

# **BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT RULES**



**ADOPTED  
MARCH 15, 2013**

**AMENDED:  
JULY 14, 2022**

**Whereas**, the Legislature of the State of Texas, under authority of Section 59, Article XVI of the Texas Constitution, enabled the creation of the Bandera County River Authority and Groundwater District (District); and

**Whereas**, the Texas Commission on Environmental Quality (TCEQ) ordered, on April 10, 2003, that the District's name be changed from Springhills Water Management District to Bandera County River Authority and Groundwater District; and

**Whereas**, the District is empowered with the authority of a groundwater conservation district as provided by the general laws of the State and Chapter 36, Texas Water Code; and

**Whereas**, the District is charged with conserving and protecting groundwater in the District; and as a dual powers District charged and empowered by article 16 section 59 of the Texas Constitution; and

**Whereas**, the District is directed by the Texas Water Code to establish rules for the District; and

**Whereas**, the District recognizes the wide range of variables involved in well construction and intends to facilitate well construction in special cases without jeopardizing the intent of these rules,

The Board of Directors of the Bandera County River Authority and Groundwater District hereby approves the amendment and adoption of the following rules for the District on this 14<sup>th</sup> day of July, 2022.

A copy of the District Rules will be furnished to interested persons upon request.

Donald Sloan  
Don Sloan,  
Board President

Attest:

Neil Boultinghouse  
Neil Boultinghouse,  
Secretary/Treasurer

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## **RULE 1. DEFINITIONS**

Unless the context indicates a contrary meaning, the words hereinafter defined shall have the following meanings in the Rules of the Bandera County River Authority & Groundwater District.

**Abandoned Well** – A well that is not in use. A well is considered to be in use in the following cases:

(A) the well is not a deteriorated well and contains the casing, pump, and pump column in good condition;

(B) the well is not a deteriorated well and has been capped;

(C) the water from the well has been put to an authorized beneficial use, as defined by the Water Code;

(D) the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or

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

**Acre-Feet** – Unit of measurement for annual amount of groundwater water production. An aggregate amount of water utilized for annual production limits.

**Administratively Complete Application** – An application in which all documentation required by District Rules, and payment of all appropriate fees pertaining to the application have been received by the District.

**Administrative Decision** – The decision of the District on an application permit, permit amendment, well registration variance, or any other action authorized by law.

**Agricultural Use or Purpose** – The use of groundwater for:

- (a) Cultivating the soil to produce crops for human food, animal feed, planting seed or for the production of fibers;

- (b) Practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;
- (c) Raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having a commercial value;
- (d) Planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- (e) Engaging in wildlife management; and
- (f) Raising or keeping exotic or equine animals.

**Applicant** – The owner of the land on which the well or proposed well is located, or another person (agent) authorized by the owner and accepted by the District.

**Aquifer** –A geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

**Beneficial Use or Purpose** – The use of groundwater:

- (1)for domestic, municipal, stock raising, agricultural, industrial, commercial, mining, manufacturing, irrigation, gardening, or pleasure/recreational purposes;
- (2)for exploring, producing, handling, or treating oil, gas, sulfur, or other minerals; or
- (3) and does not violate a permit condition.
- (4)for any other purpose that is useful and beneficial to the user except when such use or purpose falls under the definition of "Waste" as defined in these Rules or Chapter 36 of the Texas Water Code.

**Board** – The governing body of the District as prescribed by the District's enabling legislation.

**Capping** – A well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

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

**Closed Loop Well** – A vertical closed system well used to circulate water, and other fluids or gasses through the earth as a heat source or heat sink.

**Commercial Use or Purpose** – The use of groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs, and that use water in those processes; or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering).

**Conservation** – Practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve 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.

**Contested Case Hearing** – A case that originates from an appeal of an Administrative Decision made by the District.

**Deteriorated Well** – A well that, because of its condition, will cause or is likely to cause pollution or degradation of any groundwater or cause a public nuisance.

**Dewatering Well** – A well that is constructed to produce groundwater to lower the water table or potentiometric surface.

**Director** – An elected or appointed member of the Board of Directors of the District.

**District** – The Bandera County River Authority and Groundwater District or one of its authorized representatives.

**District Management Plan** – A management plan developed by the District pursuant to Texas Water Code, Section 36.1071.

**Domestic Use or Purpose** – The use of groundwater by a residence (not a business or other commercial structure) to support essential domestic activity, including but not limited to:



- (a) uses inside the residence;
- (b) irrigation of lawns, flower beds, shrubs, and trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale;
- (c) protection of foundations; and/or
- (d) non-commercial recreation associated with the residence.

**Edwards Formation** - Cretaceous limestone overlying the Glen Rose Formation which may cap hills in Bandera County and in some areas continuous with the Edwards Plateau to the west of Bandera County.

**Enabling Legislation** – Special law enactments that created the District by the legislature.

**Existing Well** – Any well within the District that existed prior to 1991.

**Geophysical Logs (also called Wire Line Logs or Electric Logs)** – Continuous recording or point measurement of physical properties of rocks and fluids in a bore-hole by means of a specialized probe lowered into the hole by a wireline or cable. For purposes of these rules, geophysical logs used for groundwater investigation may include gamma-ray logs (natural-gamma logs); electric logs (resistivity logs, spontaneous-potential logs, single-point-resistance logs, temperature logs, caliper logs, or other special purpose downhole logs.

**GPM – Gallons per minute.**- An instantaneous rate of pumping. Not an authorized annual amount of groundwater production.

**Groundwater** – Water percolating away from or stored beneath the earth's surface.

**Groundwater Reservoir** – A specific, subsurface, water-bearing formation having ascertainable boundaries and containing groundwater.

**Industrial Use or Purpose** – Use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods; or to wash, cleanse, cool, or heat such goods or products.

**Injection Well** – A well utilized to inject or flow fluids into a subsurface formation.

**Irrigation Use or Purpose** – Use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees other than for domestic use or purpose.

**Licensed Water Well Driller** - Any person who holds a current license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.

**Livestock Use or Livestock Purpose** – Domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. Animals typically kept as pets (i.e., dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, or other small mammals) are not considered livestock.

**Managerial Extension** – An extension of the expiration date on well permit applications and well registrations that may be granted by the District General Manager.

