivision**" means a county, municipality, special district, river authority, or other governmental entity created under the authority of the state or a county or municipality.

(x) "**Recharge**" means the process of water infiltrating from the land surface and moving to the aquifer.

(y) "**Registered well**" shall mean and include any artificial excavation to produce, or that is producing, water for any purpose that is not subject to the District's drilling permit requirements, and is listed as a Permit Exemption under District Rule 4.3(a).

(z) "**Transported groundwater**" means groundwater produced from wells within the District transported for use off the contiguous acreage from which the water is produced. (Rule 5.2)

(aa) The word "**waste**" as used herein shall include the definition of waste as defined by the Legislature in Chapter 36, Texas Water Code, as amended, such that "waste" means any one or more of the following:

(1) withdrawal of groundwater from a groundwater reservoir at a rate, and in an amount that causes, or threatens to cause, intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(2) the flowing or producing of wells from a groundwater reservoir, if the water produced is not used for a beneficial purpose;

(3) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

(4) pollution or harmful alteration of groundwater in a groundwater reservoir by salt water, or by other deleterious matter admitted from another stratum, or from the surface of the ground;

(5) willfully or negligently causing, suffering, or allowing groundwater to

escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule or order issued by the Texas Commission on Environmental Quality under Chapter 26, Texas Water Code;

(6) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well, unless permission has been granted by the occupant of the land receiving the discharge; or

(7) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Texas Water Code.

(bb) "**Water**" for the purposes of these rules, is synonymous with groundwater or underground water.

(cc) "**Well**" shall mean and include any artificial excavation to a depth greater than the top of any stratum containing groundwater, as "groundwater" is defined in Chapter 36, Texas Water Code, as amended.

(dd) **"Property Line"** for the purpose of spacing compliance in Rule 8.1, means both surface real property boundary line and/or subterranean groundwater property boundary line when water rights have been severed

RULE 2 -- WASTE AND WATER CONSERVATION

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

(a) Groundwater produced within the District shall not be used within or outside the District, in such a manner as to constitute waste, as defined in Rule 1(n) hereof.

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

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

RULE 3 -- GENERAL RULES

3.1 - General Rules

(a) COMPUTING TIME. In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the act, event or

default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday.

(b) TIME LIMIT. Applications, requests, or other papers or documents required or permitted to be filed under these rules, or by law, must be received for filing at the District office at White Deer, Texas, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

(c) 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, cite any person operating within the District to appear before it in a public hearing and require him to show cause why a suit should not be initiated against him in a district court or assess an authorized administrative penalty in Rule 3.3 for failure to comply with the orders or rules of the Board or the relevant statutes of the State or for failure to abide by the terms and provisions of the permit or operating authority itself. The matter of evidence, and all other matters of procedure at any such hearing, will be conducted in accordance with Rules 10.5 and 10.7.

3.2 - Change of Ownership or Use

(a) A permittee may apply for a transfer of ownership of any permit granted by the District, and such transfer may be approved as a ministerial act by the Board at its next regular meeting upon filing the required information. However, a transfer of ownership shall be approved as a ministerial act only if the transfer is to change the ownership of the permit and no other changes to the permit are requested. All transfers in ownership must be filed with the District within 120 days of the transfer of the water rights.

(b) All permittees requesting any changes, including but not limited to a change in the purpose or place of use stated in a drilling and production permit, a change in well location, or a change in the permitted quantity amount shall apply to the Board for a continuation of the drilling and production permit for the proposed change. The application for change of use shall be in the same form, and governed by the same standards, as any other application for drilling and production permits. The Board may request any additional relevant information the District considers necessary, to analyze the request for the amendment. The decision to grant or deny the application for an amendment to a drilling and production permit will be determined by using the same processes in Rule 4.3 and Rule 10 as are used for an original application for a drilling and production permit.

3.3 - Enforcement of Rules

All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36.102, Texas Water Code and subsequent changes thereto.

(a) The District may enforce Chapter 36, as amended, and its Rules, by injunction, mandatory injunction, or other appropriate remedy, in a court of competent jurisdiction.

(b) The Board may assess reasonable civil penalties for breach of any rule of the District not to exceed $10,000 per day per violation, and each day of continuing violation constitutes a separate violation. In determining the necessity for injunctive relief or other appropriate remedy and the amount of the penalty the District shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard created to the health, safety, or economic welfare of the public, or pollution of the groundwater;

(2) the economic harm to property or environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) the efforts to correct the violation; and

(6) any other matter that justice may require.

(c) Once the District discovers that its Rules have been violated, the General Manager will first send a notice of violation to the violator. The Notice will include the corrective steps that must be taken and the date upon which the violation must be corrected.

If the violation is not remedied by the date in the District's initial violation notice, a show cause order may be sent by the District staff informing the violator of the time and place to appear before the Board, the penalty that could be assessed, and the date that the penalty will begin to be assessed.

If the violation requires immediate remedial action, the District staff may take appropriate measures, including but not limited to seeking an immediate injunction against the violator.

(d) The District shall assess the following initial penalties for the listed Rule Violations. The Board may set reasonable penalties for other Rule violations that are not listed. If the violator is not cooperative of does not make reasonable progress toward compliance within a Board-determined timeframe, the Board may assess the penalty for everyday that the violation is unresolved. For the second incidence of any offense, the listed initial penalty shall be doubled and the third incidence of any offense, the listed initial penalty shall be doubled and the third incidence shall be tripled, up to a maximum fine of $10,000 per day.

Violations:	Initial Penalty
1 A. Failure to register an exempt well according to District Rules	$ 500
B. Failure to permit a non-exempt well according to District Rules	$1,500

This penalty will be assessed against both the well owner and well driller for drilling a well without first having the appropriate well registration or permit from the District, prior to drilling the well. The District shall also notify the Texas Department of

Licensing and Regulation of well drillers receiving this penalty along with the other District rule that was violated.

2. Failure to install a meter on a new well or replacement well subject to metering requirements or any well in a Conservation Area within 120 days. Meters may be alternatively located at the center pivot sprinkler if all production is captured at the center pivot. $1,500

3. Use of groundwater that constitutes waste $1,500
4. False statement on records or permit applications $1,500

5. Failure to file documentation or well log with the District within the required time period of 60 days $ 500

6. Failure to properly plug or cover an abandoned well $1,500

(e) A penalty under this section is in addition to any other penalty provided by the law of this State and may be enforced by complaints filed in a court of competent jurisdiction in Carson County, Texas.

(f) If the District prevails in any suit to enforce its Rules, the District may, in the same action, recover attorneys' fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of the attorneys' fees shall be fixed by the court.

RULE 4 -- PERMIT AND PRODUCTION REQUIREMENTS

4.1 - Issuance of Permits

The Board issues three different types of permits or a well registration:

Initial Production Permit (IPP). An IPP is a preliminary authorization from the District to produce a specified amount of groundwater. An IPP states an intent of a person to produce water in the future, based on their water rights and an acknowledgement of the Board of that intent; however no end user of the water is specified. An IPP does not authorize actual drilling or production of a well(s); an IPP permit holder is required to seek a drilling and production permit from the District prior to well production. Rule 4.2 addresses IPP's in detail.

Single Well Drilling and Production Permit. Drilling and production permit applications are processed as a Single Well Applications if two or less well drilling applications are submitted within 12 months for the same contiguous acreage. Single Well Applications are also required for wells, regardless of number, that are incapable of producing more than 265 gallons per minute. Rule 4.3 addresses Single Well Drilling and Production Permits in detail.

Multiple Well Drilling and Production Permit. A drilling and production permit application is processed as a Multiple Well Application if more than two well drilling

applications are submitted within 12 months for the same contiguous acreage. The wells must be capable of producing more than 265 gallons per minute. Rule 4.3 addresses Multiple Well Drilling and Production Permits in detail.

> **Registered Well**. If a well is exempt from a Drilling and Production Permit, as specified under District Rule 4.3(a), then only a registration is required for the well(s). A registration is simply an acknowledgement from the District of the type of well and that the well does not require a Drilling and Production Permit from the District. Rule 5 addresses well registrations.

(a) The Board shall issue a permit, upon proper application executed and filed by the owner containing the matters specified below and complying with all District Rules. An application is considered filed when properly completed following the procedures in Rule 4.1(b), signed, and tendered to the General Manager.

(b) All applications shall sworn to, on forms provided by the District, and prepared in accordance with, and contain the information called for, in the application form, these Rules and all other instructions issued by the Board with respect to the filing of an application. If an application is received which does not comply with the application requirements in these rules, the General Manager shall within 60 days notify the applicant of the deficiencies by certified mail, return receipt requested. If the required information is not received from the applicant within 30 days of the date of receipt of the deficiency notice, the General Manager shall return the incomplete application to the applicant.

(c) The application pursuant to which a permit has been issued is incorporated into that permit, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit and may be submitted to the District Attorney as a violation of Section 37.09 of the Texas Penal Code.

(d) Rules for the filing of applications.

> (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent. The agent may be requested to present satisfactory evidence of his authority to represent the applicant. Following the procedure in Rule 4.1(b), if such information is not provided within 30 days of request, the application will be returned to the applicant.
>
> (2) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "a Partnership", and the application shall be signed by at least one of the general partners, who is duly authorized to bind all of the partners. A copy of the partnership agreement shall be attached to the application. A copy of the authorization to sign the application may be required by the officer or agent receiving the application. Following the procedure in Rule 4.1(b), if this information is requested and not provided within 30 days of request, the application will be returned to the applicant.
>
> (3) In the case of a corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution

or other authorization to make the application may be required by the officer or agent receiving the application. Following the procedure in Rule 4.1(b), if this information is requested and not provided within 30 days of request, the application will be returned to the applicant.

(4) In the case of an estate, trust, or guardianship, the application shall be signed by the duly appointed guardian, trustee, or representative of the estate. A copy of an instrument evidencing the existence of the person shall be attached to the application. Following the procedure in Rule 4.1(b), if this information is requested and not provided within 30 days of request, the application will be returned to the applicant.

4.2 - Initial Production Permit (IPP)

(a) If an applicant desires an initial permit for the purpose of marketing his water, the applicant may apply for an Initial Production Permit (IPP). The amount of water allowed on an IPP is up to 1 acre-foot of water per contiguous surface acre of water rights owned or controlled. If land is not adjacent or contiguous in ownership, multiple IPP's must be obtained. The IPP amount will be reviewed by the Board every 5 years, and may be changed by Board Resolution at that time. Each IPP is valid for 5 years or until associated with a drilling and production permit.

An IPP provides the permittee preliminary authorization from the District to produce, on an annual basis, a stated quantity of groundwater from beneath the specified contiguous acreage.

To begin actual production of groundwater from beneath the specified contiguous acreage, the IPP holder must also obtain a drilling and production permit.

Each application for an IPP shall be accompanied by a $200 non-refundable application fee.

(1) An application for an Initial Production Permit shall be in writing and sworn to and shall set forth the following:

(A) the name and address of the owner of the contiguous acreage from which water will be produced;

(B) if the applicant is other than the owner of the property, documentation establishing the applicable authority to produce water from the property and applicant's name, post-office address and place of residence or principal office;

(C) the total number of acres of land contiguous in ownership from which the water will be produced and for which the applicant has an ownership interest in the groundwater rights;

(D) the proposed beneficial use of the water to be produced from the contiguous acreage; and

(E) such additional data as may be required by the General Manager or Board.

(2) The applicant shall attach to an application for an Initial Production Permit:

(A) a legal description of the contiguous acreage from which water will be produced including county or counties, survey(s), block(s), section number(s) and quarter(s);

(B) documentation of applicant's ownership interest in groundwater beneath the contiguous acreage from which water will be produced; and

(C) a map of the contiguous acreage from which water will be produced.

(b) Within 60 days of receiving either an application for an IPP that the General Manager determines substantially complies with application requirements or any additional required information for an IPP application pursuant to the procedure in Rule 4.1(b), the General Manager shall conduct all necessary reviews of the application to determine its sufficiency and compliance with District rules and any other applicable laws, and shall make a determination whether the application for an IPP is administratively complete. If additional information is required, the General Manager shall follow the procedure in Rule 4.1 (b). Once an application for an IPP has been declared administratively complete, the Board will act on the application within the time period set forth in § 36.114 of the Texas Water Code, as amended.

(c) Within 60 days after the date an administratively complete application is submitted, the Board must either act on the application or set it for a hearing on a specific date. The initial hearing shall be held within 35 days after the setting of the hearing date. If necessary, the Board may conduct multiple hearings on a single application. A draft IPP may either be provided to the applicant at the District's office or sent to the applicant by certified mail with return receipt requested at the address provided on the application.

(d) Notice of an IPP application shall be considered included in the notice of the Board meeting at which the Board will consider the General Manager's action or recommendation on the IPP permit application and such notice shall be in the manner required by the Texas Open Meetings Acts, Government Code §551.001 et seq.

(e) Before granting or denying a permit, at a hearing on an IPP application the Board shall consider whether:

(1) the application conforms to the requirements prescribed by the District's Rules and Chapter 36 of the Texas Water Code, as amended, and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use; and

(4) the proposed use of water is consistent with the District's certified water Management Plan.

(f) At the conclusion of the final hearing on an IPP application, or within 60 days after the conclusion of the final hearing, the Board may either grant, grant with changes to the draft permit, or deny an IPP application. Following the Board's decision:

(1) The applicant, or other affected person, may file a motion for reconsideration of the Board's action on an IPP application.

(2) A motion for reconsideration must be filed no later than 20 days after the signed permit, approval, or other written notice of the Board's action is mailed to the applicant, by certified return receipt requested mail. Any motion for rehearing shall be processed pursuant to Rule10.7

(3) An action by the Board under this subchapter is not affected by a motion for reconsideration filed under this section, unless expressly ordered by the Board.

(g) All Initial Production Permits issued by the District shall contain the conditions that:

(1) the permit is issued subject to the rules of the District as may be amended thereafter and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries, as authorized by Chapter 36, Texas Water Code, as amended;

(2) the permit holder agrees to be bound by the terms, conditions, and provisions contained in the permit along with the District rules regulating depletion of the aquifer and such agreement is a condition precedent to the granting of the permit;

(3) the issuance of the permit does not grant to the Permittee the right to use private property, or public property, for the production or conveyance of water. Neither does this permit authorize the invasion of any personal rights nor the violation of federal, state, or local laws, or any regulations; and

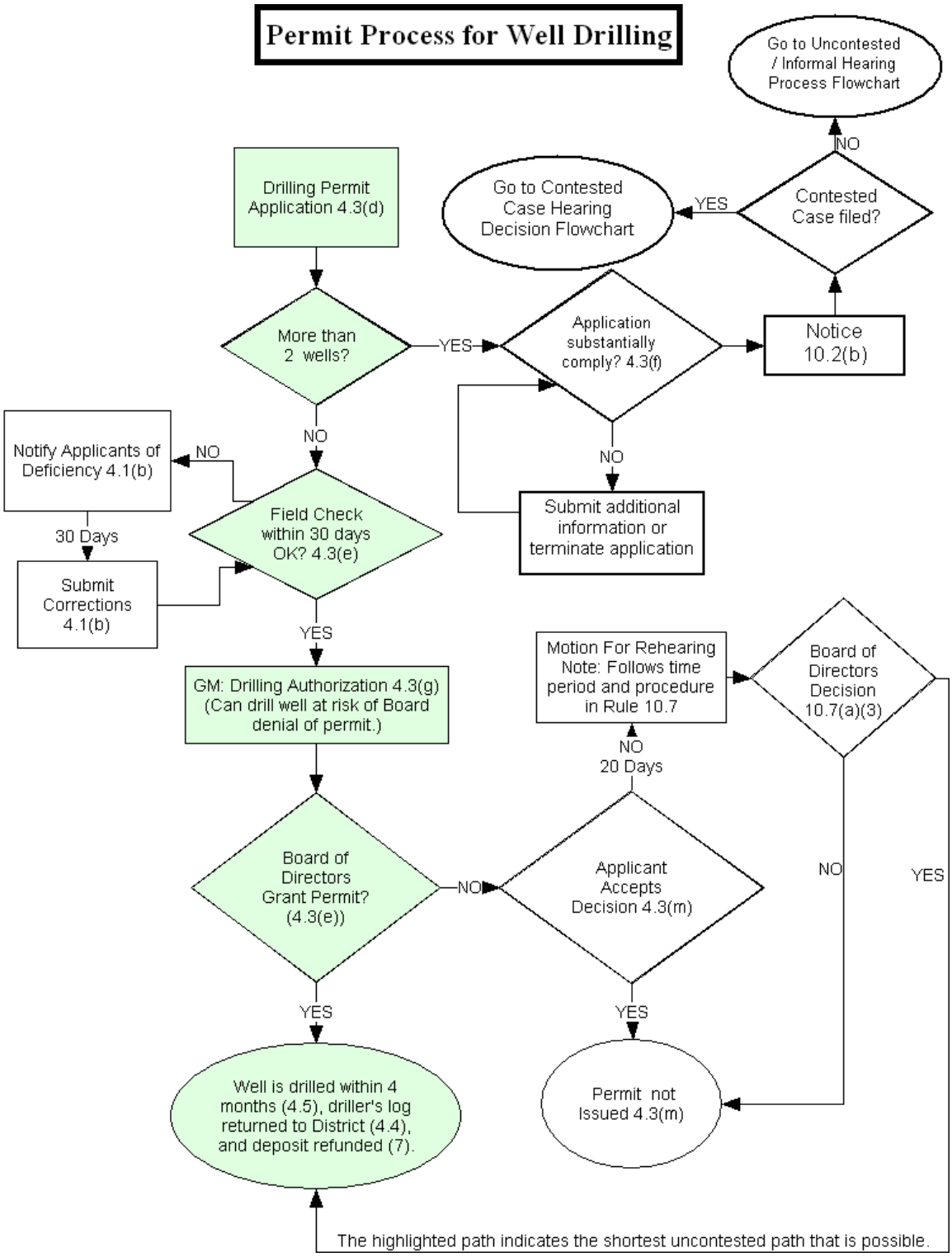
(4) all other matters which are not specifically granted by the permit are denied.