**Modify** – To alter the physical or mechanical characteristics of a well, its equipment, or production capacity; Modification can also mean an alteration in the designated Purpose, Use, or location of intended use. Modification does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment. .

**Monitoring Well** – A well that is constructed to measure or monitor the water level, quality and/or quantity, or movement of water beneath the surface of the ground.

**Notice of Violation** – Written correspondence from the District notifying any well owner that they are in violation of laws or in violation of District Rules, order, or policy.

**Observation Well** – A well for observing water level changes during an aquifer test.

**Owner** – Any person, partnership, firm, corporation or government entity who has the right to produce groundwater.

**Permit** – Subject to conditions, as stated in the Permit, Authorization by the District for the land owner to drill, complete and operate water well.

**Permit Amendment** – A District-approved change in a permit.



**Person or Persons** – Includes a corporation, individual, organization, cooperative, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

**Pollution** – The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any water in the District that renders the water harmful, detrimental or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

**Production Capabilities** – The volume of water a well can produce as determined by either the rated pumping capability of the installed pump or as measured by the District.

**Public Water System** – A system that provides water for human consumption through pipes or other constructed conveyances, which include all uses described under the TCEQ's definition for drinking water. Such a system must have at least 15 connections or serve at least 25 individuals at least 60 days out of the year. This term includes community water systems, non-transient non-community water systems, and transient non-community water systems, which maintain and operate collection, treatment, storage, and distribution facilities for providing potable water.

**Registered Well** – A well that meets the requirements for exemption from permitting, and is assigned a registered well number, and registered by the District.

**Replacement Well** – A new well which replaces an existing well located on the same tract of land.

**Rules** – The rules of the District compiled in this document and as may be supplemented or amended from time to time by a process articulated in this document.

**Seal** – An official seal, tag, or label placed on a well or its equipment; or the act of placing such a tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities not permitted by the District, shall be in violation of District Rules, and may subject the well owner to civil suit and/or penalties.

**Special Provisions** – Conditions and/or requirements added to a permit.

**Subdivision** – A division of land platted and approved by Bandera County

Commissioner's Court.

**Substantial Modification of a Well** – To change the physical or mechanical characteristics of a Well or its equipment, or increase Production Capabilities of a Well to more than its authorized production, or the Purpose or location of Use of the water produced in a way that may impact whether a Permit or Amendment to a Permit is required. This does not include maintenance or repair of Well equipment, Well houses or enclosures, or replacement with comparable equipment, or equipping Capped Wells that are Permitted by the District if the Production Capabilities are not more than its authorized production.

**TCEQ** – Texas Commission on Environmental Quality or predecessor or successor agencies.

**TDLR** – Texas Department of Licensing & Regulation or predecessor or successor agencies.

**Test Well** – An artificial excavation or well created from drilling, boring, or coring for the exploration for groundwater and/or testing aquifer conditions for pump tests.

**Uncontested Case Hearings** – Any application or other matters heard before the Board that is not originating from an appeal of a Board Decision.

**Undesirable Water** - Water that has a TDS (Total Dissolved Solids) reading of 1200 or more or contains other concentrated constituents that are harmful to human health.

**Variance** – An authorized exception to requirements or provisions of the Rules granted by the District.

**Waste** – Any one or more of the following:

- (a) The 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;
- (b) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
- (c) The escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

- (d) The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
- (e) Willfully or negligently causing suffering, or allowing groundwater to flow 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 TCEQ under Texas Water Code, Chapter 26, "Water Quality Control";
- (f) Groundwater pumped for irrigation that escapes as irrigation tail water 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;
- (g) Water from an artesian well not used for a purpose and in a manner in which it may be lawfully used on the owner's land or water which is caused or knowingly permitted to run off the owner's land or to percolate through the stratum above which the water is found;
- (h) Water from a well without a required permit or water from a well in excess of the rate approved for the well;
- (i) Groundwater pumped into ponds, lakes, tanks, reservoirs, water courses, or other surface impoundments for holding water, except as provided in District Rules or unless such discharge is authorized by permit, rule, or order issued by the TCEQ under Texas Water Code, Chapter 26; or
- (j) Groundwater pumped for industrial use in excess of the quantity, if any, recognized by the industry according to its Standard Industrial Code classification to be the maximum amount of water necessary to efficiently meet the demands for the particular use or application in question.

**Water Table** – The upper boundary of the saturated zone in an unconfined aquifer.

**Water Well Driller** – Any person who holds a current license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program. A property owner may drill a well on his own property without a license as long as all State and District rules are followed.



**Water Well Pump Installer** - Any person who holds a license issued by the State of Texas pursuant to the provisions of HB 1648, 72nd Texas Legislative Session and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.

**Well** – A water well, test well, injection well, dewatering well, monitoring well, closed loop geothermal well, piezometer well, observation well, or recovery well. An excavation drilled or dug into the ground that may intercept or penetrate a water-bearing stratum or formation.

**Well Log or Report** – The report that every well driller who drills, deepens, or modifies a well is required to complete under the Texas Department of Licensing and Regulation Rules, including any special purpose geophysical well log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

**Well Use or Purpose of Use** – The use of the well or the purpose for which water from the well will be used.

**Withdraw or Withdrawal** – The act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

### **Creation:**

#### **Bandera County River Authority**

In 1971, the 62nd Texas Legislature created the Bandera County River Authority under House Bill 988. It was created as a conservation and reclamation district under and pursuant to Article XVI, Section 59, of the Texas Constitution. As defined by Article 8280-526, Vernon's Texas Civil Statutes, the River Authority encompassed all of the territory contained in Bandera County except the territory included in the Bandera County Fresh Water Supply District No.1 (Pebble Beach) and the Bandera County Water Control and Improvement District No.1 (City of Bandera).

According to the provisions of the legislation, the Bandera County River Authority shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59 of the Texas Constitution; but to the extent that the Provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

## **Springhills Water Management District**

The Bandera County River Authority was a springboard for the creation of the joint surface and groundwater district. Beginning with the reorganization of the River Authority Board of Directors in 1985, the Directors began working with State and local officials, and concerned citizens to determine the most advantageous method to manage groundwater in Bandera County. After numerous public meetings the decision was made to pursue legislation creating a joint surface and groundwater district in Bandera County. The result was the creation and confirmation of the Springhills Water Management District.

Springhills Water Management District was created under Senate Bill 1636. The District's enabling legislation, appearing as Act of June 17, 1989, Ch. 654, 1989, Tex. Gen. Laws 2155 (Vernon), granted the District the rights, powers, privileges, authority, functions, and duties provided by Chapters 50 and 52; and the rights, powers, purposes, authority, and functions of the Bandera County River Authority. The legislation defines the District's boundaries as all of the territory contained within Bandera County. The legislation further stipulates that the Board of Directors will be composed of nine (9) directors. The directors will be elected from commissioner precincts with one director at large.

The Springhills Water Management District continued all of the programs and activities initiated by the River Authority, and implemented the programs required of a groundwater conservation district.

## **Bandera County River Authority and Groundwater District**



On April 10, 2003, the TCEQ authorized changing the District's name to Bandera County River Authority and Groundwater District. The BCRAGD continues all the programs and activities of Springhills Water Management. The District has all of the rights, powers, privileges, authority, functions, and duties now provided by Chapter 36 of the Texas Water Code.

## **RULE 2. GENERAL PROVISIONS**

### **2.1 Authority to Promulgate Rules**

- A. The Bandera County River Authority and Ground Water District is a dual powers political subdivision of the State of Texas. In 1971, the 62nd Texas Legislature created the Bandera County River Authority under House Bill 988. It was created as a conservation and reclamation district under and pursuant to Article XVI, Section 59, of the Texas Constitution. The groundwater conservation district was merged with the original Bandera County River Authority and created as the Springhills Water Management District Act, 62<sup>nd</sup> Legislature, Regular Session, 1989. The name of the District was changed from Springhills Water Management District to Bandera County River Authority and Ground Water District by TCEQ order on April 10, 2003.



- B. As a duly created groundwater conservation district and water control and improvement district, the District may exercise any and all statutory authority or power conferred by its enabling legislation, Section 59 article 16 of the Texas Constitution, and Chapter 36 of the Texas Water Code Section 36.101, Rule Making Power.
- C. The District is located within the boundaries of Bandera County and within the Groundwater Management Area 9. The District is part of Region J Regional Planning Group and located within the Hill Country Priority Groundwater Management Area.

## **2.2 Purpose of Rules**

- A. These Rules are promulgated to make and enforce rules to provide for the conservation, preservation and protection of aquifers within the District under the authority given by Chapter 36 of the Texas Water Code.

## **2.3 Ownership of Groundwater**

- A. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by the District as authorized by Chapter 36 of the Texas Water Code.

## **2.4 Regulatory Compliance**

- A. The District wells and well owners shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District. The Board may issue policies to supplement these rules.

## **2.5 Amending of Rules**

- A. The Board may, following the procedures of notice and hearing, amend these rules or any part of these rules or adopt new rules from time to time, as the Board deems necessary.
- B. The Board may adopt an emergency rule with an abbreviated notice and hearing according to Rule 7.2.

## **2.6 Savings Clause**

- A.** If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these rules; and the Board of Directors 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.

## **2.7 Variances**

- A.** The General Manager shall consider any exceptions or variances to these rules on a case-by-case basis. The applicant may request a hearing to appeal the General Manager's decision or to submit the request for variance to the Board for a hearing before the Board.

# **RULE 3. REGISTERING AND PERMITTING OF WELLS**

## **3.1 General Provisions**

- A.** All wells located in Bandera County shall be registered or permitted with the District before drilling. Based on the registration information or other information, certain water wells will require permits to be issued by the District. Wells not exempt as provided in Ch. 36 of The Texas Water Code and these rules shall be permitted by the District. All exempt wells shall be registered with the District.
- B.** All registrations and permits issued by the District shall be subject to District Rules, terms and conditions regarding the drilling, equipping, completion, usage, or modification of wells or pumps.
- C.** The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules and approve policies.
- D.** The District may conduct well and well site inspections during the registration process, permitting process, drilling operations, completion, and after completion to inspect, confirm well location, test water quality, status, completion, usage, adherence to District and State, rules, laws, policies, or other well-related investigations deemed necessary by the District.
- E.** No permits will be issued for wells completed in the Edwards Formation. All wells drilled through the Edwards Formation must be cased and cemented or grouted from below the Edwards Formation to the surface. This provision does not prohibit exempt wells from being registered in the

Edwards Formation. Exempt wells completed in the Edwards formation must be registered with the District.

- F. All fees for permitting and registration shall be set by the Board. The General Manager may wave the fee for tax exempt, government and for reissuance of a permit or registration that does not require reprocessing of the application.
- G. No person shall rework, re-drill, or re-equip a well that would increase the maximum rate of production of water beyond any previous rate of production, if the production from such well will be greater than 25,000 gallons per day or 17.36 gallons per minute, without first having obtained a permit from the District.

### **3.2 Wells Exempt from Permitting**

As defined in the Texas Water Code Ch. 36, the following wells must be registered, but are exempt from permitting. The following exemptions, exceptions and limitations apply to registered wells only:

- A. The District will not require a permit for drilling or producing from a well so long as the well is one of the following:
  - (a) For a new well located on a tract of land, in Bandera County, platted before September 1, 2002;
    - (1) Setback distances must be adhered to,
    - (2) Wells must adhere to all spacing and construction requirements mandated by both State and District rules, policies, and requirements,
    - (3) Used solely for domestic use or for providing water for livestock or poultry,
    - (4) Drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day,
    - (5) The tract of land shall not have an existing working well,
    - (6) If the tract contains an abandoned well that well must be plugged to District and TDLR rules or specifications
  - (b) For a new well located on a tract of land, in Bandera County, platted on or between September 1, 2002, and August 31, 2022;
    - (1) The tract of land shall be 5 acres or more,
    - (2) Used solely for domestic use or for providing water for livestock or poultry,
    - (3) Drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day,
    - (4) The tract of land shall not have an existing working well,
    - (5) For multiple water wells on the same tract of land over 5 acres there shall be a minimum of 5 acres per well to



help ensure the wells will still be considered as exempt /registered wells, and

- (6) If the tract contains an abandoned well that well must be plugged to District and TDLR rules or specifications.