(h) In addition, an Initial Production Permit shall include statements informing the permittee that:

(1) the District makes no representations and shall have no responsibility with respect to the actual availability or quality of water;

(2) an IPP provides the permittee preliminary authorization from the District to produce, on an annual basis, a stated quantity of groundwater not to exceed 1 acre-foot per surface acre annually from beneath the specified contiguous acreage. To begin actual production of groundwater from beneath the specified contiguous acreage, the IPP holder must also obtain a drilling and production permit; and

(3) the amount of water as indicated in the IPP will be the basis for the amount of production permitted in a Drilling and Production Permit.


Permit Process for Well Drilling
Go to Uncontested / Informal Hearing Process Flowchart
NO
Drilling Permit Application 4.3(d)
Go to Contested Case Hearing Decision Flowchart
YES
Contested Case filed?
More than 2 wells?
YES
Application substantially comply? 4.3(f)
Notice 10.2(b)
NO
Notify Applicants of Deficiency 4.1(b)
NO
NO
Submit additional information or terminate application
30 Days
Field Check within 30 days OK? 4.3(e)
Submit Corrections 4.1(b)
YES
Motion For Rehearing Note: Follows time period and procedure in Rule 10.7
Board of Directors Decision 10.7(a)(3)
GM: Drilling Authorization 4.3(g) (Can drill well at risk of Board denial of permit.)
NO
20 Days
Board of Directors Grant Permit? (4.3(e))
NO
Applicant Accepts Decision 4.3(m)
NO
YES
YES
YES
Well is drilled within 4 months (4.5), driller's log returned to District (4.4), and deposit refunded (7).
Permit not Issued 4.3(m)
The highlighted path indicates the shortest uncontested path that is possible.

4.3 – Drilling and Production Permits

(a) Drilling a well, or increasing the size of an existing well or the pump installed on an existing well or producing water from a well, without a drilling and production permit issued by the District is prohibited, except as listed below.

Permit Exemptions. All wells exempted from obtaining a drilling and production permit shall be registered in accordance with Rule 5.1. Exemptions from drilling and production permits are:

(1) drilling or operating a well, used solely for domestic use, or for providing water for livestock or poultry, if the well is located on a tract of land larger than 10 acres and is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig. These wells are required to meet water well spacing requirements in Rule 8 for permitted well as of January 1, 2013. The District may require a production permit for or restrict production from a well if the groundwater withdrawals that were exempted under Subsection (a)(2) are no longer 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.

(b) A well on a tract of 10 acres or less for domestic use or for providing water for livestock or poultry or any other non-exempt use is required to obtain a drilling and production permit from the District. A well already existing prior to December 2004 which is on a tract of less than 10 acres for domestic use or for providing water for livestock or poultry for which the pump and the well is incapable of producing 25,000 gallons or more of water per 24 hour period (17.4 gallons per minute) remains exempt from any permit requirement and production limitations.

(c) Applications for drilling and production permits shall be made at the office of the District at White Deer, Texas. The General Manager shall note on the face of the application the date on which the application is received and give the application a serial number showing its relative priority as to the time of applications later filed.

(d) Drilling and production permit applications are processed as either a **Single Well Application** or a **Multiple Well Application**. If more than two well drilling applications are submitted within 12 months for the same contiguous acreage, the well drilling applications shall be considered as an application for multiple wells within contiguous acreage. This provision does not apply to applications for wells incapable of producing more than 265 gallons per minute.

An application for a single well drilling and production permit shall set forth the

information as required in (1) – (15) and (25) of this subsection, and an application for multiple drilling and production permits within contiguous acreage shall also set forth the information required in (16) – (25) of this subsection. An application for a single well drilling and production permit may also be required to submit information required in (16) – (25) of this subsection as deemed applicable by the District. The required information includes the following:

(1) the name and address of the owner of the contiguous acreage upon which the well is located, and the owner of the water rights, if separate;

(2) if the applicant is not the owner of the property, legal and notarized documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) the total number of acres of land, contiguous in ownership upon which the well is to be located and for which the applicant has an ownership interest in the groundwater rights;

(4) the exact proposed location of the well to be drilled as provided in the application, including the exact latitude and longitude, the county, the section, block, survey and township, and exact number of yards to the nearest non-parallel property lines, or other adequate legal description;

(5) the proposed use of the water from the well to be drilled, whether domestic, industrial, irrigation, municipal, stock, oil secondary recovery, or other, and the amount of water to be used for each purpose;

(6) the size of the pump and the estimated gallons per minute production of the well;

(7) the approximate date drilling operation is to begin and end;

(8) the requested term of the permit;

(9) a map or plat drawn on a scale that adequately details the proposed project, showing:

a. The actual or anticipated location of the existing or proposed production well(s).
b. The actual or anticipated location of the existing or proposed water application or transporting facilities.
c. The location of the proposed or increased use or uses. Show the exact boundaries of the property.
d. The location of the master meter, or like facility, at a location agreed upon by the District, if applicable.
e. The location of surrounding wells. A single well application requires the location of the three nearest wells. Well fields require the location of all wells within 1 mile of the contiguous property boundary. Also attach a list of the owners' names and addresses as identified by county appraisal district records of all property within a one mile boundary of the

contiguous acreage on which a multiple well permit application is based, if not the applicant.

(10) an agreement by the applicant that the well(s) will be drilled within 10 yards of the specified location(s);

(11) documentation that the applicant has agreed to submit a well completion report and driller's log. These shall be submitted upon completion of the well prior to the production of water from the well (except for such production as may be necessary to the drilling and testing of such well);

(12) documentation that the applicant has agreed to avoid waste and achieve water conservation;

(13) documentation that the applicant and destination user have 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 as required by law. Plugging of well shall comply with current Texas Water Well Driller's Rules, Title 16, Texas Administrative Code, Chapter 76;

(14) a declaration that the applicant will comply with the District's Rules, Management Plan and Conservation Goals as may be amended;

(15) the anticipated effect of the proposed production on the quantity and quality of surrounding wells, including yield, water levels, chemical analysis, and effects on the aquifer;

(16) identify any other presently-owned sources of water or non-water liquids, the availability of which is both technically feasible and economically reasonable for the applicant or destination user of the water that could be reasonably used for the stated purposes, including quality and quantity of such alternate sources;

(17) information showing what water conservation measures and goals have been established by the destination user, and the time frames necessary to achieve them;

(18) a statement whether any water produced is to be resold to others, and provide a copy of the destination users' certified water conservation and drought contingency plan as approved by the Texas Commission on Environmental Quality (TCEQ). If no plan is available, or if the following information is not already contained in the submitted plans, a description of the destination users' service area, metering and leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each customer's water demands, including population and customer data, water use data, water supply system data, wastewater data, water conservation measures and goals, and the means for implementation and enforcement;

(19) the amount of water to be used out of District;

(20) the complete legal description of the actual or anticipated location of the

wells from which the water will be produced. Each well should be identified by a unique number;

(21) the complete legal description of the location where the water is to be used. If the water is to be sold to another person, state specifically the name of the destination user, and provide documentation that the destination user has agreed to purchase the water;

(22) a description of any destination user's facilities to be used for storage and distribution of the groundwater;

(23) information showing compliance with Water Code § 36.122, as amended, if the application proposes transportation of groundwater out of District;

(24) such additional data as may be required by the General Manager or Board.

(e) Single Well Drilling and Production Permit Application Administrative Processing and Notice.

(1) for single well applications, within 60 days of receiving either an application that the General Manager determines substantially complies with application requirements or any additional required information for a drilling and production permit application, pursuant to the procedure in Rule 4.1(b), the General Manager shall conduct all necessary reviews of the application, including a field check, to determine its sufficiency and compliance with District rules and any other applicable laws, and shall make a determination whether the application for a drilling and production permit is administratively complete. If additional information is required, the General Manager shall follow the procedure in Rule 4.1 (b). Once an application for a drilling and production permit has been declared administratively complete, the Board will act on the application within the time period set forth in Chapter 36 of the Texas Water Code.

(2) the General Manager may issue drilling and production permits for single well applications subject to final Board approval, provided that the well meets all spacing requirements and the application complies with all District rules, the District Management Plan and Chapter 36 of the Texas Water Code. Until approved by the Board, the holder of a drilling and production permit issued by the General Manager may proceed at their own risk with the understanding that the Board may ultimately deny their application.

(3) notice of the application shall be considered included in the notice of the Board meeting at which the Board will consider the General Manager's action on the drilling and production permit application and such notice shall be in the manner required by the Texas Open Meetings Acts, Government Code §551.001 et seq.

(f) Multiple Well Drilling and Production Permit Application Administrative Processing and Notice.

(1) If an application for multiple wells within contiguous acreage is received that does not substantially comply with the application requirements in

these rules, the General Manager, prior to any notice of the application pursuant to Rule 10.2(b), shall within 60 days notify the applicant of the deficiencies by certified mail return receipt requested. If the required information is not received from the applicant within 30 days of the date of receipt of the deficiency notice, the General Manager shall return the incomplete application to the applicant and the application is terminated.

(2) After completing the technical review pursuant to Rule 10.3(g), the General Manager shall make a recommendation to the Board on the application and request that the Board make a determination whether the application is administratively complete.

(3) After an application for multiple wells within contiguous acreage has been declared administratively complete, but before submission to the Board for final action, the General Manager may require further amendment of the application, maps, or other materials to achieve necessary compliance. If this requested information is not provided to the General Manager, this may result in the application being returned to the applicant or the denial of the drilling permit and production permit.

(4) A drilling and production permit application for multiple wells within contiguous acreage must be noticed, processed and a hearing held in accordance with Rule 10.

(h) Before granting or denying a permit for Single or Multiple Wells, the District shall consider:

(1) whether the proposed use constitutes waste and whether the applicant has agreed to avoid waste and achieve water conservation in accordance with Chapter 36 of the Texas Water Code, as amended, and these rules;

(2) whether the proposed use of water is dedicated to any beneficial use as the term is defined under Chapter 36 of the Texas Water Code, as amended, and these rules;

(3) the quantity of water proposed to be produced and whether this quantity is consistent with the District's depletion rule, including the acceptable decline rate, as described in Rule 15, of the saturated thickness of the aquifer(s) beneath the contiguous acreage from which water will be produced as provided in Rule 15;

(4) the term for which production is requested;

(5) the actual or anticipated number, location, pump size and production capacity of the wells from which water is to be produced;

(6) whether the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders or other groundwater users within the district;

(7) the safety of the proposed production with respect to the contamination of the aquifer;

(8) whether 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;

(9) the nature of the proposed use and specific location of the proposed use and if the water is to be sold, the specific name of the destination user to whom the water will be sold and documentation of agreement by the destination user to purchase the water;

(10) the effect of the proposed use of the water on municipal, agricultural, industrial, recreational and other categories of use;

(11) whether all other presently owned sources of water, the availability of which is both technically feasible and economically reasonable to the applicant or destination user of the water, have been considered and that no other liquid, the availability of which is both technically feasible and economically reasonable for the applicant or destination user of the water, could be reasonably substituted for the use of fresh groundwater;

(12) whether the proposed use of water is consistent with the District's certified water management plan;

(13) the availability of water in the district and in the proposed receiving area, inside or outside of the District, during the period for which the water supply is requested;

(14) the projected effect of the proposed production on aquifer conditions, depletion, or subsidence;

(15) whether all aspects of the requested permit are consistent with the DFC's approved by GMA 1;

(16) whether the application conforms to the requirements prescribed by Chapter 36 of the Texas Water Code and is accompanied by the prescribed fees; and,

(17) such other factors as are consistent with the statutory purposes of the District.

(i) For a single well permit the Board may find that the requirements of Rule 4.3(h) have been met if the General Manager has reviewed the application, conducted a field check and determined that the permit application meets the requirements of Chapter 36 and the District's Rules, including all of the District's spacing requirements pursuant to Rule 8.

(j) Following the Board's decision to grant or deny a drilling and production permit

application:

(1) The applicant, or other affected person, may file a motion for reconsideration of the Board's action on an application.

(2) A motion for reconsideration must be filed no later than 20 days after the signed permit, approval, or other written notice of the Board's action is mailed to the applicant, by certified return receipt requested mail. Any motion for rehearing shall be processed pursuant to 10.7

(3) An action by the Board under this subchapter is not affected by a motion for reconsideration filed under this section, unless expressly ordered by the Board.

(k) The Drilling and Production Permit shall be in writing and it shall contain substantially the following information:

(1) the name of the person to whom the permit is issued;

(2) the date the permit is issued;

(3) the term for which the permit is issued, not to exceed 30 years.

(4) the date the original application was filed;

(5) the actual or anticipated number, location, pump size and production capacity of the wells from which water is to be produced;

(6) the specific destination and use or purpose for which the water is to be produced and destination user if the water is to be resold;

(7) the maximum quantity of water to be produced annually, initially granted as 1 acre-foot per acre, which shall be subject to adjustment pursuant to Rule 15. The maximum production authorization will be for the entire contiguous acreage on which the well(s) is located, including existing wells within the contiguous acreage;

(8) any additional spacing, reporting, monitoring, or production limitations consistent with the statutory purposes of the District and considered necessary by the Board;

(9) a statement that the permit is issued subject to the District's Management Plan, as amended, and the rules of the District, as amended, and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries, as authorized by Chapter 36, Texas Water Code, as amended; and

(10) any other information the District prescribes.

(l) The District shall have the right to confirm reported distances and inspect wells or well locations, pursuant to Rule 9.2.

(m) Unless an easement is granted by the landowner(s) who share the contiguous boundary, and authorized by the Board after notice and hearing pursuant to Rule 10, a permittee receiving a multiple well drilling and production permit within contiguous acreage shall drill all production wells a distance of at least one-half mile from the perimeter boundary of the contiguous acreage for which the multiple well permit was issued.

(n) Any aggregation of permits associated with adjacent contiguous acreages and which have been issued pursuant to an application for multiple wells within contiguous acreage may require an amendment of all permits. Any relocation of wells following an aggregation of contiguous acreages must adhere to Rule 4.3 and Rule 8 spacing following notice and hearing pursuant to Rule 10.

(o) The District Rules, as amended in the future, are incorporated into all Drilling and production permits in their entirety, as if set forth in the permit verbatim. The Permittee shall comply with the Rules and each requirement thereof, in operating, maintaining, reporting, repairing, and altering the permitted well(s).

(p) Drilling and production permits only confer the ability to use the well(s) under the provision of the District Rules and according to the issued Drilling and production permit. The permit may be modified or amended by the District at any time in reference to the drilling, completion, alteration, operation, or production of groundwater from wells or pumps, upon a District finding that the modification or amendment may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

(q) (1) The District, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108, Texas Water Code.

(2) In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:

(A) the modeled available groundwater determined by the Texas Water Development Board;

(B) the Texas Water Development Board's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;

(C) the amount of groundwater authorized under permits previously issued by the District;

(D) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and

(E) yearly precipitation and production patterns.

4.4 - Requirement of Driller's Log, Casing, Pump Data, and Meters

(a) Complete records shall be kept, and reports thereof made to the District, concerning the drilling, equipping and completion of all wells drilled. Such records shall include an accurate driller's log, any electric logs which have been made, and any additional data concerning the description of the well, its discharge, and its equipment as may be required by the Board. Such reports shall be filed with the District Board at its office in White Deer, Texas, and through the Texas Department of Licensing and Regulation's State of Texas Well Report Submission and Retrieval System within 60 days after completion of the well. A driller of a water well exempted under Subsection (a) or (b) of §36.117 of the Texas Water Code, as amended, shall be required to file the drilling log with the District or submit the report electronically.

(b) No person shall produce water from any well hereafter drilled and equipped within the District, except that is necessary to the drilling and testing of such well and equipment unless, or until, the District has been furnished an accurate driller's log, any electric log, and completed well completion report, as required, on forms furnished by the District.

(c) All wells drilled after April 21, 2016 that are equipped with a 3 inch or larger column pipe diameter shall be required to install an approved flow meter. These wells must be constructed with a sufficient clear run of 10 pipe diameters upstream and 5 pipe diameters downstream of the meter, or in a sufficient manner to meet the installation specifications of the chosen approved meter. This rule applies to all wells including water wells used for oil and gas exploration or production purposes.

(d) The Permittee must sign and return the Permit to the District within 60 days of the Permit's issuance.

4.5 - Durability of Permits and Time During Which Permitted Projects Shall be Completed

(a) Drilling and production permits issued shall become void if drilling has not commenced within 120 days of the issuance of the permit. If more time is needed, written request for a permit extension must be received by the board before the 120 days expires. If the permit is for more than one well, and not all wells can begin drilling within 120 days of the issuance of the permit, the following information must be provided to the District:

(1) written notice of commencement of physical construction within 15 days of such commencement;

(2) notice of any alterations or anticipated alterations;

(3) a proposed timetable for project completion; and

(4) status reports at 6 month intervals, until construction is complete.

In the event that the completed well completion report, signed Drilling and Production Permit, and drillers log of the well are not returned to the District office within 60 days of completion of the well, the deposit required under Rule 7 shall become the property of the District and could invalidate your Drilling and Production Permit.

(b) Application Deadline – An application to renew permits must be made within fourteen (14) calendar days prior to the last scheduled Board meeting before the expiration of the permit. If an application to renew a permit is not received during this time, the permit may lapse and the well owner may be subject to penalty if the well is operated without a valid permit. Once the permit has lapsed, the landowner or well owner may have to apply for a new operating permit.

(c) Duration of Permit – Permits issued pursuant to Rule 4.3 shall be for a term not to exceed 30 years, approved by the Board, considering all applicable aspects of the permit request. Written notice of expiration shall be provided to each permit holder at least one year prior to the expiration of the permit, and shall be renewed prior to expiration.

(d) Processing Fee – The application to renew a permit shall be accompanied by payment of the application processing fee established by the Board, if any.

(e) Decision on Renewal Application—

(1) Except as provided by Subsection (ii), the District shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:

(A) the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and

(B) the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.

(2) The District is not required to renew a permit under this section if the applicant:

(A) is delinquent in paying a fee required by the District;

(B) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or

(C) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.

(3) If the District is not required to renew a permit under Subsection (2)(B), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

(4) (A) If the holder of an operating permit, 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:

(i) the conclusion of the permit amendment or renewal process, as applicable; or

(ii) final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

(B) 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 under Section 36.1145 without penalty, unless Subsection (b) of that section applies to the applicant.

(C) 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's 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.

4.6 - Maximum Permitted Production

Maximum Production. The maximum **total** production shall not exceed 1 acre-foot per acre per year on any contiguous acre of water rights owned or controlled. The maximum **rate** of production per square mile section is 2880 gallons per minute; or for contiguous acreages that contain less than a section the maximum **rate** of production is 4.5 gallons per minute per contiguous acre. This maximum production does not apply to contiguous acreages that only have a well capable of producing 17.4 gallons per minute or less. Regardless of whether production rate is less than 1 acre-foot per acre per year on any contiguous acre, production shall not exceed the acceptable annual decline rate of the saturated thickness as described in **Rule 15.** All well spacing requirements must be met. The maximum well pumping capacity denoted in gallons per minute in Rule 8.1(b) does not mean that the well is authorized by the District to pump that maximum capacity. The authorized amount of water to be produced annually by a permittee is not tied to the pump size. The authorized withdrawal amount of groundwater is stated in each drilling and production permit. Granting a permit in no way changes the private ownership of water rights.

4.7 - Wells Producing Water for Secondary Production

For purposes of these rules, production of potable groundwater for use in secondary recovery in oil and gas operations within the District shall require permitting under Rule 4.3 with notice as stated in subsections (A)-(D) of Rule 10.2 (b) (1) and a Board hearing.

RULE 5 -- REQUIRED REGISTRATION

5.1 - Well Registration

Prior to drilling, registration is required for all wells drilled in the District that do not require a permit, including exploratory holes. Registration shall include the following information, submitted on forms provided by the District:

(a) the exact location of the well to be drilled, as provided in the application, including the latitude and longitude, the county, section, block, survey and township; and the exact number of yards to the nearest non-parallel property line, or other legal description;

(b) proposed use of the well to be drilled;

(c) the size of the pump and the estimated gallons per minute production;

(d) an agreement by the applicant that a completed well completion report and drillers log will be furnished to the District, upon completion of this well and prior to the production of water there from;

(e) the name and address of the owner of the contiguous surface acreage upon which the well is located, and the person with the ownership interest in the groundwater if separate; and

(f) such additional data as may be required by the Board.

Registration is effective upon the determination by the General Manager that all required information is included on the registration form and has been completely and correctly filed with the District. No notice or Board action is required for registration of a well.

5.2 - Transportation of Water

(a) Registration required.

(1) Every person who produces water from permitted wells located, or to be located, within the District, when all or any part of such water is transported for use, or for intended use, off the property from which the water is produced, must register the production under this Rule. The term "property from which the water is produced" as used in this subsection shall be construed to mean water rights owned or controlled by a person within a continuous perimeter boundary situated within the District. Transportation of water is restricted to transportation by means which comply with Rule 2 and transportation by those means requires registration under this rule.

(b) Registration application.

(1) The registration provided for herein must be filed with the District on the form or forms promulgated by the District, and such registration must be completed and submitted to the District prior to the proposed transporting of water, all in accordance with the provisions of this Rule.

(2) An application for the transportation of water for which a registration is required under this rule must:

(A) be in writing and sworn to;
(B) contain the name and address of the applicant;
(C) identify the actual or anticipated number, location, pump size, and production capacity of the wells from which the water to be transported is produced or to be produced;
(D) describe as specifically as possible the anticipated proposed transportation facilities;
(E) state the nature and purposes of the proposed use and the anticipated amount of water to be used for each purpose;
(F) state the anticipated time within which any proposed construction or alteration is to begin;
(G) state the presently anticipated duration required for the proposed use of the water; and
(H) state where the water is to be used.

(c) The registrant shall file reports in compliance with Rule 6.1.

(d) All transporting facilities for wells subject to the requirement of this rule shall be equipped with flow monitoring devices approved by the District and available for District inspection at any time, during normal business hours.

Registration is effective upon the determination by the General Manager that all required information is included on the registration form and has been completely and correctly filed with the District. No notice or Board action is required for registration of a well.

RULE 6 -- REPORTING REQUIREMENTS

6.1 - Transportation of Water

The registrant of transported groundwater shall file quarterly reports for each quarter ending March 31, June 30, September 30, and December 31, with the District detailing the amount of water produced and used for the registered purpose. If water is being transported out of the District by the registrant, the report must include the amount of water transported out of the District. The first such report shall be filed on the appropriate form or forms provided by the District within fifteen (15) days of the end of the quarter next following the commencement of production, and within fifteen (15) days of the end of each quarter thereafter.

6.2 - Monitoring Wells

Water quality monitoring wells are required to provide the District with at least one water analysis report from the well, and one depth to water measurement report semi-annually. Water quality monitoring wells are also required to provide the District with copies of sampling results from any sampling done for purposes other than to meet the District's semi-annual sampling requirement. Monitoring Wells are required to be registered with the District prior to being drilled and copies of the well completion report are to be filed with the District.

6.3 - Facility and Equipment Requirements

All production facilities or wells registered to transport groundwater shall be equipped with flow monitoring devices approved by the District and available for District inspection at any time, during normal business hours.

6.4 –Production Under Permit by the Railroad Commission of Texas

An owner or operator of a water well used in coordination with activities authorized by a permit issued by the Railroad Commission of Texas, including but not limited to oil or gas exploration and production activities is required to report annual groundwater withdrawals in acre-feet or U.S. gallons on forms provided by the District within 15 days of December 31 of each year. The first full year of required reported use for permitted wells is for 2010, to be submitted by February 1, 2011. The first full year of required reported use for registered wells is 2013, to be submitted by February 1, 2014. Reported groundwater usage may be based only on flow meter records from a District approved flow meter.

RULE 7 -- DEPOSITS

Each application for a permit to drill a well which requires a meter pursuant to Rule 4,4 (c) shall be accompanied by a $500.00 deposit or well registration shall be accompanied by a $100.00 deposit, which shall be accepted by the Manager of the District or authorized personnel in the office of the District. Said deposit shall be returned to the applicant by the District if (1) the application is denied, or (2) the application is granted, upon receipt of correctly completed well completion report, signed Drilling and Production Permit, and driller's log of the well, and the meter has been installed or (3) said location is abandoned without having been drilled, upon return and surrender of said permit marked "abandoned" by the applicant.

In event neither the completed well completion report and drillers log of the well, nor permit marked "abandoned", is returned to the District office within 60 days after approval date of the permit, or registration, or the extension date thereof, the said deposit shall become the property of the District. Failure to provide the District with the required well completion report, signed Drilling and Production Permit, and driller's log of the well could result in the District requiring that the well be plugged and/or a fine pursuant to Rule 3.3.

RULE 8 -- SPACING OF PERMITTED WELLS

8.1 - Minimum Spacing

(a) Except as otherwise provided in any permit, permitted wells to be equipped with a 1-inch pump shall be located at least 50 yards from the nearest well of the same size and at least 25 yards from the nearest property line; a permitted well to be equipped with a 2-inch pump shall be located at least 100 yards from the nearest well of the same size and at least 50 yards from the nearest property line; a permitted well to be equipped with a 3-inch pump shall be located at least 150 yards from the nearest well of the same size and at least 75 yards from the nearest property line; a permitted well to be equipped with a 4-inch pump shall be located at least 200 yards from the nearest well of the same size and at least 100 yards from the nearest property line; a permitted well to be equipped with a 5-inch pump shall be located at least 250 yards from the nearest well of the same size and at least 125 yards from the nearest property line; a permitted well to be equipped with a 6-inch pump shall be located at least 300 yards from the nearest well of the same size and at least 150 yards from the nearest property line; a permitted well to be equipped with an 8-inch pump shall be located at least 500 yards from the nearest well of the same size and at least 250 yards from the nearest property line; a permitted well to be equipped with a 10-inch pump shall be located at least 750 yards from the nearest well of the same size and at least 375 yards from the nearest property line; a permitted well to be equipped with a 12-inch pump shall be located at least 1000 yards from the nearest well of the same size and at least 500 yards from the nearest property line; a permitted well to be equipped with a 14-inch or larger pump shall be located at least 1250 yards from the nearest well of the same size and at least 750 yards from the nearest property line. **The well spacing requirements also apply to registered water wells 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.**

Size of Pump (Inside Diameter of Column Pipe)	**Minimum Distance** (from nearest well of the same size)
1-inch pump	50 yards
2-inch pump	100 yards
3-inch pump	150 yards
4-inch pump	200 yards
5-inch pump	250 yards
6-inch pump	300 yards

8-inch pump	500 yards
10-inch pump	750 yards
12-inch pump	1000 yards
14-inch or larger	1250 yards

Spacing of wells equipped with pumps of different size. The minimum distance between a permitted well and any other well equipped with a pump not of the same size shall be the sum of one-half (1/2) the minimum distance between a permitted well equipped with a pump of the same size and any other well as set forth in Rule 8.1 (a).

(b) Pumps of the respective sizes set out above shall refer to the inside diameter of the pump column pipe and shall produce water at a rate no greater than the ordinary or usual pumping rate of pumps of such sizes, and pumping rates shall also comply with requirements in Rule 4.3(g). The ordinary or usual pumping rates of such pumps are as follows:

Size of Pump (Inside Diameter of Column Pipe)	**Production** (Gallons per Minute)
1-inch pump	up to 17.5
2-inch pump	17.5 to 35
3-inch pump	35 to 70
4-inch pump	70 to 265
5-inch pump	265 to 390
6-inch pump	390 to 560
8-inch pump	560 to 1000
10-inch pump	1000 to 1300
12-inch pump	1300 to 2,000
14 inch pump or larger	2,000 to 2,880

If the pump to be used by the applicant is of a different size or type, or is to be operated at a different rate in gallons per minute from the pumps in general use as set out above, such facts shall be made known in the application; and if the Board approves such a variance from the ordinary and usual pumping rates, then the actual rate at which the well is to be pumped shall be the determining factor in the spacing for such well instead of the size of the pump. A pump to be operated against an artificial head in a closed or semi-closed system shall be given special consideration.

(c) It shall be considered to be a fraud upon the District, and on the adjacent landowners, for any applicant to willfully give erroneous information in his application. If any operator willfully produces his well at a higher rate than represented in his application and/or approved in his permit, such action may be enjoined by the Board.

8.2 - Reclassification of Well Spacing

(a) Reclassification of a well shall require permit amendment. The Board may consider the reclassification of a well in the event that a well owner requests the well reclassification to accommodate the drilling of an additional well.

(b) The reclassifications will be considered on the production provisions in Rule 8.1 (b) of this rule.

8.3 - Exception to Spacing Rule

(a) In order to protect property rights, to prevent waste, or to prevent confiscation of property, conserve, protect and preserve the aquifer or to protect rights of owners of interest in groundwater the Board may grant exceptions to the above regulations. This rule shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board.

(b) If an exception to such regulations is desired, application shall be submitted by the applicant, in writing, to the Board at its District Office, on forms furnished by the District. The application shall explain the circumstances justifying an exception to classification, spacing, or production provision. The application shall be accompanied by a plat or sketch, drawn to scale on one inch equaling two hundred (200) yards. The plat or sketch shall show thereon the property lines in the immediate area and show accurately, to scale, all wells within one-half mile of the proposed well site. The application shall also contain the names and addresses of all property owners adjoining the tract on which the permitted well is to be located and the ownership of the permitted wells within one-half mile of the proposed location. Such application and plat shall be certified by some person actually acquainted with the facts, who shall state that all facts herein are true and correct.

(c) Such exception may be granted by the Board, ten (10) days after notice of hearing by certified mail with return receipt requested, pursuant to Rule 10, has been given to the applicant and to all well owners, land owners, and owners of water rights identified by county appraisal district records located less than the minimum required distance from the proposed permitted well site and after a public hearing at which all interested may appear and be heard, and after the Board has decided that an exception should be granted. However, if all such owners execute a waiver in writing, stating that they do not object to the granting of such exception, the Board may proceed to decide upon the granting or refusing of such application, without notice or hearing except to the applicant.

8.4 - Place of Drilling of Permitted Well

Unless an exception is granted by the Board, after an application for a well permit has been granted, the permitted well, if drilled, must be drilled within ten yards of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board, pursuant to Chapter 36, Texas Water Code, as amended.