- (c) For a new well located on a tract of land, in Bandera County, platted on or after September 1, 2022;

- (1) The tract of land shall be 10 acres or more,
- (2) Used solely for domestic use or for providing water for livestock or poultry,
- (3) Drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day,
- (4) The tract of land shall not have an existing working well,
- (5) For multiple water wells on the same tract of land over 10 acres there shall be a minimum of 10 acres per well to help ensure the wells will still be considered as exempt /registered wells, and
- (6) If the tract contains an abandoned well that well must be plugged to District and TDLR rules or specifications.

- (d) Wells with more than 5 and less than 15 residential connections, and are not considered public water supplies, must be permitted by the District as a Community Shared Well.

- (e) A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas, or it's successors, provided that the person holding the permit is responsible for drilling and operating the water well, and that the well is located on the same lease or field associated with the drilling rig. The well must be registered and comply with all Rules of the District for construction and reporting of volumes pumped.

- (f) A water well authorized under a permit issued by the Railroad Commission of Texas, or it's successors, under Chapter 134, Natural Resources Code, or for production from such a well to the extent that the withdrawals are required for mining activities regardless of any subsequent use of the water.

- (g) Wells must adhere to all spacing, construction, and usage requirements mandated by both State and District rules, policies, and requirements.

**B.** At any time, the production of a well exempt by subsection (3.2 (A)) is used for purposes other than those stated in subsection (3.2 (A)), the well is no longer exempt, and an application must be made for a permit.

- C. The District shall require all wells exempt under this section to be registered with the District before drilling. Water wells exempt under this section shall be equipped and maintained so as to conform to the District's rules requiring installation of casing, pipe and fittings to prevent the escape of ground water from a ground water reservoir to any reservoir not containing ground water, and to prevent the pollution or harmful alteration from any source of the character of the water in any ground water reservoir.
- D. A well to supply water for a subdivision of land for which a plat approval is required by law is not exempted under this section (Ch.36.117 (j); Texas Water Code).

### **3.3 Registration of Exempt Wells**

- A. As provided for in Ch. 36 of the Texas Water Code, no person, firm, or corporation may begin to drill, equip, complete, or substantially alter the size of a well or pump in the District.
- B. As provided for in Ch. 36 of the Texas Water Code, drilling or operating a well which will produce less than 25,000 gallons of ground water per day, must first complete an "Application of Intent to Drill or Alter a Well" or a "Well Registration" form from the District, gaining District approval for the application and paying a fee set by the Board.
- C. No person may begin to drill, complete, or alter a well to produce less than 25,000 gallons per day without having first filed a Bandera County River Authority and Groundwater District water well driller TDLR license certification form and gained authorization from the District.
- D. Registration must be applied for and filed with the District on forms promulgated by the District, in the name of the owner. The Registration application requires the Bandera County Appraisal District Parcel Number of the Well site and a copy of the current deed for the Well site.
- E. It is the responsibility of the owner or agent to supply all necessary information required for a registered well. It is the responsibility of the owner or agent to ensure access to the well for inspections. The owner shall be responsible for furnishing the water well driller with the proper and correct locations of items needed to meet minimum separation distances from wastewater facilities, property lines etc.
- F. An administrative fee set by the Board must accompany an application for registration.



- G.** The District will act on each registration request within five working days after receiving the completed application and fee.
- H.** The General Manager may rely on any credible means, including a site inspection, to establish a well's exempt status. A Well Registration may be issued if the General Manager determines, from the information submitted, that the application meets the requirements of an Exempt Well. The Exempt Well and its proposed usage and construction must be compatible with both District and State rules and requirements.
- I.** The General Manager has the authority to rescind a well registration during the registration and or drilling process for just cause.
- J.** If a Well Registration application, permit application, or permit amendment decided by the General Manager is denied or rescinded, the applicant shall be entitled to a hearing before the Board. A written request for such a hearing must be filed with the District within 30 days of the General Managers Decision. The District shall decide if the hearing should be conducted under the Permit Hearing Provisions or the Enforcement Hearings Provisions of these Rules. The District shall give notice of such hearing and shall proceed to conduct such hearing as provided for in these rules.
- K.** An approved Well Registration Application is valid for period of 90 days and may be extended upon approval from the District. A managerial extension may be obtained from the District for up to an additional 90 days.
- L.** Upon completion of the Well, the Driller must furnish to the Owner and the District a copy of the required State Well log and well Completion Paperwork and any other applicable information. The Water Well Driller shall have a maximum of 60 days from the Well completion date or cessation of drilling to submit the required Completion Paperwork and well log to the Owner and the District.
- M.** Inspection of the well location, drilling operations, and completion of a well by the District requires access to the well before, during, and after drilling operations and completion. The owner/agent shall ensure access to the well site and well for inspection.
- N.** A registered well may be converted to a permitted well after drilling and completion, if the required permit application is completed and additional fees are paid. Any well conversion from a registered well to a permitted well would be subject to District approval.
- O.** All wells existing, not registered with the District, which are producing or equipped to produce less than 25,000 gallons per day (17.36 gal/min), should be registered on a voluntary basis with the District on a form promulgated by the District. The District will waive the administrative fee.

### **3.4 Permitting of Non-Exempt Wells**

- A.** A permit shall be required for all wells drilled or existing in the District that do not meet exempt wells regulations (outlined in section 3.2) must be permitted by the District.
- B.** All permits, whether existing or permits that will be issued by the District, shall have an acre-foot annual production limit and an instantaneous pumping rate assigned by the District. Any existing permit that does not have both an instantaneous rate in gallons per minute and an annual pumping limit in acre-feet shall be amended administratively by the General Manager and brought up to current District Rules, policies, resolutions, or requirements.
- C.** A domestic and livestock well to be drilled on tracts of land platted on or between September 1, 2002, and August 31, 2022 that are less than 5 acres will require a permit.
- D.** A domestic and livestock well to be drilled on tracts of land platted on or after September 1, 2022 that are less than 10 acres will require a permit.
- E.** Permits must be applied for and filed with the District on forms promulgated by the District.
- F.** An application for a new well permit must be accompanied by an administrative fee set by the District.
- G.** No driller or drilling company may begin to drill any well or alter a well to produce 25,000 gallons or more per day without having first filed and have approved by the District a Bandera County River Authority and Groundwater District water well TDLR license certification form with the District.
- H.** Except as provided by exemption, perception, and limitations of the Texas Water Code Ch 36 or by these rules, no person, firm, or corporation may begin to drill, equip, complete or substantially alter the size of a well or pump in the District without first obtaining a permit from the District.
- I.** All administratively complete permit applications shall be referred to the Board for administrative action at the next Board Meeting.
- J.** If an application is denied, the applicant shall be entitled to a hearing before the board of directors. A written request for such a hearing must be filed with the District. The District shall give notice of such hearing and shall proceed to conduct such hearing as provided for in these rules.
- K.** Drilling of a permitted well must commence within 120 days of issuance of

the permit application. A managerial extension may be obtained from the District for up to an additional 180 days.