8.5 - Reworking or Replacing of Permitted Well

(a) No person shall rework, re-drill, or re-equip a permitted well in a manner that increases the rate of production of water to more than authorized in the well permit, without first having made an application to the Board, and having been granted a permit by the Board to do so. Nor shall any person replace a permitted well without a drilling and production permit from the Board. A replacement well, in order to be considered as such, must be drilled within one hundred fifty (150) feet of the old well and not elsewhere. It must not be located any closer to any other permitted well, property line, or authorized well site than the well being replaced, unless the new location complies with the minimum spacing requirements set out in Rule 8.1 (a) or obtains an easement; otherwise, the replacement well shall be considered a new permitted well for which application must be made under Rule 8 above.

Immediately upon completion of a replacement permitted well, the old permitted well shall be:

(1) filled and abandoned in accordance with current Water Well Driller's Rules, Title 16, Texas Administrative Code, Chapter 76; or

(2) properly equipped in such a manner that it cannot produce more than 25,000 gallons of water a day.

(b) The size or capacity of the pump on a permitted well shall not be hereafter changed to a larger size or capacity so as to substantially increase the rate of production of a permitted well, without a permit from the Board. Such a permit may be granted only after written notice pursuant to Rule 10 to adjacent owners and owners of a permitted well within one-half mile from such permitted well and a public hearing, and after a decision by the Board that such a change will not cause unreasonable draw-down of the water table or unreasonable interference between permitted wells, waste, or confiscation of property. If the adjacent owners and owners of a permitted well within one-half mile indicate to the Board, in writing, that they have no objection to the proposed change, then the Board may proceed to decide such matter. If the well is a sufficient distance from other permitted wells to comply with spacing regulations for new permitted wells of the desired capacity, the Board may proceed to act on such application.

(c) In the event the application meets all spacing requirements, the rate of production is not substantially increased, and no contest is filed, the Board may grant such application without further action.

RULE 9 -- CONTINUING RIGHT OF SUPERVISION

9.1 - Right of Supervision

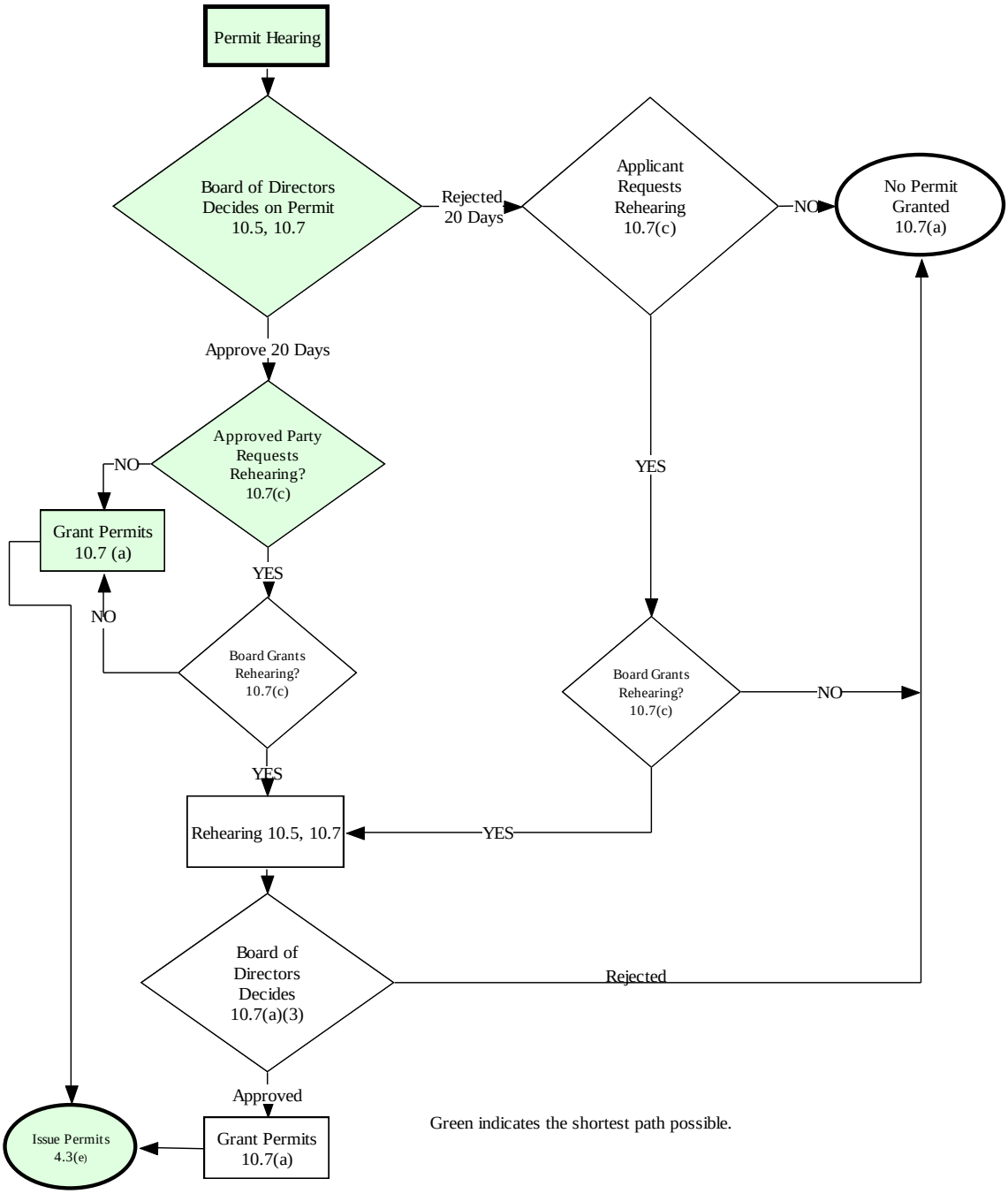
(a) District permits are issued subject to the rules of the District, the District Management Plan, and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended.

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

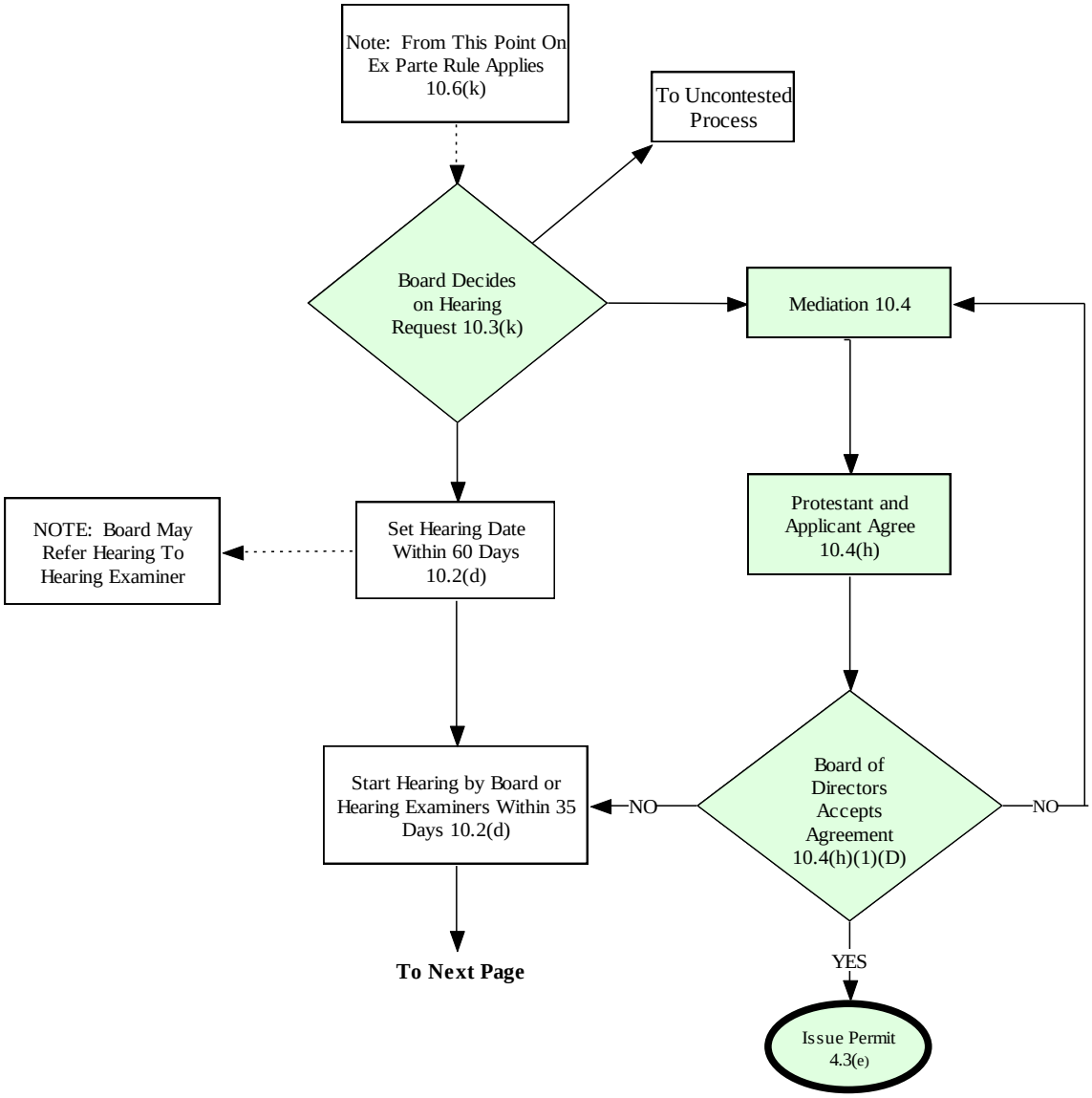
9.2 - Right to Inspect and Test Wells

Any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times to enter upon lands upon which a well(s) may be located, within the boundaries of the District, to inspect such well(s) and to read, or interpret any meter, weir box or other instrument for the purpose of measuring production of water from said well(s) or for determining the pumping capacity of said well(s); and any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times to enter upon any lands upon which a well(s) may be located, within the boundaries of the District, for the purposes of testing the pump and the power unit of the well(s) and of making any other reasonable and necessary inspections and tests that may be required or necessary for the formulation or the enforcement of the rules and regulations of the District. The operation of any well may be enjoined by the Board immediately upon the refusal to permit the gathering of information as above provided from such well.

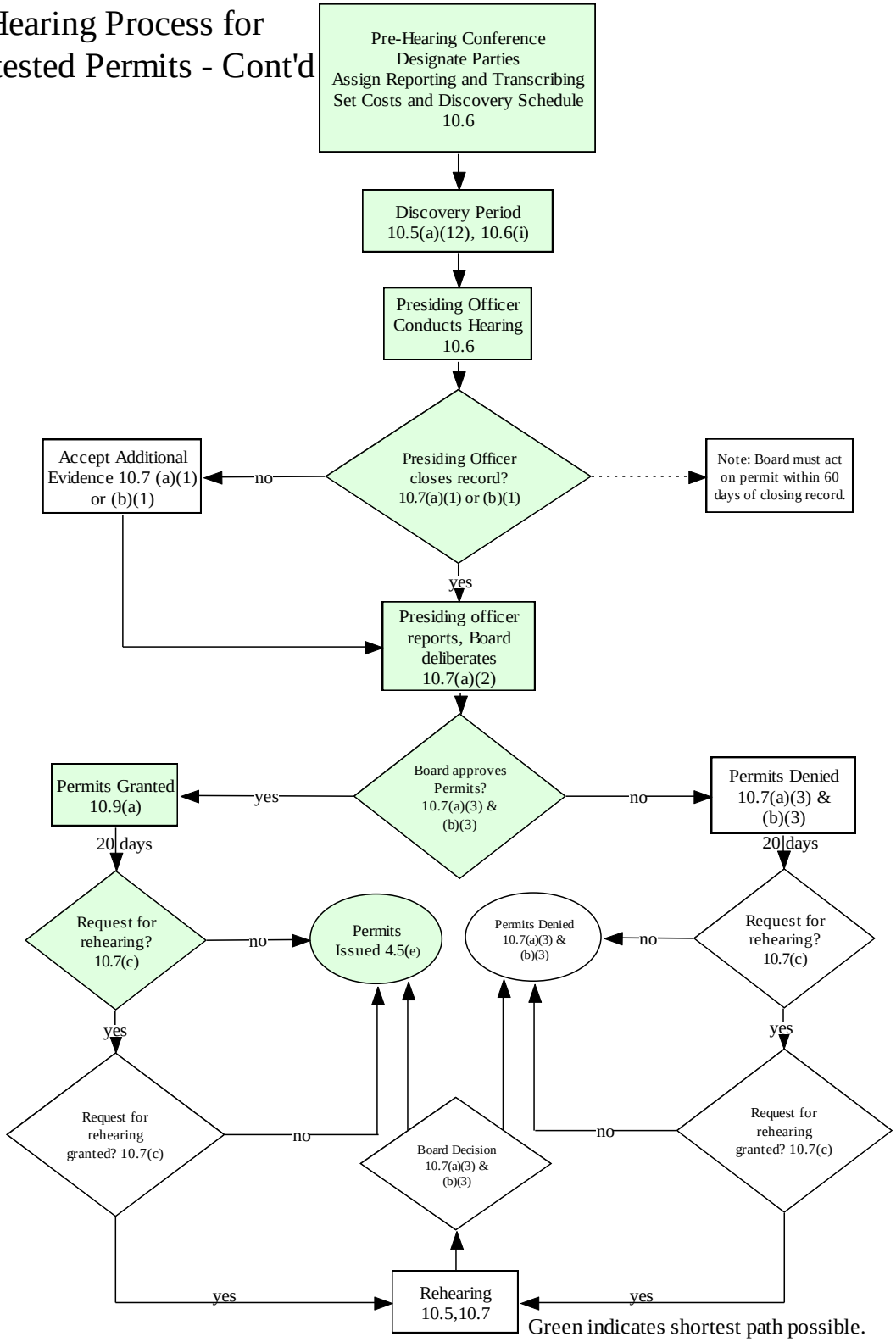
Hearing Process for Uncontested Permits



Hearing Process for Contested Permits



Hearing Process for Contested Permits - Cont'd



Green indicates shortest path possible.

RULE 10 -- HEARINGS AND PUBLIC MEETINGS

10.1 - Types of Hearings and Public Meetings

(a) The District conducts three general types of public hearings: (1) public hearings involving permit matters for which a hearing is required, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, (2) rule-making public hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describes the procedure or practice requirements of the District, and (3) GMA related public hearings. Additionally, a public hearing may be held on any matter within the jurisdiction of the Board if the Board determines a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.

Any matter designated for a hearing before the Board may, at the discretion of the Board, be referred for hearing before a Hearings Examiner. Under Rule 10.3 (f), the District conducts a public hearing and meeting on application(s) for a Drilling and Production Permit for multiple wells within contiguous acreage after notice under Rule 10.2 and prior to any hearing regarding the Drilling and Production Permit application(s).

(b) Permit Hearings, Permit Applications, Amendments and Revocations. The District may hold hearings on original permit applications, applications for permit renewals or amendments, permit revocations or suspensions, or other matters which the Board determines require a hearing or are contested under Rule 10.3. Notice of a public hearing and meeting and any subsequent hearing regarding a Drilling and production permit or Drilling and production permit application(s) associated with multiple wells within contiguous acreage will be given in accordance with Rules 10.2(b) and 10.2(e). Hearings involving permit matters may be scheduled before a Hearings Examiner.

(c) Public Meetings. The Board of Directors will hold prescribed Board Meetings at least 4 times annually, and other meetings as needed to handle the business of the District.

10.2 - Notice

The General Manager is responsible for giving notice of hearings and public meetings in the following manner:

(a) Rule Making Hearings.

(1) Written notice of a hearing shall be mailed to each county clerk, rural water supply corporation, water district, river authority and municipal government within the District. Notice must also be given by mail, facsimile, or electronic mail to each person who has previously requested copies of hearing notices pursuant to the procedures set forth in subsection Rule 10.2 (f), and any other person the General Manager deems appropriate. The date of delivery or mailing of notice may not be less than the 20th day before the rulemaking hearing. A copy of all proposed rules will be available at the District office during normal business hours and will be electronically posted on the District's website.

(2) Notice of hearing must be published in a newspaper of general circulation in each county within the District at least at least 20 days prior to the public hearing and meeting. A rule or amendment to a rule may be adopted by the Board on the twentieth (20^{th}) day after the first publication.

(3) A copy of the notice must be posted at the county courthouse of each county within the District, in the place where notices are usually posted, or be posted on the District's website. The date of posting shall not be less than the 20th day before the rulemaking hearing.

(4) The notice provided under this subsection must include:

(A) the time, date, and location of the rulemaking hearing;

(B) a brief explanation of the subject of the rulemaking hearing; and

(C) a location or Internet site at which a copy of the proposed rules may be reviewed or copied.

(5) 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.

(6) Any insubstantial defect in the notice described in subsection Rule 10.2 (a) shall not affect the validity of any Board action.

(b) Drilling and production permit Application for Multiple Wells Notice.

(1) Within 60 days of the District receiving an administratively complete application, the General Manager shall set the application for a hearing.

(A) The District shall provide notice, not later than the 10^{th} day before the date of a hearing or public meeting on an application, by regular mail to the applicant; by regular mail, facsimile, or electronic mail to any person who has requested notice; and by regular mail to any other person entitled to receive notice under the District's Rules, including adjoining landowners who will be identified by the applicant according to 4.3(d)(10) using information available from county appraisal district records.

(B) The District shall furnish a copy of the notice to the applicant, and the applicant shall cause such notice to be published. Notice of public meeting must be published at least one time in a newspaper of general circulation within the District, and in a newspaper of general circulation within the county or counties in which the proposed project located. Notices shall be published not later than the 10th day before the date of the hearing or public meeting on the application.

(C) A copy of the notice must be provided to the county clerk of each county in the District and must be posted by the District at the county courthouse of each county within the District, in the place where notices are usually posted, or be posted on the District's website. The date of posting shall not later than the 10th day before the date of the hearing or public meeting.

(D) The District's notice shall contain the following:

(i) the name and address of the applicant;

(ii) the date the application was filed;

(iii) the address and approximate location of the well or proposed well;

(iv) 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;

(v) a description of the boundaries of the contiguous water rights associated with the permit application;

(vi) the time, date, and location of the public meeting;

(vii) the public comment period; and

(viii) any additional information the District considers necessary or required by the District's rules.

(E) Consolidated Hearing on Applications. Except as provided by 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 a separate permit or permit amendment application for:

(i) drilling, equipping, operating, or completing a well or substantially altering the size of a well or well pump under Section 36.113, Texas Water Code;

(ii) the spacing of water wells or the production of groundwater under Section 36.116, Texas Water Code; or

(iii) transferring groundwater out of the District under Section 36.122, Texas Water Code;.

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.

(c) Any insubstantial defect in the notice described in subsection Rule 10.2 (b) shall not affect the validity of any Board action taken on the application noticed.

(d) Within 60 days after the date an application has been declared administratively complete pursuant to Rule 10.3(g), the Board shall set the application for a hearing on a specific date. The initial hearing shall be held within 35 days after the setting of the date. The District shall act on an application within 60 days after the date of the final hearing has concluded. The Board may hold multiple hearings on the same application. These time limitations may be extended by the Board as permitted under any amendments to Chapter 36 of the Texas Water Code.

(e) Persons who either attended the public meeting noticed in Rule 10.2(b) and recorded their attendance on the provided registration form or timely provided written public comment or a request for contested-case hearing during the public comment period provided in the notice pursuant to Rule 10.2(b), shall receive notice from the District in regards to any further proceedings or action on the application. Each person submitting a hearing registration form must state their name, address, and whom the person represents, if the person is not there in there in the person's individual capacity. Those who recorded their attendance will be notified by regular mail, and those who provided timely comment or requested a contested-case hearing will be notified by certified mail with return receipt requested.

(f) Any person desiring regular mailed notice of any District rule-making hearings and/or Drilling and production permit hearings for multiple wells within contiguous acreage may provide their name and address to be added to a list maintained by the District of persons to receive mailed notice of hearings. 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. Neither failure to provide notice pursuant to this subsection, nor any insubstantial defect in notice provided pursuant to this subsection, shall affect the validity of any Board action taken on the application noticed.

(g) Public Meeting Notice

Notice of the Public Meetings will be made in accordance with applicable provisions of the Texas Open Meetings Act, Chapter 551, Government Code and Chapter 36 of the Texas Water Code.

(h) GMA-related Hearing Notice

(1) Except as provided by Subsections (2) and (3), notice of meetings of the board shall be given as set forth in the Open Meetings Act, Chapter 551, Government Code. Neither failure to provide notice of a regular meeting nor an insubstantial defect in notice of any meeting shall affect the validity of any action taken at the meeting.

(2) At least 10 days before a hearing under Section 36.108(d-2) or a meeting at which a district will adopt a desired future condition under Section 36.108(d-4), the board must post notice that includes:

(A) the proposed desired future conditions and a list of any other agenda items;
(B) the date, time, and location of the meeting or hearing;
(C) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;
(D) the names of the other districts in the district's management area; and
(E) information on how the public may submit comments.

(3) Except as provided by Subsection (b), notice of a hearing described by Subsection (b) must be provided in the manner prescribed for a rulemaking hearing under Section 36.101(d).

10.3 - Contested-case hearing requests; Public comment; Technical Review

(a) Hearing Requests. The following may request a contested-case hearing under this chapter:

(1) a majority of the Board;

(2) the General Manager;

(3) the applicant; and

(4) affected persons that have a personable justiciable interest in the matter, as determined by the Board pursuant to Rule 10.3 (l).

(b) Form of Request. A request for a contested-case hearing by an applicant or affected person must be in writing and be filed by United States mail, facsimile, or hand delivery with the District within the time provided by Rule 10.3 (e).

(c) Requirements for Request. A hearing request must substantially comply with the

following:

(1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) request a contested-case hearing; and

(4) provide any other information specified in the public notice of application.

(d) Public Comment. Documents that are filed with the District that comment on an application but that do not request a hearing will be treated as public comment. Persons submitting written public comment must provide their name and address and representation in order to receive any further notice regarding the application. The District may consider public comments in its review of an application, but is not obligated to respond to public comments. All public comment on the application received by the District during the public comment period and any response by the District shall be admitted into the record of any contested-case hearing on the application to inform the Board regarding various concerns or issues related to the application and may be considered as evidence if corroborated by sworn testimony or exhibits properly admitted into evidence. The parties to the contested-case hearing shall be allowed to respond and to present evidence on each issue raised in public comment or any response by the District. 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.

(e) Timing of Hearing Request and Public Comment Period. The public comment period shall end at the conclusion of the testimony, and after receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. All hearing requests and public comments must be filed by the end of the public comment period.

(f) Public Meeting. At the time and place stated in the notice, the District shall hold a public meeting on the application during the public comment period. The public meeting may be held in conjunction with any regular or special meeting of the District or a special meeting may be called for the purpose of holding a public meeting. Any person may appear at the public meeting, in person or by attorney, or may enter his appearance in writing. Any person who appears may present comments regarding the application, including objections to the issuance of the permit. The public meeting is for the District to gather initial public input on an application and does not qualify as a hearing as required by Texas

Water Code §36.114, as amended. All persons attending the public meeting who have not submitted written public comment or a request for hearing during the comment period and wish to receive any further notice in regards to the application must provide their name, address, and representation on a registration form at the public meeting pursuant to Rule10.5(b).

(g) Technical Review.

(1) The District will conduct its technical review of an application prior to a Board determination that an application is administratively complete.

(2) During the technical review period the General Manager will determine whether all of the information necessary for a complete review of an application under the District's rules and management plan and Chapter 36 of the Water Code, as amended, and any other relevant laws has been provided to the District. The General Manager will analyze the information submitted with an application to make an initial evaluation as to whether the application complies with the District's rules and management plan and Chapter 36 of the Water Code, as amended, and any other relevant laws.

(3) The applicant shall be promptly notified of any additional technical material as may be necessary for a complete review. If the applicant provides the information within the period of time prescribed by Rule 10.3 (g)(1), the General Manager will complete processing of the application within the technical review period extended by the number of days required for the additional data. If the necessary additional information is not received by the General Manager prior to expiration of the technical review period and the information is considered essential by the General Manager to make recommendations to the Board on a particular matter, the General Manager may return the application to the applicant. In no event, however, will the applicant have less than 30 days to provide the technical data before an application is returned. Decisions to return material to the applicant during the technical review stage will be made on a case by case basis. The applicant has the option of having the question of sufficiency of necessary technical data referred to the Board for a decision instead of having the application returned.

(4) During the technical review the District will prepare a draft permit unless a recommendation is made not to grant an application. A draft permit is subject to change during the course of proceedings on an application.

(5) Subject to the time limitations in Rules 10.3 (g)(1) and 10.3 (g)(3), the period of technical review will continue until:

(A) all information required under Rule 10.3 (g)(3) has been provided to the District, as determined by the General Manager;

(B) the District has completed an initial compliance review; and

(C) the District has completed a draft permit, unless a recommendation

is made not to grant an application; or

(D) the application is returned to the applicant pursuant to Rule 10.3 (g)(3).

(6) Upon completion of the technical review period, the General Manager at a regular or special meeting of the Board will provide a summary of the application as described herein for use by the Board in making a final determination as to whether the application is administratively complete. Ten (10) days prior to the Board meeting the General Manager will distribute a copy of the completed draft permit to the Board, the applicant and any person requesting a contested-case hearing. In addition, ten (10) days prior to the Board meeting, the General Manager will provide a technical summary of the draft permit for the Board, the applicant and any persons requesting a contested-case hearing. This will include a summary of any issues regarding compliance of an application with the District's rules and management plan and Chapter 36 of the Water Code, as amended, and any other relevant laws.

(h) Administratively Complete Determination. After the General Manager has submitted a draft permit and technical summary and has provided a summary of the application pursuant to Rule 10.3(g)(6), the Board at a regular or special meeting of the Board shall make a determination in accordance with Rule 10.3 (g) whether an application is administratively complete.

(i) Prior to or after the Board's action on a contested-case hearing request, the General Manager may work with the applicant and any persons requesting a contested-case hearing to attempt to resolve any disputed issues through an informal process. If any dispute between the applicant and the persons making the request cannot be resolved through an informal process, the General Manager may recommend that the Board, pursuant to Rule 10.4 refer the application and hearing request to a mediator for alternative dispute resolution either before or after Board action on a hearing request.

(j) **Board Action; Contested Case Hearing Request; Preliminary Hearing**

(1) The board may take action on any 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 board may issue a written order to:

(A) grant the application;

(B) grant the application with special conditions; or

(C) deny the application.

(2) The board shall schedule a preliminary hearing to hear a request for a contested case hearing filed in accordance with rules adopted under Section 36.415. The preliminary hearing may be conducted by:

(A) a quorum of the board;

(B) an individual to whom the board has delegated in writing the responsibility to preside as a hearing examiner over the hearing or matters related to the hearing; or

(C) the State Office of Administrative Hearings under Section 36.416.

(3) Following a preliminary hearing, the board shall determine whether any person requesting the contested case hearing has standing to make that request and whether a justiciable issue related to the application has been raised. If the board determines that no person who requested a contested case hearing had standing or that no justiciable issues were raised, the board may take any action authorized under Subsection (a).

(4) An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order:

(A) includes special conditions that were not part of the application as finally submitted; or

(B) grants a maximum amount of groundwater production that is less than the amount requested in the application.

(k) Action on Hearing Request.

At the same Board meeting that the Board determines an application is administratively complete, or no later than 60 days after this meeting, the Board may take action on any request for a contested-case hearing. If the Board grants the hearing request, the Board may at the same time or at any time during the contested-case process, upon the General Manager's recommendation or on its own motion, refer the matter to alternative dispute resolution pursuant to Rule 10.4 or an informal dispute resolution process guided by the General Manager.

(2) The Board shall send notice by certified mail with return receipt requested to the applicant and any persons making a timely request for a contested-case hearing, and by regular mail to any person that timely provided public comment and any person that recorded their attendance at the public meeting at least 10 days before the first meeting at which the Board considers the contested-case hearing request. If the applicant and persons making a timely request for a contested-case hearing are in agreement, the notice shall also state that, in the event that the Board grants the hearing request, at the same meeting the Board may conduct a pre-hearing conference according to Rule 10.6 and issue a Discovery Control Plan as set forth in State Office of Administrative Hearings Rule §155.31.

(3) No later than 7 days before the first meeting at which the Board considers the hearing request, the applicant, General Manager or person making request may

submit comments regarding the hearing request. If the applicant and persons making a timely request for a contested-case hearing are in agreement, they may submit a proposed Discovery Control Plan and any matters for consideration at a preliminary hearing.

(4) The Board will grant or deny a contested-case hearing request by written order. If the Board grants a request for a contested-case hearing, the Board in its order shall:

(A) specify the number and scope of the issues to be considered in the contested-case hearing; and

(B) specify the persons qualifying as affected persons to be designated as parties to the contested-case hearing.

(5) Any case not declared a contested case under Rule 10.3 will be an uncontested case. A hearing will be conducted for an uncontested hearing according to Rule 10.5 within the time period required by Chapter 36 of the Texas Water Code.

(l) Determination of and Standing and Justiciable Interest.

(1) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the public does not qualify as a personal justiciable interest.

(2) All relevant factors shall be considered, including, but not limited to, the following:

(A) whether the interest claimed is one protected by the law under which the application will be considered;

(B) proximity to well locations, facilities, activities or groundwater or surface water resources affected by or related to the application;

(C) distance restrictions or other limitations imposed by law on the affected interest;

(D) whether a reasonable relationship exists between the interests claimed and the activity for which the permit is sought;

(E) likely impact of the regulated activity on the health, safety, and use of property of the person;

(F) likely impact of the proposed action on the natural resources in which the person has an ownership interest.

10.4 - Alternative Dispute Resolution Procedures

(a) Policy.

It is the District's policy to encourage the resolution and early settlement of all contested matters through voluntary settlement procedures.

(b) Participants.

The following may be participants in any mediation of either a contested-case or a request for a contested-case hearing:

(1) the General Manager,

(2) the applicant, and

(3) the persons who timely filed contested-case hearing requests which gave rise to the dispute, or

(4) if parties have been named, the named parties.

(c) Conduct of Mediation.

(1) Mediation is a consensual process in which an impartial third party, the mediator, facilitates communication between the participants to promote reconciliation, settlement, or understanding among them. A mediator may not impose his or her own judgment on the issues for that of the participants. The mediator must be acceptable to all participants.

(2) The mediation is subject to the provisions of the Governmental Dispute Resolution Act, Government Code, Chapter 2009, as amended. For purposes of this subchapter, "mediation" is assigned the meaning set forth in the Civil Practice and Remedies Code, §154.023.

(3) To facilitate a meaningful opportunity for settlement, the participants shall, to the extent possible, select representatives who are knowledgeable about the dispute, who are in a position to reach agreement, or who can credibly recommend approval of an agreement.

(d) Arrangements for Mediation.

(1) Any Board or presiding officer referral of a disputed matter to mediation or any agreement by the participants to mediate should include consideration of the following factors:

(A) the source of the mediator;

(B) the time period for the mediation. The participants should allow enough time in which: to make arrangements with the mediator and attending participants to schedule the mediation, to attend and participate in the mediation, and to complete any settlement approval procedures necessary to achieve final settlement;

(C) the location of the mediation;

(D) allocation of costs of the mediator;

(E) the identification of representatives who will attend the mediation on behalf of the participants; and

(F) the settlement approval process in the event the participants reach agreement at the mediation.

(e) Confidentiality of Mediation and Final Settlement Agreement.

(1) A mediation conducted under section Rule 10.4 is confidential in accordance with Government Code, §2009.054.

(2) The confidentiality of a final settlement agreement to which a governmental body is a signatory that is reached as a result of the mediation is governed by Government Code, Chapter 552. For the purposes of section Rule 10.4, the term "governmental body" has the meaning provided in Government Code, Section 552.003. Mediation is not a proceeding subject to Section 10.5(f).

(f) Costs of Mediation.

Unless the participants agree otherwise, each participant shall be responsible for its own costs incurred in connection with the mediation, including costs of document reproduction for documents requested by such participant, attorney's fees, and consultant or expert fees. In addition, unless the participants agree otherwise, the costs of the mediation process itself shall be divided equally between the participants.