- L. Inspection by the District of the well location, drilling operations, and completion of a well requires access to the well before, during, and after drilling operations and completion. The owner/agent Shall ensure access to the well site and well after completion for District inspection.
- M. The water well driller shall have a maximum of sixty (60) days from the well completion date or cessation of drilling to submit the driller's log, District well completion report, and anything else required to the District.
- N. If the permit is denied or revoked by the District, or cancelled by the landowner, the permit fee will not be refunded.
- O. Within 30 days of Permit approval, the Permittee shall provide to the District proof that they have filed in the Real Property Records of Bandera County, an Affidavit to the Public on a District form, the purpose of which is to notify subsequent purchasers that a Permit has been issued for production of Groundwater from a Well on the property.
- P. To reduce the interference between wells during pumping, the following spacing is required between the wells: Wells that produce more than 25,000 gal / day must be a minimum of 200 ft. from any existing permitted wells in the same producing intervals. A well permitted to produce more than 72,000 gpd, (72,000 gpd = 50 gpm) must have a minimum of 1,000 feet from existing wells completed in the same producing formation. A variance by the Board may be made if the applicant submits sufficient acceptable data to show insignificant impact on existing wells.
- Q. Production Limits:
  - (a) The annual production limit for each permitted well can be set up to 1 acre foot per acre per year, times the total number of acres in the tract of land owned by the permit applicant and identified in the permit application as associated with the well. Any existing wells on the tract being utilized for the new well must be taken into account when setting the production limit.
  - (b) The total annual production for a tract with multiple wells is limited in the aggregate to one (1) acre-foot per year times the number of acres in the tract.
  - (c) For a Community Water System or Retail Public Water Utility that utilizes Groundwater as a source of supply, production limits shall be based on the service area and number of connections served instead of ownership of acreage. Once a Permit is issued containing a Production Limit based on this



Rule 3.4 , any expansion of the service area requires a Permit Amendment.

- (d) A lower production limit may be set in areas where water availability studies indicate insufficient water is available for permitting.
- (e) A variance to the production limits outlined by Rule 3.4 can be considered by the Board. The applicant shall produce documentation showing the beneficial use and documented need for the higher amount of groundwater production. The Board can require water availability studies with test wells, a geological survey outlining the impact to neighboring properties and aquifer conditions, or any other relevant data.

**R.** The following conditions or terms shall be included in a well permit:

- (a) The permitted annual production amount stated in acre-feet;
- (b) The maximum instantaneous production rate stated in gallons per minute;
- (c) Permit review date;
- (d) The permitted uses of produced groundwater;
- (e) Production meter and reporting requirement;
- (f) Drought restrictions;
- (g) District's right to inspect the well and well records to ensure compliance with District and State rules and requirements;
- (h) Date of expiration if no permit is drilled; and
- (i) Other conditions or restrictions required by the District.

**S.** The District may prohibit, reassess, or restrict production as set out in the Drought Management Plan.

**T.** Changes in ownership of permitted wells shall be reported to the District in writing and shall include:

- (a) The permit number.
- (b) The new owner's name and address.
- (c) The new owner's telephone numbers.

- (d) Copy of the deed to establish ownership.
  - (e) Use of well.
  - (f) A statement from the owner acknowledging and intention to comply with any permit conditions and reporting requirements.
  - (g) A statement from the owner acknowledging receipt of the District's rules and Drought Management Plan.
  - (h) A statement from the owner acknowledging the well can be inspected by District personnel to ensure compliance with District and State rules and requirements.
- U. The District may review the amount of water authorized to be pumped under a permit to reestablish pumping limits every 5 years.
- V. A change in operation or usage of a permitted well from those conditions specified in the existing permit is prohibited without approval of an application for an amended permit. If Permittee requests a change in permit conditions, the District will consider such request on the same basis as the District considers an application for a new permit.

### **3.5 Public Water Supply Wells**

- A. After any Public Water Supply well is completed, a pump test shall be conducted, and the District must receive a copy of the final pump test data and report before the well is placed in operation. The District must be notified of any subsequent pump test performed on the well. The water level shall be monitored during the test to determine specific yield and estimated transmissibility of the well.
- B. All public water supply wells must run and submit, to the District, copies of the geophysical logs run on the well. The logs shall include at a minimum, gamma ray and resistivity data for the entire depth.

### **3.6 Community Wells or Shared Wells**

- A. This rule applies to new wells that supply more than five (5) and less than fifteen (15) connections. Wells that can be classified as a public water supply are regulated and permitted by the Texas Commission on Environmental Quality (TCEQ) and are not included in this rule.
- B. Water wells covered by this rule shall be permitted with the District and supply the following information:

- (a) The name, address and phone number of the owner and



operator of the well or wells, deed of well property, parcel ID.

- (b) The number of households or connections served.
  - (c) A copy of the recorded well covenant and demonstrate ability to make repairs to the system.
  - (d) Map showing well and service area.
  - (e) Drought management plan.
  - (f) Affidavit to the public depicting service area.
- C. Water wells permitted by this rule shall have the system recorded by the District.
- D. All State and District rules, policies, requirements, and resolutions must be followed.
- E. The operator shall utilize a meter and record the volume pumped on a monthly basis and shall report the amounts to the District by January 15<sup>th</sup> of each calendar year on a form promulgated by the District.
- F. The operator shall obtain from a lab, a negative bacterial test for the system at least once a year. Results are due with the annual pumping reports on January 15 of each year.

### **3.7 Permit Application for a New Non-Exempt Well**

- A. The permit application provided for herein must be filed with the District on the form or forms promulgated by the District. A permit must be obtained from the District prior to the drilling of water well.
- B. The permit application for a new well must be accompanied by an application fee set by the Board which shall be used to cover the cost of considering and processing the application.
- C. A permit application for a well must include the following requirements unless waived by the General Manager:
- (a) The signature of the land owner;  
The well owner's name, mailing address, physical address or principal office address of the applicant, phone number, email address, a contact person (if different from the well owner), and the same information for the well operator (if different from the well owner);

- (b) Documentation establishing the applicable authority of a applicant other than the owner to construct and operate a well for the proposed use;
- (c) A current deed of the property;
- (d) The physical address and GPS location of the well;
- (e) Identification of the actual or anticipated location, pump size, and instantaneous production rate in gallons per minute and annual pumping amount in acre-feet of the well from which the water is to be produced;
- (f) A statement of the nature and purpose of the proposed use;
- (g) A statement of the anticipated time period within which the proposed construction or alteration is to begin;
- (h) A statement of the anticipated duration of time required for the proposed use of the water;
- (i) The proposed depth and geological name of the water-bearing formation;
- (j) A map showing the proposed new well and all existing wells within a quarter mile of new well;
- (k) Information showing what water conservation measures the Permittee has adopted, what water conservation goals the Permittee has established, and what measures and time frames are necessary to achieve the permittee's established water conservation goals;
- (l) If the water is to be resold to others, the applicant must provide:
  - (1) A description of the permittee's CCN service area in acres/sq. ft., etc.,
  - (2) A description of the permittee's metering and leak detection repair program for its water storage, delivery and distribution system,
  - (3) A copy of the drought management plan,
  - (4) 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;
- (m) Information, including a hydro-geological study with test wells, showing water availability and the projected effect of the proposed pumping on aquifer conditions or depletion and on existing permit holders or other groundwater users in the District;
- (n) A drought management plan or a letter stating that the permittee will abide by the Districts Drought Management Plan;
- (o) For a public water supply well, a copy of the Certificate of Convenience and Necessity from the TCEQ and any other

- documentation related to the public water supply wells;
- (p) Identification of well(s) within one-quarter (1/4) mile of the proposed well producing from the same formation.
  - (q) A well closure plan or a declaration that the applicant will comply with the well plugging guidelines and will report closure to the commission;
  - (r) Water quality testing for the following parameters: Conductivity, Temperature, Alkalinity (Total), total Hardness, Calcium, pH, Magnesium, Iron, Fluoride, Chloride, Sulfate, Nitrate/Nitrite, Lead, Mercury, Boron, Strontium, Potassium, Sodium, Aluminum, Antimony, Arsenic, Barium, Beryllium, Bromide, Cadmium, Chromium, Cobalt, Copper, Lithium, Manganese, Molybdenum, Phosphorus, Selenium, Silica, Silver, Thallium, Uranium, Vanadium, Zinc, Radium, Radon Gas, Gross Alpha Radiation, Gross Beta Radiation, Pesticide Screening, Organic Screening, Bacteria Screening, including Total Coliform and Fecal Coliform;

- D. The District shall determine whether the application, maps and other materials comply with the requirements of this rule. The District may require amendment of the application, maps or other materials to achieve necessary compliance.
- E. Wherever special provisions or policies are inconsistent with other provisions or District Rules, the special provisions or policies shall prevail.

### **3.8 Permit Application for Existing Wells that Require a Permit**

- A. The permit application must be filed with the District on forms promulgated by the District for non-exempt wells.
- B. The application must be on forms provided by the District and must include the following:
  - (a) Owner's name, mailing address and address of residence;
  - (b) The physical address and GPS location of the well;
  - (c) Production capacity of the well;
  - (d) Use of the water produced;
  - (e) Instantaneous Rate in Gallons per Minute (gpm) requested;
  - (f) Annual volume of water produced in acre-feet;
  - (g) Well log and construction detail, if known;
  - (h) If the water is sold to others, the applicant must provide:
    - (1) permittee's service area in acres (map of CCN if applicable)
    - (2) a map of the water storage, well and distribution system
    - (3) a copy of drought management plan
    - (4) statement of water conservation measures
    - (5) population served and number of connections in the system
    - (6) other information the District may need to process the



### **3.9 Change in Well Usage, Permit Review, Amendment**

#### **A. Change in Ownership of Permit**

Any change in Ownership of a permitted well shall be reported to the District by the purchaser on a District form within 30 days after the change. If there are unpaid fees at the time of transfer, the new Owner shall become responsible for payment of such fees. Failure to timely notify the District may result in the Permit being revoked. All transferred permits shall be brought into compliance with current District rules and policies before they are re-issued. Permit transfers can be approved by the General Manager as long as the new permit will be issued with the same conditions and same or lower usage, pumping amounts, and rates as the original permit. Permits that do not meet that criteria shall be reviewed by the Board for consideration at the next regularly scheduled meeting. The General Manager has the authority to refer any change in ownership request to the Board for consideration.

#### **B. District Review of Permits**

The District shall review the Permit at the end of each Permit term to ensure compliance with District or State Rules, Policies, or Permit Conditions. In the event of noncompliance or delinquent fees, the District shall notify the Permit Holder of the conditions preventing the automatic renewal of the Permit and allow the Permit Holder an opportunity to correct any noncompliance or pay delinquent fees. Failure of the Permit Holder to correct any noncompliance or pay delinquent fees within 30 days may result in referral to the Board for Enforcement action and possible revocation of the permit.

#### **C. Permit Amendment**

An amendment to a Permit is required for any Substantial Modification or Alteration of the operation, use, or condition of a Well, including changing the Production Limit, instantaneous rate, the type of Use of the Well, the place of use of the water produced from the Well, the size or depth of a Well, a Well pump, or its pumping volume. An application for an Amendment, on a form obtained from the District shall be submitted at least 90 days prior to the date the change is to take place. No amendment application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. Within 30 days after the date a Permit Amendment application is determined to be Administratively Complete, the application shall be acted on by the General Manager or referred to the Board.

### **3.10 Reporting**

- A. All Permittees shall keep monthly records of the amount of groundwater produced and the purpose of the production; such as records shall be**



available for inspection by District representatives. Immediate written notice must be given to the District in the event production exceeds the quantity authorized by this permit, or if the well is either polluted or causing pollution of the aquifer.