(g) Initial Settlement Agreement.

Any settlement agreement reached during the mediation shall be signed by the participants, and shall describe any procedures required to be followed by the participants in connection with final approval of the agreement. Neither the General Manager nor the District will be an actual party to any initial or final agreement. The General Manager's signature on any initial or final agreement is only to indicate the General Manager's participation in the mediation process.

(h) Final Settlement Agreement.

(1) A final settlement agreement reached during, or as a result of mediation, that resolves the disputed issues or any portion of the disputed issues shall be in

writing and signed by representatives of the participants who have authority to bind each respective participant. Agreements of the participants reached as a result of alternative dispute resolution are enforceable in the same manner as any other written contract.

(A) If the final settlement agreement does not resolve all disputed issues regarding the permit application at issue, the agreement shall identify the issues that are not resolved in the manner described in subsection Rule 10.4 (i)(2).

(B) As part of a final settlement agreement, the persons requesting a contested-case hearing may agree to submit a letter to the Board stating that their hearing request is withdrawn upon the Board including in the proposed permits certain provisions or modifications agreed upon by the participants.

(C) If the applicants and all persons requesting a hearing reach a negotiated or agreed settlement, that settles all the facts or issues in controversy, the proceeding will be considered an uncontested case and the General Manager will summarize the evidence for the Board, including findings of fact and conclusions of law based on the existing record and any other evidence that may have been submitted by the parties at the hearing. The General Manager may request that the applicants provide an initial draft of the findings of fact and conclusions of law.

(D) The Board is not bound by any agreement entered into by the parties and has discretion to accept, reject, or require modifications as a condition of approval of any final agreement of the parties that concerns a matter under the District's authority. In the event that the Board rejects an agreement or requires certain modifications as a condition of approval, the Board may refer the case for further mediation or an informal process guided by the General Manager. The parties, in the instance of rejection or suggested modification by the Board, may also elect to resolve unsettled issues through the contested-case process.

(i) Remaining Issues.

(1) If mediation does not resolve all issues raised by persons requesting a contested-case hearing, then either the Board will take action on the contested-case hearing request pursuant to the procedure described in Rule 10.3, if it has not already taken action in this regard, or the Board will conduct a contested-case hearing on any remaining issues pursuant to Rule 10.5, 10.6 and10.7 if a hearing request has already been granted.

(2) When alternative dispute resolution procedures do not result in the full settlement of a contested matter, the participants are encouraged to use the mediation process to identify resolved issues, unresolved issues and develop stipulations. The parties shall attempt to limit contested issues through the entry of written stipulations. Such stipulations shall be forwarded or formally presented to

the Board or a Hearings Examiner assigned to conduct the hearing on the merits and shall be included in the hearing record.

10.5 - General Procedures

Presiding Officer. In hearings before the Board, the President of the Board, or a Board member selected by the President of the Board if the President is not present, shall be the presiding officer. In hearings referred to a Hearings Examiner, the Hearings Examiner shall be the presiding officer.

(a) Authority of Presiding Officer. The presiding officer may conduct the hearing or other proceeding in the manner the presiding officer deems most appropriate for that particular proceeding. The presiding officer has the authority to:

(1) set hearing dates,

(2) convene the hearing at the time and place specified in the notice for hearing;

(3) establish the jurisdiction of the District concerning the subject matter under consideration;

(4) rule on motions and on the admissibility of evidence and amendments to pleadings;

(5) establish the order for presentation of evidence;

(6) prescribe reasonable time limits for testimony and the presentation of evidence;

(7) designate and align parties and establish the order for presentation of evidence;

(8) refer parties to an alternative dispute resolution procedure on any matter at issue in the hearing;

(9) administer oaths to all persons presenting testimony;

(10) examine persons presenting testimony;

(11) issue subpoenas in accordance with Rule 10.6(j) when required to compel the attendance of witnesses or the production of papers and documents;

(12) compel discovery under these Rules;

(13) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;

(14) conduct public hearings in an orderly manner, in accordance with these

Rules;

(15) recess any hearing from time to time and place to place;

(16) reopen the record of a hearing for additional evidence, when necessary to make the record more complete;

(17) exercise any other appropriate powers necessary or convenient, to effectively carry out the responsibilities of presiding officer;

(18) exercise the procedural rules adopted under Section 36.415; and

(19) determine how to apportion among the parties the costs related to:

(A) a contract for the services of a presiding officer; and

(B) the preparation of the official hearing record.

(b) **Registration Forms.** Each individual, attending a hearing, public meeting, or other proceeding of the District, must submit a form providing the person's name and address, whom the person represents if the person is not there in the person's individual capacity, whether the person plans to testify; and any other information relevant to the hearing, public meeting or other proceeding.

(c) **Appearance; Representative Capacity.** Any interested person, or in the case of a contested-case hearing, any party designated by the Board pursuant to Rule 10.6, may appear in person, or may be represented by counsel, engineer, or other representative, provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. A person appearing in a representative capacity may be required to prove proper authority.

(d) **Alignment of Parties; Number of Representatives Heard.** Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding, or on any particular matter or ruling, and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding, or on any particular matter or ruling.

(e) **Appearance by Applicant or Movant.** The applicant, movant or party requesting the hearing, or a representative, should be present at the hearing. Failure to appear may be grounds for withholding consideration of a matter and dismissal without prejudice, or may require the rescheduling or continuance of the hearing, if the presiding officer deems it necessary in order to fully develop the record.

(f) **Reporting.** The presiding office 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.

A mediation is not a proceeding subject to this provision. The District does not prepare transcriptions of hearings recorded on audio cassette tape on District equipment for the

public, but will arrange for a party at interest to have access to the recording. Subject to availability of space, any party at interest may, at its own expense, arrange for a reporter to transcribe or record the hearing. If a proceeding, other than a permit hearing, is recorded by a reporter and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing, or other proceeding thus reported, may be purchased from the reporter. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Rule 10.6(b). 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.

(g) **Continuance.** The presiding officer may continue hearings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District office) for the hearing to reconvene are not publicly announced at the hearing by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding must be delivered by regular mail, at a reasonable time, to all parties and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting.

(h) **Filing of Documents; Time Limit.** Applications, motions, exceptions, communications, requests, briefs, or other papers and documents required to be filed under these Rules, or by law, must be received in hand at the District's office within the time limit, if any, set by these Rules, or by the presiding officer for filing. Mailing within the time period is insufficient, if the submissions are not actually received by the District within the time limit.

(i) **Affidavit.** Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This Rule does not dispense with the necessity of an affidavit being made by a party, when expressly required by statute.

(j) **Broadening the Issues.** No person will be allowed to appear in any hearing or other proceeding that, in the opinion of the presiding officer, is for the sole purpose of unduly broadening the issues as set forth in the Board order pursuant to Rule 10.3(k)(4) to be considered in the hearing or other proceeding.

(k) **Conduct and Decorum.** Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and will exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from

the proceeding for such time and under such conditions as the presiding officer deems necessary.

(l) **Remand to Board.** In hearings before a Hearings Examiner, at the request of the applicant, the Hearings Examiner may remand an application to the Board if all timely hearing requests have been withdrawn or denied or, if parties have been named, all parties to a contested case reach a settlement so that no facts or issues remain controverted. After remand, the application shall be uncontested, and the applicant shall be deemed to have agreed to the action proposed by the General Manager. The General Manager shall set the application for consideration at a Board meeting.

(m) **Certified Questions.**

(1) In hearings before a Hearings Examiner, at any time during the contested case proceeding, on a motion by a party or on the Hearing Examiners' own motion, the Hearing Examiner may certify a question to the Board.

(2) Issues regarding District policy, jurisdiction or the imposition of any sanction by the Hearings Examiner that would substantially impair a party's ability to present its case are appropriate for certification. Policy questions for certification purposes include, but are not limited to:

(A) the Board's interpretation of its rules and applicable statutes;

(B) the rules or statutes which are applicable to a proceeding;

(C) the Board's policy or whether a Board policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

(3) If a question is certified, the Hearings Examiner shall submit the certified issue to the General Manager. The General Manager shall place the certified issue on the agenda of the earliest possible meeting of the Board that is not earlier than 20 days after its submission, in compliance with the Open Meetings Act and other applicable law. The docket clerk shall give the Hearings Examiner and parties notice of the meeting at which the certified question will be considered. Within ten days after the certified question is filed, parties to the proceeding may file briefs on the certified question. Within ten days of the filing of such briefs, parties may file responses to such brief. Briefs and responses shall be filed with the docket clerk with copies served on the Hearings Examiner. The General Manager shall provide copies of the certified questions and any briefs and responses to the general counsel and to each board member. The Hearings Examiner may abate the hearing until the Board answers the certified question, or continue with the hearing if the Hearings Examiner determines that no party will be substantially harmed**.** The process for seeking Board answers to certified questions shall be considered as part of the contested-case hearing process.

The Board shall issue a written decision on the certified issue within 30 days following the meeting at which the certified issue is considered. A decision on a certified issue is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the Board's final decision in the proceeding.

10.5.5 Hearings Conducted by the State Office of Administrative Hearings

(a) If the District contracts with the State Office of Administrative Hearings to conduct a hearing, the hearing shall be conducted as provided by Subchapters C, D, and F, Chapter 2001, Government Code.

(b) If requested by the applicant or other party to a contested case, the District shall contract with the State Office of Administrative Hearings to conduct the hearing. If the District does not prescribe a deadline by rule, the applicant or other party must request the hearing before the State Office of Administrative Hearings not later than the 14th day before the date the evidentiary hearing is scheduled to begin. The hearing must be held in Travis County or at a location at the District office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location.

(c) The party requesting the hearing before the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall deposit with the District an amount sufficient to pay the contract amount before the hearing begins. At the conclusion of the hearing, the District shall refund any excess money to the paying party. All other costs may be assessed as authorized by Chapter 36, Water Code, or District rules.

(d) An administrative law judge who conducts a contested case hearing shall consider applicable District rules or policies in conducting the hearing, but the District deciding the case may not supervise the administrative law judge.

(e) The District shall provide the administrative law judge with a written statement of applicable rules or policies.

(f) The District may not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

10.6 - Contested Permit Hearings Procedures

(a) **Pre-hearing Conference.** A pre-hearing conference may be held to consider any matter that may expedite the hearing or otherwise facilitate the hearing process.

(1) **Matters considered.** Matters that may be considered at a pre-hearing conference include, but are not limited to: (1) designation of parties; (2) additional formulation and simplification of issues; (3) referral of parties to an alternative dispute resolution procedure (4) necessity or desirability of amending applications

or other pleadings; (5) possibility of making admissions or stipulations; (6) establishing a Discovery Control Plan; (7) identification of and specification of the number of witnesses; (8) filing and exchange of prepared testimony and exhibits; and (9) establishing procedure at the hearing.

(2) **Notice.** A pre-hearing conference may be held at a date, time, and place stated in the notice provided to those persons entitled to notice pursuant to 10.2(e) and may be continued from time to time and place to place, at the discretion of the presiding officer.

(3) **Conference Action.** Action taken at a pre-hearing conference may be reduced to writing and made a part of the record, or may be stated on the record at the close of the conference.

(b) **Assessing Reporting and Transcription Costs.** Upon the timely request of any party, or at the discretion of the presiding officer, the presiding officer may assess reporting and transcription costs to one or more of the parties. The presiding officer will consider the following factors in assessing reporting and transcription costs:

(1) the party who requested the transcript;

(2) the financial ability of the party to pay the costs;

(3) the extent to which the party participated in the hearing;

(4) the relative benefits to the various parties of having a transcript;

(5) the budgetary constraints of a governmental entity participating in the proceedings; and

(6) any other factor that is relevant to a just and reasonable assessment of costs.

In any proceeding where the assessment of reporting or transcription costs is an issue, the presiding officer will provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs will be included in the presiding officer's report to the Board.

(c) **Designation of Parties.** Parties to a hearing may be designated on the first day of hearing, or at such other time as the presiding officer determines. The General Manager and any person specifically named in a matter are automatically designated parties. Persons designated as affected persons by Board order in a determination of a contested-case hearing request pursuant to Rule 10.3(l) are also automatically designated as parties. After parties are designated, no other person may be admitted as a party unless, in the judgment of the presiding officer, there exists good cause and the hearing will not be unreasonably delayed.

(d) **Rights of Designated Parties.** Subject to the direction and orders of the presiding officer, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the

proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.

(e) **Persons Not Designated Parties.** At the discretion of the presiding officer, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record to inform the Board regarding various concerns or issues related to the application and may be considered as evidence if corroborated by sworn testimony or exhibits properly admitted into evidence by a party.

(f) **Furnishing Copies of Pleadings.** After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.

(g) **Interpreters for Deaf Parties and Witnesses.** If a party or subpoenaed witness in a contested case is deaf, the party who subpoenaed the witness will provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment that inhibits the person's comprehension of the proceedings or communication with others.

(h) **Agreements to be in Writing.** No agreement between parties or their representatives affecting any pending matter will be considered by the presiding officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered of record.

(i) **Discovery.** Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the presiding officer. Unless specifically modified by these Rules or by order of the presiding officer, discovery will be governed by, and subject to the limitations set forth in, the Administrative Procedure Act (APA), Texas Government Code §2001.001 et seq., as amended, and the State Office of Administrative Hearings (SOAH) Rules of Procedure, as amended. In addition to the forms of discovery authorized under the APA and SOAH Rules, the parties may exchange informal requests for information, either by agreement or by order of the presiding officer. Discovery commences at the time indicated in the Discovery Control Plan as approved by the presiding officer.

(j) **Subpoenas.**

(1) Requests for issuance of subpoenas or commissions in a contested case shall be in writing and directed to the Board.

(2) A party requesting the issuance of a subpoena shall file an original and one copy of the request with the General Manager, which shall arrange for the request to be presented to the Board at a regular or special meeting of the Board, in compliance with the Open Meetings Act and other applicable law.

(3) If good cause is shown for the issuance of a subpoena, the Board shall issue the subpoena or request that the Hearings Examiner issue the subpoena, in compliance with §2001.089 of the Texas Government Code.

(k) **Ex Parte Communications.** During the pendency of a contested case, neither the presiding officer nor the Board may communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with District staff not directly involved in the hearing in order to utilize the special skills and knowledge of the District in evaluating the evidence and does not apply to proceedings other than a contested permit hearing.

(l) **Compelling Testimony; and Swearing Witnesses.** Except where expressly limited by statute, such as under Government Code Section 2009.054, the presiding officer may compel any person to testify who is necessary, helpful, or appropriate to the hearing. The presiding officer shall administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

(m) **Evidence.** Except as modified by these Rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties. The presiding officer shall admit evidence that is relevant to an issue at the hearing. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(n) **Written Testimony.** When a proceeding will be expedited and the interests of the parties not substantially prejudiced, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection. 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.

(o) **Requirements for Exhibits.** Exhibits of a documentary character must be of a size that will not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.

(p) **Abstracts of Documents.** When documents are numerous, the presiding officer may receive in evidence only those that are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

(q) **Introduction and Copies of Exhibits.** Each exhibit offered shall be tendered for identification and placed in the record. Copies must be furnished to the presiding officer

and to each of the parties, unless the presiding officer rules otherwise.

(r) **Excluding Exhibits.** In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit shall be included in the record for the purpose of preserving the objection to excluding the exhibit.

(s) **Official Notice.** The presiding officer may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District‘s specialized knowledge.

(t) **Documents in District Files.** Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

(u) **Oral Argument.** At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

(v) **Supplemental Testimony.** If the board has not acted on the application, 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 10th day after the date of the hearing. A person who files additional written material with the presiding officer under this subsection must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application 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 10th day after the date the material was received.

(w) The District may authorize the presiding officer, at the presiding officer's discretion, to issue an order at any time before the Board takes final actions on a permit application that:

(1) refers parties to a contested hearing to an alternative dispute resolution procedure 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.

10.7 - Conclusion of the Permit Hearing

(a) **Hearings Before the Board**

(1) **Closing the Record.** At the conclusion of the presentation of evidence and any oral argument the presiding officer may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer.

(2) (a)Except as provided by Subsection (e), below, the presiding officer shall submit a report to the board not later than the 30th day after the date a hearing is concluded.