- B. Permittees authorized to produce water shall file with the District annual reports containing monthly water production and usage amounts. Such report shall be filed on the appropriate form(s) following the commencement of production of water, and within fifteen (15) days of January 1<sup>st</sup> of each year.
- C. The general manager may exempt from reporting annual pumping by any non-public water supply permitted well that is authorized to produce under 0.25 acre-feet per year.

### **3.11 Monitoring Devices**

- A. Unless exempted under Rule 3.10.C, all wells permitted shall be equipped with production monitoring devices approved by the District and available for District inspection at any time during normal business hours.

### **3.12 Injection Wells**

- A. All injection well permits, including those permitted by the TCEQ and the Railroad Commission of Texas, or their successors must be submitted and reviewed by the District.

### **3.13 Replacement Wells**

- A. A new well which replaces an existing exempt well shall be registered with the District, provided that after replacement, the existing well is permanently removed from service by plugging in accordance with current District Rules and State Rules, and registration of the new exempt well is complete and found to be in compliance with District rules and requirements.
- B. A new well which replaces an existing permitted well in the same aquifer need not apply for a new permit if the permittee of the existing well opts to transfer the permit of the existing well to the new replacement well, and if, after replacement, the existing well is permanently removed from service by plugging in accordance with current District and TDLR rules. The request to transfer the permit shall be in writing to the District and shall be accompanied by the permit fee for a new permitted well. The new well will be subject to current District rules and requirements regarding well construction, inspections, and usage.

## **RULE 4. REGISTRATION OF AQUIFER PENETRATIONS OTHER THAN DOMESTIC AND PERMITTED WATER WELLS**

### **4.1 Registration of Other Aquifer Penetrations**

- A. All drilling and exploration wells shall be registered with the District on a form promulgated by the District. This requirement will include, but is not limited to, closed loop geothermal, seismic shotholes, cathodic protection, oil drilling rigs, and water wells.
- B. All penetrations shall be plugged or completed to comply with the District's construction standards as described in these rules. Copies of the TDLR (Texas Department of Licensing and Regulation) plugging reports shall be submitted to the District.
- C. In addition to the information provided in the registration application, accurate driller's logs and records of equipping and completion of wells shall be kept, including any electric logs made, pump test data, water level data, water quality data or any data pertinent to the well. Such data shall be filed in the District office in Bandera, Texas, within 60 days of completion of the well. Failure to do so may invoke action to cap the well.

### **4.2 Geothermal Wells**

- A. Geothermal Vertical Loop Systems- Wells drilled for a vertical loop system shall be registered by the District. The registration may be by individual well or by an area registration. Details and plans must be provided to the District to include the following:

  - (a) Well construction method completion and depth
  - (b) Well (s) location and spacing (plat)
  - (c) Owner, owner's address, phone number, and legal description
  - (d) Contractors, addresses, and phone numbers
- B. Water Well Loop System- Geothermal system designed to use well water on the surface are prohibited in Bandera County. Geothermal systems designed to use well water that are re-injected back into an aquifer must be registered by its District. Provided policy is adopted by the District rules and provided in a Class 5 permit is obtained by TCEQ or its subsequent agency.

## **RULE 5. EXPORT OF GROUNDWATER OUT OF THE DISTRICT**

## **5.1 Export Permit**

- A.** Permits are required for a well if water from the well will be used outside the District, regardless of when it was drilled and completed, and regardless of its size or purpose. Additionally, an export permit is required under this rule.
- B.** For property located on the county line, no export permit is required to produce groundwater from a well located within the District, for use on the same property but in the adjacent county.

## **5.2 Export Permit Application**

- A.** In addition to the permit for a well or wells, the export permit application shall include the following:
  - (a) A legal description of the land on which the well is located;
  - (b) The exact location of the well, latitude and longitude;
  - (c) Non-refundable export permit application fee, which will be in addition to the well permit application fee. The export permit application fee shall be calculated in the same manner as the permit fee, to reflect the administrative costs of the District for the additional review and processing required by an export project, as authorized by Texas Water Code §36.122(d);
  - (d) A description, as specifically as is feasible, of the transportation facilities;
  - (e) Information, including a hydro geological study with test wells, showing water availability and the projected effect of the proposed export on aquifer conditions or depletion, and on existing permit holders or other groundwater users in the District;
  - (f) Information showing the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
  - (g) Information showing that the project is consistent with the approved Regional Water Plan and certified District Management Plan;
  - (h) A map or plat, as required by these rules, which includes the location of the meter and of the water transportation facilities;

- B.** The application must be administratively complete;
- C.** The District shall also consider the following for the export permit:
  - (a) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested.
  - (b) The projected effect of the proposed export on aquifer conditions and depletions.
  - (c) The effects on existing permit holders or other groundwater users within the District.
  - (d) Whether the project is consistent with the approved Regional Water Plan and Certified District Management Plan.
- D.** The following conditions or terms shall be included in an export permit, in addition to the conditions or terms required in a well permit:
  - (a) Payment of a reasonable fee or surcharge (export fee) at a rate per volume of water exported not to exceed the maximum rate stipulated by state law;
  - (b) The amount of water that may be exported outside the District;
  - (c) The period during which the water may be exported, but not less than the minimum period stipulated by state law.
- E.** The District may periodically review the amount of water authorized to be exported under an export permit, and may limit the amount if the factors warrant the limitation, as long as such restrictions are no more restrictive than those imposed on non-export operating permits in the area. Such periodic review may take place upon permit renewal or may be undertaken because of a change in well conditions or operations, or as a permit renewal, amendment, or revocation.

### **5.3 Export Facility and Equipment Requirements**

- A.** Facilities and equipment shall comply with the following guidelines:
  - (a) Installation of water quality and or quantity monitoring wells may be required as a condition of issuance of an export permit.



- (b) Well(s) producing water for export shall be equipped with a meter approved by the District, and the device shall be available for District inspection.
- (c) A facility for the transport of water for export shall be equipped with a flow monitoring device approved by the District and the device shall be available for District inspection.