(b) The report must include:

(i) a summary of the subject matter of the hearing;

(ii) a summary of the evidence or public comments received; and

(iii) 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 report to:

(i) the applicant; and

(ii) each person who provided comments or each designated party.

(d) A person who receives a copy of the report under Subsection (c), above, may submit to the board written exceptions to the report.

(e) If the hearing was conducted by a quorum of the board and if the presiding officer prepared a record of the hearing, the presiding officer shall determine whether to prepare and submit a report to the board under this section.

(3) **Time for Board Action on Certain Permit Matters.** In the case of hearings before the Board involving original permit applications, or applications for permit amendments, the Board must act within 60 calendar days after the date the final hearing is concluded, for either an uncontested or contested-case hearing. This time limitation may be extended by the Board if permitted by Chapter 36 of the Texas Water Code.

(b) **Hearings Before a Hearings Examiner**

(1) **Closing the Record; Final Report.** At the conclusion of the presentation of evidence, and any oral argument, the presiding officer may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer. After the record is closed, the Hearings Examiner shall prepare a proposal for decision to the Board not later that the 30th day after the evidentiary hearing is concluded. The proposal for decision will include a summary of the subject matter of the hearing; a summary of the evidence or public comments received, the presiding officer's recommendations for board action on the subject matter of the hearing. Upon completion and issuance of the Hearings Examiners proposal for decision, a copy will be submitted to the Board and delivered to the applicant and each party to the proceeding. In a contested case, delivery to the parties will be by certified mail with return receipt requested.

(2) **Exceptions to the Hearings Examiner's** Proposal for Decision**; Reopening the Record.** Prior to Board action, any party in a contested case heard by a Hearings Examiner may file written exceptions to the Hearings Examiner's proposal for decision, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the proposal for decision and exceptions, the Hearings Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearings Examiner for further proceedings.

(3) **Time for Board Action on Certain Permit Matters.** In the case of hearings before a Hearings Examiner involving original permit applications, or applications for permit amendments, the Hearings Examiner's report should be submitted, and the Board must act, within 60 calendar days after the Board declares all proceedings involving the Hearings Examiner have been concluded.

(4) The board shall consider the proposal for decision 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 by Section 36.409.

(5) 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:

(A) that the administrative law judge did not properly apply or interpret applicable law, District rules, written policies provided under Section 36.416(e), or prior administrative decisions;

(B) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(C) that a technical error in a finding of fact should be changed.

(c) **Requests for Rehearing and or Finding and Conclusions**

(1) 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 and conclusions not later than the 20th day after the date of the board's decision.

(2) On receipt of a timely written request, the board shall make written findings and conclusions 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 party 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 not later than the 20th day after the date the board issues the findings and conclusions.

(3) 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 person requesting a rehearing must provide copies of the request to all parties to the hearing.

(4) 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.

(5) 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.

(d) **Decision; When Final.**

(1) A decision by the board on a permit or permit amendment application is final:

(a) if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or

(b) 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.

(2) Except as provided by Subsection (3), below, an applicant or a party to a contested hearing may file a suit against the District to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.

(3) An applicant or a party to a contested hearing may not file suit against the District if a request for rehearing was not filed on time.

10.8 - Rule-making Hearing Procedures

(a) **General Procedures.** The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information and comments related to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible.

(b) **Submission of Documents.** Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, or as stated in the notice of hearing given in accordance with Rule 10.2; provided, however, that the presiding officer may grant additional time for the submission of documents.

(c) **Informal Conferences**. 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.

(d) **Oral Presentations.** Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing stating the person's name, address, and whom the person represents, if the person is not at the hearing in the person's individual capacity. The presiding officer will establish the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

(e) **Conclusion of the Hearing; Closing the Record; Presiding Officer's Report** The 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. At the conclusion of the testimony, and after the receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. The Board shall either adopt the rule, reject the rule, or reopen the matter for further consideration. If the presiding officer is a Hearings Examiner, the Hearings Examiner will, after the record is closed, prepare a report to the Board. The report will include a summary of the subject of the hearing and the public comments received, together with the Hearings Examiner's recommendations for action. Upon completion and issuance of the Hearings Examiner's report, a copy will be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

(f) **Exceptions to the Hearings Examiner's Report; Reopening the Record.** Any interested person may make exceptions to the Hearings Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 10.7(b).

10.9 - Emergency Rules

Emergency Rules**.**

(1) The District's Board may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the Board:

(a) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

(b) prepares a written statement of the reasons for its finding under Subdivision (a), above.

(2) Except as provided by Subsection (3), herein, a rule adopted under this section may not be effective for longer than 90 days.

(3) 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.

(4) A rule adopted under this section must be adopted at a meeting held as provided under the Texas Open Meetings Act, Chapter 551, Government Code.

RULE 11 -- Reserved for Future Expansion

RULE 12 -- DISTRICT MANAGEMENT PLAN AND JOINT GROUNDWATER MANAGEMENT AREA PLANNING

(a) District Management Plan

The District Management Plan, and any amendments thereto, shall be developed using the District's best available data and forwarded to the Region A / Panhandle Water Planning Group for consideration in their planning process. The District Management Plan must also use the groundwater availability modeling information provided by the Texas Water Development Board in conjunction with any available site-specific information provided by the District and acceptable to the Texas Water Development Board. The District shall use the Rules of the District to implement the Management Plan. The Board will review the plan at least every fifth year and shall adopt amendments as necessary, after notice and hearing. Each district in GMA 1 shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers as adopted during the joint planning process.

Upon completion and approval of the District's comprehensive Management Plan, as required by §§36.1071 and 36.1072, Texas Water Code, the District shall forward a copy of the new or revised Management Plan to the other groundwater districts in the Joint Planning Committee (JPC) of Groundwater Management Area #1 (GMA1). The Board shall consider the plans of the other districts individually and shall compare them to other management plans then in force in the JPC of GMA1.

The presiding officer, or the presiding officer's designee, of the District shall meet at least annually to conduct joint planning with the other districts in the Management Area and to review the management plans and accomplishments for the Management Area, and proposals to adopt new or amend existing desired future conditions.

(b) Joint Planning in Management Area

The District will participate in the JPC of GMA 1 as required by Chapter 36 of the Texas Water Code.

RULE 13 -- WATER WELL DRILLING, COMPLETION, AND PLUGGING

13.1 - Requirements

(a) Complete records shall be kept and reports made to the District concerning the drilling, equipping, and completion of all wells drilled or reworked. The records shall include an accurate driller's log, any electric log that has been made, and all additional data concerning the description and completion of the well, its pumping capacity, and its equipment as may be required by the Board. The records shall be filed with the General Manager, on forms furnished by the District, within sixty (60) days after completion of the well.

(b) No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary for the testing and equipping of such well and equipment, unless or until the District has been furnished the information required by the Board on the forms furnished by the District.

(c) No person shall drill, complete, equip or rework a well or borehole without having a current Texas Water Well Driller's license, or Texas Pump Installer's license. Well drilling, completing, equipping, and reworking shall be in compliance with the Rules and Regulations of the District, state or federal agencies or political subdivisions having jurisdiction. Specifically the District herein adopts the rules of the Texas Department of Licensing and Regulation (TDLR) in Title 16 Texas Administrative Code Chapter 76 relating to water well drillers and water well pump installers. The District pursuant to Rule 3 may enforce against any water well driller or water well pump installer that fails to

adhere to these TDLR rules adopted herein by reference.

(d) The Board may promulgate special well completion requirements to address localized groundwater concerns.

(e) A water well driller, prior to drilling any well within the District, shall verify that the owner has fulfilled all the District's requirements for drilling a well, including obtaining necessary permits or registering exempt wells. Failure by the water well driller to verify compliance is a violation of District rules subject to enforcement pursuant to Rule 3 and Texas Water Code §36.102, as amended.

13.2 - Open Wells to be Capped

Every owner or operator of any land within the District upon which is located any open or uncovered well (as defined in Section 36.118 of the Texas Water Code, as amended) is, and shall be, required to close or cap the well safely and securely with a covering capable of sustaining weight of at least four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall allow any open or uncovered well to exist in violation of this rule. Officers, agents, and employees of the District are authorized to serve, or cause to be served, written notice upon any owner of operator or a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well with a covering in compliance with this rule. In the event any owner or operator fails to comply with such request within ten (10) days after such written notice, any officer, agent or employee of the District may go upon said land and close or cap said well in a manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the actual cost for any single closing. Any officer, agent, or employee of the District, is authorized to perfect said lien by the filing of the affidavit authorized by Section 36.118 of the Texas Water Code. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

RULE 14 -- WATER TRANSPORT FEE

As authorized by section 36.122 of the Texas Water Code, as amended, entities transporting water outside of the boundaries of Panhandle Groundwater Conservation District are subject to a water export fee using one of the following methods:

(a) a fee negotiated between the District and the transporter;

(b) a rate not to exceed 2.5 cents per thousand gallons of water transported out of the District; or the equivalent of District's tax rate per $100 valuation, per thousand gallons of water, whichever is greater.

The Board may annually review all fee rates during the annual budgetary process.

RULE 15 – DEPLETION AND PRODUCTION MANAGEMENT

15.1 - Management Standards

(a) **The 50/50 Standard.** The 50/50 Standard is a Management Standard that ensures at least 50% of the current supplies or saturated thickness of the Ogallala Aquifer remains after 50 years ("50/50 Standard") This Management Standard represents the proper balance between existing needs for water and future needs, and allows the District to meet the desired future condition of the Ogallala Aquifer within the District's boundary. The 50 year period began in 1998 and continues through dates identified in Goal 1.0 of the District Management Plan.

(b) **Management Sub-Areas and Production Floor Rates.** For better management of the aquifer, the District is divided into management sub-areas based on hydrogeological and usage characteristics as provided in Chapter 36.116, Texas Water Code. The management sub-areas are delineated on recognizable natural and built features and political and property lines. The sub-areas of the District are represented on a map and in the description attached to these Rules as "Attachment A" and available at the District office or on the District's website. The sub-area boundaries may be amended by the Board. The Board has established an annual production floor rate for each sub-area. Each rate is based on the volume of water that could be produced per acre in the sub-area and still meet the 50/50 Management Standard if all sections in the sub-area were producing. The annual production floor rates, expressed in acre-feet per acre per year for the sub-areas of the District are also contained in "Attachment A". The Board may review these rates not more often than every 5 years.

(c) **The Acceptable Annual Decline Rate.** To achieve the 50/50 Standard, production of groundwater shall be limited when necessary to a maximum annual production rate established in Rule 15.3. A maximum annual production rate will be established by the Board when the depletion of the saturated thickness of the aquifer within a Conservation Area, as set forth in Rule 15.3, exceeds the acceptable annual decline rate. As of December 15, 2004, the Acceptable Annual Decline Rate is 1.25% of the saturated thickness of the aquifer. Saturated thickness will be recalculated every 5 years to establish a new benchmark by subtracting the maximum acceptable decline for the previous 5 years from the current benchmark saturated thickness as shown in Figure 15.1.

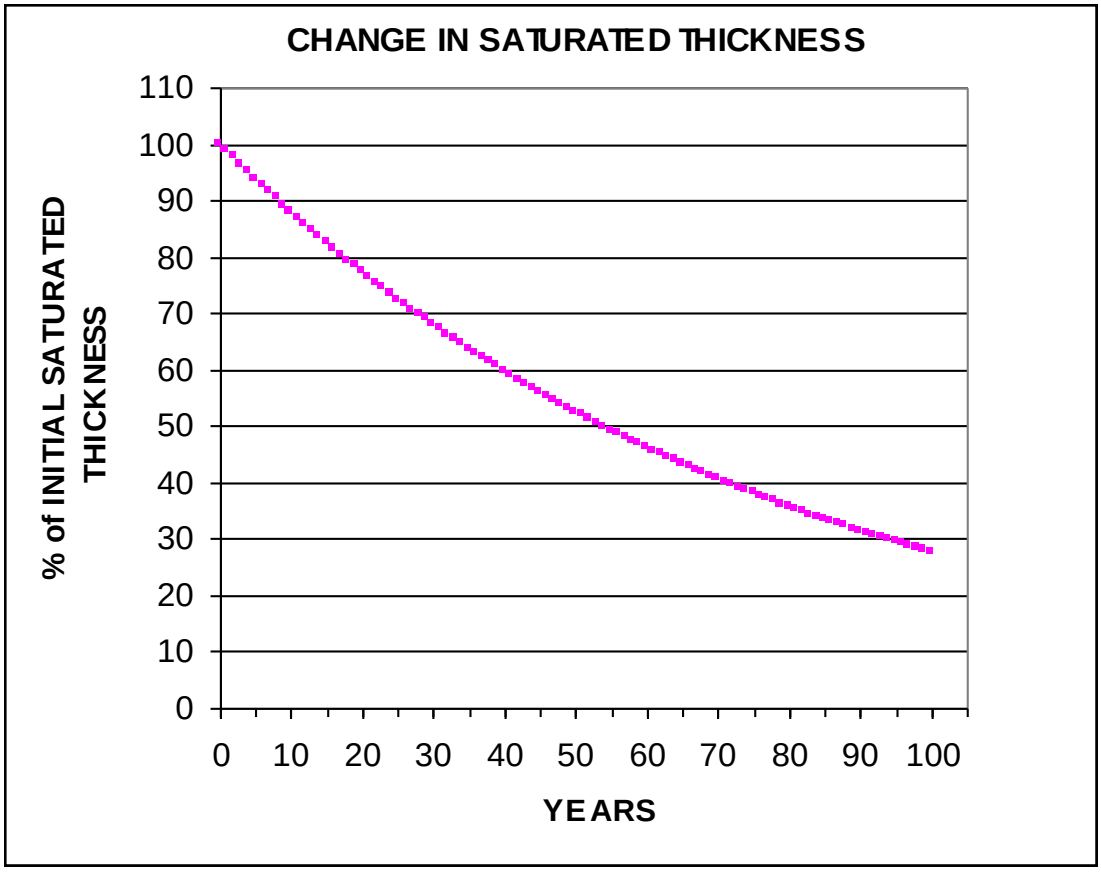


FIGURE 15.1

The initial benchmark saturated thickness for the purpose of the acceptable annual decline rate shall be based on the District's 1998 maps as updated by any new data obtained thereafter that the District has determined indicates a different elevation of the sediments that form the base of the Ogallala aquifer. All production of groundwater within the District or within sub-areas of the District shall be subject to the same initial acceptable annual decline rate as calculated from the original benchmark. A maximum annual production rate will be enforced under Rule 15.3 only when the actual percent decline in saturated thickness from the initial benchmark exceeds the Cumulative Acceptable Decline in saturated thickness from all years since the initial benchmark year. Figure 15.1 depicts graphically the percent decline in saturated thickness that groundwater producers cannot exceed during the fifty year period ending December 31, 2048. The District may restrict production from any well or wells within the District to the maximum annual production rate established in Rule 15.3 regardless of when or whether the well was permitted, the maximum quantity authorized in any permit, when production was initiated, or whether that production is not in excess of pumping rates in Rule 4. However, no producer may be restricted below the annual floor rate of their sub-area as indicated in 15.1 (b).

15.2 - Study Areas

(a) The Board, in determining areas of the District exceeding the acceptable annual decline rate, shall review information concerning the groundwater throughout the District.

This information shall be available for public review and shall include, but not be limited to, the following:

(1) the previous years' depletion maps;

(2) the actual water level measurements and the average water level declines for the District for the previous year; and

(3) maps and tables depicting the previous water level declines for the District.

(b) The Board, in determining areas of the District exceeding the acceptable annual decline rate, may also consider any additional information that may be available as a result of the development of new technology or procedures. Further additional information the Board may consider, includes, but is not limited to recharge studies, groundwater projections, groundwater models, and Regional Water Planning studies.

(c) The Board shall review the information described in Section 15.2(a) and (b), annually. The Board may designate any area as a Study Area that has exceeded the acceptable annual decline rate using available water levels measurements. Each Study Area so designated shall be given a unique name or number.

(1) Any established Study Area must contain an area exceeding the acceptable annual decline rate that is 9 contiguous square miles (sections) or larger, and shall include the entire area that exceeds the acceptable annual decline rate at the time of establishment.

(2) Using the information sources identified in Rule 15.2(a) and (b), the Board shall establish within the Study Area:

(A) water level declines;

(B) the depletion rate;

(C) production rates; and

(D) any additional information directed by the Board.

(d) If the Board delineates a proposed Study Area it shall notify by certified mail with return receipt requested the well owners, tenants, land owners, and owners of water rights identified by county appraisal district records within the proposed delineated area or areas of the intent to delineate the area as a Study Area and the time and place a public hearing is to be held to receive comment concerning the intent to delineate an area as a Study Area. Notice will be mailed at least 10 days prior to the date of the public hearing/meeting. After the Public Hearing, the Board shall, within 30 days, take action concerning the delineation of a Study Area.

(e) If the Board delineates a Study Area, the following information will be collected by the District from as many wells located within the Study Area as practicable and the

results reviewed by the Board annually:

(1) water level measurements and production records. These measurements shall be made as soon as possible to establish a benchmark for water level elevation and production volumes from within the Study Area;

(A) Water level measurements shall be a measurement from the land surface to the water level.

(B) Production records shall be the amount of groundwater produced from active water wells capable of producing 25,000 gallons or more per day within the Study Area. The production records shall be the total water produced for a period of not less than 12 consecutive months. The production records must come from equipment installed or approved by the District that will record gallons produced per minute and also total gallons produced;

(2) any relevant water quality analysis;

(3) environmental events which have occurred or are occurring within the Study Area;

(4) additional wells drilled within the Study Area prior to the delineation, or wells drilled after the delineation;

(5) change in water use practices or programs; and

(6) any other information which may relate to the cause for the Study Area delineation.

(f) Each succeeding year after the Board has delineated one or more Study Areas it shall continue to collect and review information identified in Rule 15.2 (e) concerning each Study Area, and shall make one or more of the following determinations:

(1) determine the area should not be identified as a Study Area and terminate additional monitoring;

(2) continue to monitor the area, require meters on all non-exempt wells and require well operators to verify the contiguous acreage of groundwater pumping rights associated with each non-exempt well or well field;

(3) propose an expansion of the Study Area to include an additional area or areas adjacent to the Study Area based on evaluation of information in 15.2 (a) (b) and (e);

(4) reduce the area of the Study Area as a result of information collected in Rule 15.2 (a) (b) and (e);

(5) designate the area as a Conservation Area, due to exceeding the acceptable

annual decline rate for the District for two years after being designated as a Study Area and exceeding the acceptable cumulative decline in saturated thickness.

(g) The District shall within 30 days inform by regular mail each producer in the Study Area registered with or permitted by the District of the Board's determination under subsection Rule 15.2 (f).

15.3 - Conservation Areas

(a) If the Board determines by a two-thirds majority vote of the entire Board based upon the information collected for a minimum of two years from within a Study Area under Rule 15.2 (c) that the Study Area is exceeding the acceptable cumulative decline rate in saturated thickness, it may delineate the area as well as the remainder of any sections that are only partially covered by the Study Area as a proposed Conservation Area. Once a Conservation Area is delineated, the area shall be given a unique name or number for identification purposes.

(b) If the Board delineates a proposed Conservation Area it shall notify persons within the proposed Conservation Area of the hearing as outlined in Rule 15.2 (d). Notification will include the time and place a public hearing is to be held as a rule making hearing in accordance with Rule 10.8 in order to provide an opportunity for comment concerning the intent to delineate an area as a Conservation Area. After the public hearing, the Board shall, within 30 days, take action concerning the delineation of a Conservation Area.

(c) When the Board delineates a Conservation Area, the Board may:

(1) require metering devices within 120 days after the Board has delineated the Conservation Area. All owners or operators of wells capable of producing 25,000 gallons or more per day within the Conservation Area must install a District approved meter or measuring device at the owner's expense;

(2) by rule pursuant to Rule 10.8 require production limits per acre of water rights owned or controlled within the Conservation Area, as set forth in Rule 15.3 (e), which shall operate in place of any production limits indicated in 4.3(g) or any permits issued by the District; and / or,

(3) by rule pursuant to Rule 10.8 set a limitation or moratorium on additional water well drilling within the Conservation Area unless new wells can be shown to lessen the depletion of the aquifer within the Conservation Area.

(d) The Board will determine the volume of water produced by each person within a Conservation Area as follows:

(1) The Board will annually determine the volume in acre-feet of water produced per acre of water rights owned or controlled by each person within a Conservation Area for the previous year.

(2) This annual production rate will be based on each person's total annual

production and total acres of water rights owned or controlled within the Conservation Area. Annually by October 1st, a person may request that acres of water rights that it owns outside the Conservation Area that are contiguous to the water rights it owns that is currently inside the Conservation Area be included in its rate calculation. The Board shall grant such a request so long as the person agrees to the inclusion into the conservation area and agrees to abide by the same requirements on such contiguous acres of water rights as it is subject to on acres of water rights owned or controlled within the Conservation Area.

(3) However, the Board may only include contiguous acres of water rights owned or controlled by a person that are under the same water rights ownership as the acres in the Conservation Area unless such additional contiguous acres of water rights are covered by a voluntary perpetual groundwater production ban in an agreement between the groundwater right owner and the District that is approved by the Board and recorded in the office of the county clerk.

(i) Under a perpetual groundwater production ban, the only wells that may be drilled or produce groundwater in the area included in the ban are exempt wells that produce less than 25,000 gallons per day.

(ii) Such perpetual groundwater production bans may, among other things, be used to protect areas that are environmentally sensitive which may be adversely affected by groundwater production due to affects on spring flows, fish and wildlife, endangered species, or other environmental concerns.

(4) No person in a Conservation Area shall produce at annual production rate as determined pursuant to Rule 15.3(d)(1)-(3) that is greater than the maximum annual production rate for the Conservation Area set by the Board pursuant to Rule 15.3 (e).

(e) The maximum annual production rate within a Conservation Area for the first year after delineation shall equal 1 acre-foot per acre of water rights owned or controlled within the Conservation Area or on other approved acreage as set forth in 15.3 (d). One year from the date a Conservation Area was delineated, the Board shall set the maximum annual production rate for the Conservation Area based on the information collected within the Conservation Area under Rule 15.2 (a),(b) and (e) and 15.3 (c) and using the following criteria:

(1) If the Board determines that the Conservation Area is exceeding the acceptable annual decline rate for the District or a sub-area of the District, it may decrease the maximum annual production rate within the Conservation Area by 0.1 acre-foot per acre unless that decrease would cause the rate to be below the annual production floor rate set in Rule 15.1 (b) for the affected area. The production floor rate for one or more properties owned or controlled by a person in a Conservation Area that overlaps two or more sub-areas and are included in the District's calculated production rate for that person will be established using a weighted average of the acres of water rights owned or controlled on such properties and the

established floor rates in each sub-area. The Board may not lower the maximum production rate within a Conservation Area for a period of two years from the date the limit was set or changed; or

(2) If the Board determines that the area within the Conservation Area is meeting the acceptable annual decline rate, it may maintain the maximum annual production rate for an additional year or it may increase the maximum annual production rate by 0.1 acre-foot per acre within the Conservation Area so long as the maximum annual production rate within the Conservation Area does not exceed 1 acre-foot per acre.

(f) Owners or operators of wells shall file annual production reports on the appropriate form or forms provided by the District within fifteen (15) days of December 31 each year.

(g) When a Conservation Area has been identified and delineated, the Board shall annually review pertinent data and may take one or more of the following actions:

(1) make no change;

(2) change the maximum annual production rate, pursuant to Rule 15.3 (e);

(3) identify any person within the Conservation Area exceeding the annual production rate based on calculations pursuant to Rule 15.3(d).

(4) propose an expansion of the Conservation Area to include an additional area or areas adjacent to the Conservation Area based on evaluation of information in Rule 15.2 (a), (b), and (e) and Rule 15.3 (c); or

(5) dissolve the Conservation Area partially or totally based on evaluation of information in Rule 15.2 (a), (b), and (e) and Rule 15.3 (c).

Any expansion by the Board of a Conservation Area shall meet all requirements in 15.3(a). Any changes in maximum allowable annual production rate of an expanded area may only follow the timeline in 15.3(e), specifically; the area may only be reduced by 0.1 acre-foot within the applicable time period.

(h) Annually the Board shall notify the well owners, land owners, and owners of water rights within the Conservation Area as identified by county appraisal district records within 30 days of their decision. Each person shall be notified of the maximum annual allowable production rate and the acres of water rights owned or controlled that will be included in the District's calculation of their annual production rates pursuant to Rule 15.3(d). If the annual allowable production rate has been changed, the notice shall be sent by certified mail with return receipt requested, otherwise the notice shall be sent by regular mail.

(i) If within five (5) years after productions limits have been removed from an area, the area is included within a Study Area, or found to be exceeding the acceptable annual decline rate, the Board may remand the area back to a Conservation Area and impose an

annual production rate of 0.9 of an acre-foot per acre without following the provisions of Rule 15.2 or the first year limit of 1 acre-foot per acre set by 15.3 (e).

(j) Production for compliance will be calculated on a 2 year rolling average in order to give flexibility during droughts or for crop rotation. If any producer within the Conservation Area fails to comply with pumping restrictions in a Conservation Area and shows a blatant disregard for the intent of the rules, the following penalties may be assessed:

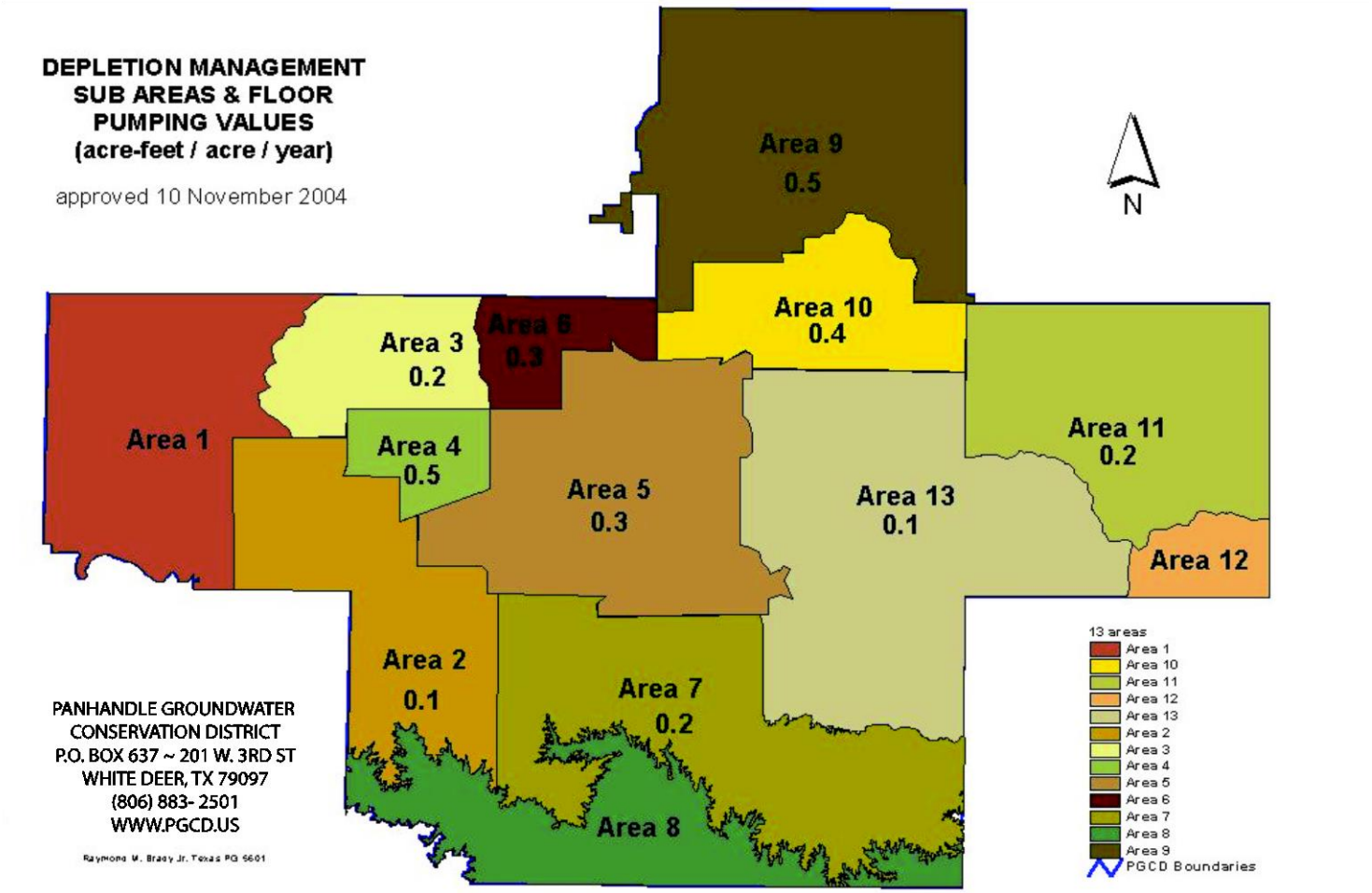
First Year	Compensate for last year's over-pumping or $1,000 (ex: if 1.25 ac-ft pumped, limited to 0.75 ac-ft)
Second Year	$1,000/acre-foot over
Third Year	$5,000/acre-foot over
Fourth Year	$10,000/acre-foot over

Maximum penalty for any offense cannot exceed $10,000 per day per violation according to state law.

If the violator is not cooperative or does not make reasonable progress towards compliance within a Board-determined timeframe, the Board may assess the penalty for every day that the violation is unresolved. For the second incidence of any offense, the listed initial minimum penalty shall be doubled and the third incidence shall be tripled, up to a maximum fine of $ 10,000 per day.

A violation of any limits or requirements established pursuant to Rule 15 may also be subject to enforcement action by the District pursuant to Rule 3.3.

Attachment "A"



15.4 – Minor Aquifer Depletion and Production Management

(a) Dockum Aquifer

The JPC of GMA 1 adopted a Desired Future Condition of the Dockum aquifer, whereby the average decline in water levels will be no more than 30 feet over the next 50 years. The 50 year time period began in 2010 and ends in 2060. Annual water level elevation maps will be prepared for the portion of the district that overlies the Dockum aquifer. That annual water level elevation will be compared to the initial water level elevation measured in 2010 to establish feet of decline. The feet of decline shall be averaged over the area of the District overlying the Dockum aquifer. If the average water level decline of the Dockum aquifer in the District exceeds 15 feet, then the Board shall establish a depletion compliance rule for the Dockum aquifer. Any areas of the District that overlie saturated portions of both the Dockum and Ogallala aquifers are subject to the Ogallala aquifer Depletion Rule as described in Rule 15.

(b) Blaine Aquifer

The JPC of GMA 1 adopted a Desired Future Condition of the Blaine aquifer, whereby 50 percent of the volume in storage in 2010 must be remaining in 50 years. However, since the regional model for the Blaine aquifer shows that aquifer will receive more recharge than is pumped annually, this DFC requires no depletion compliance rule at this time.

RULE 16 -- FINAL ORDERS OF THE BOARD

The orders of the Board, in any non-contested application or proceeding, shall become the final order of the Board on the day it is entered by the Board. The orders of the Board, in any contested-case hearing, shall become the final order of the Board, if a motion for rehearing is not filed on time, upon the expiration of the period for filing a motion for rehearing, or if a motion for rehearing is filed on time, on the date specified in Rule 10.7.

Delegation of Authority

The Board may delegate to the General Manager ministerial acts of the Board, actions on uncontested permit applications, and any financial transactions. The General Manager may delegate duties as may be necessary to effectively and expeditiously accomplish those duties, provided that no such delegation may ever relieve the General Manager from responsibilities under the District Act or Board orders.

Repeal of Prior Regulations

All of the previous rules and regulations of the District have been revised and amended;

and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with, or is contrary to, these rules is hereby repealed.

Validity of Authorized Well Sites and Permits

All well drilling sites or permits authorized by the District prior to amendment of these rules remain valid and in effect according to the terms of the permit. However, these permits continue to be subject to the rules of the District, as amended; the District Management Plan, as amended; and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended.

Savings Clause

If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason, by the 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 the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules, irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

Attest

_____ _____

Danny Hardcastle
President
Board of Directors

Chancy Cruse
Secretary
Board of Directors