## **5.4 Reporting Requirements**

### **A. The holder of an export permit shall:**

- (a) File quarterly reports with the District, describing the amount of water exported and used for the permitted purpose. Such report shall be filed on the appropriate form obtained from the District, on the 15<sup>th</sup> day following each quarter, and will include information for the quarter just ended. Filing deadlines are January 15, April 15, July 15, and October 15.
- (b) If a monitoring well is required, file with the District a Water Quality Analysis report from the well, semi-annually. Filing deadlines are January 15<sup>th</sup> and July 15<sup>th</sup>.
- (c) File with the District within 30 days of the annual report, copies of all water quality analyses performed on the permitted well or in connection with the export project.

## **5.5 Compliance with District Rules**

- A.** A well utilized to produce water for export is subject to all District and State Rules, policies, and resolutions applicable to wells and groundwater production.

## **RULE 6. CONSTRUCTION STANDARDS FOR WELLS**

### **6.1 Construction Standards**

- A.** No person may begin to drill, complete, or otherwise alter a well unless a Bandera County River Authority and Groundwater District Driller Certification form has been filed with and approved by the District.
- B.** A TDLR licensed water well driller shall be present during active drilling operations. This includes when casing is set, and the well is grouted. This driller shall be the same driller that signs the well log. The only exception is when a property owner is drilling his own well. However, all State and District rules must still be followed.
- C.** All wells shall be drilled, equipped, and completed so as to comply with the standards set by the Texas Department of Health, Texas Commission on Environmental Quality, Texas Department of Licensing and Regulation, and additional rules established by this District.
- D.** All wells must be completed so that any waters from the Fredericksburg Group (Edwards) does not commingle with the Upper/Middle Trinity aquifer (Glen Rose) and the Middle Trinity aquifers (Cow Creek). The Upper/Middle Trinity aquifer (Glen Rose) and the Middle Trinity aquifers (Cow Creek) shall not commingle with the Lower Trinity aquifers.
- E.** All wells must be completed so that the borehole is a minimum of three inches larger in diameter than the outside diameter of the casing used. The well must be cased to the total depth with perforated casing or screen across the producing interval. The general manager may grant a variance for open hole completion provided the casing is grouted or cemented from the top of production zone to the surface.
- F.** No person may begin to drill without notifying the District so that the District can have an inspector available to inspect different phases of drilling and completion, at Bandera County River Authority and Groundwater District's discretion.
- G.** The casing annulus for all wells drilled in the lower Trinity aquifers (Hosston Sand) must be filled with cement or other Texas Water Well

Drillers Board-approved material from the lowermost portion of the Hammet Shale to the land surface.

- H. The casing annulus for all wells completed in the Fredericksburg Group aquifers, the Upper Trinity aquifer, and the Middle Trinity aquifers must be pressure grouted with cement or other Texas State Regulatory Agency (TSRA)-approved material as close as possible to the top of the producing interval to the land surface.
- I. All wells completed in the Hosston Formation must be cased from the land surface to the bottom of the borehole utilizing perforated casing in the production zone as needed. The casing annulus must be filled with cement, or other TSRA approved material, from the top of the production zone to the surface. A variance may be granted by the General Manager upon a request by the landowner for an open hole completion in the production zone and if the driller sets and pressure-cements or grouts the casing from the top of the production zone to the surface.
- J. An exempt well must be spaced, at a minimum, 50 feet from the property line and 100 feet from existing wells. After a review of the application, the General Manager may grant a variance. A variance must be requested on forms provided by the District and the District may request additional information.
- K. All wells are to be completed with a sample valve at or near the well, before the storage tank, and with a ½ inch access port for measuring the water level in the well. The ½ inch access must be accessible.
- L. All wells must have a marker permanently installed in the concrete or concrete slab to identify the well's registration or permit number. The District shall provide the marker.
- M. If lost circulation occurs during drilling, the driller must either:
  - (a) Set casing or regain circulation for proper lithological logging of the well, or
  - (b) Pressure-grout the well from the top of the production zone to the surface.

The general manager may grant variances.

- N. Lithological Logging of the Well - The driller shall collect washed drill cuttings for each 10 foot interval drilled and lay out those cuttings in a suitable area for District inspection during drilling operations and after the well is complete.



- O. A pump installer must report to the District on forms provided by the District, any new well completion or the recompletion of a well where a new pump that increases the production rate of the well, has been set. The pump installer shall report the pump data on new wells to the District.
- P. Within 15 days of drilling, all wells and test wells must be cased and grouted or sealed to prevent co-mingling between aquifers and contamination from the surface. The District shall be notified if a problem or condition exists to prevent compliance to their rules.
- Q. All aquifer test wells require registration unless otherwise exempt by these rules. The test well shall be plugged according to these rules upon completion of testing, unless the well is to be completed as a water well. If the test well is completed as a water well, the District shall be notified and application forms must be completed. A credit will be given for test hole registration fee if the test hole is completed and approved as a permitted well.

## **RULE 7. HEARINGS**

### **7.1 Hearings on Changes to District Rules**

- A. Once the District has developed a proposal involving changes to District Rules, the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.
- B. Notice required by the Open Meetings Act shall be provided for the meeting.
- C. In addition to the notice required by the Open Meetings Act, not later than the 20<sup>th</sup> day before the date of the hearing, Notice shall be provided as follows:
  - (1) Post notice in a place readily accessible to the public at the District office;
  - (2) Provide notice to the county clerk of Bandera County;
  - (3) Publish notice in one or more newspapers of general circulation in Bandera County; and
  - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 7.1.G. Failure to provide notice under this Rule 7.1.C(4) does not invalidate an action taken by the District at a hearing under this Rule 7.1.
- D. Notice of the hearing on the proposal required by Section 7.1.C shall include:



- (1) A statement that the District Board of Directors will consider proposed changes to the District Rules at the Board meeting, which will serve as the public hearing on the matter;
  - (2) The date, time and location of the hearing;
  - (3) The agenda of the hearing;
  - (4) A statement that the proposal is available from the District Office prior to the hearing;
  - (5) A statement that the District will accept written comments and the deadline for submitting written comments;
  - (6) A statement that oral public comment will be taken at the hearing.
- E. Not later than the 20<sup>th</sup> day before the date of the hearing, annotated copies of the proposal showing the proposed changes shall be available at the District Office.
- F. Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 business days prior to the scheduled meeting at which the Board will consider the proposal.
- G. A person may submit to the District a written request for notice of a hearing under Rule 7.1.C(4). 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 hearing in a later year, a person must submit a new request.
- H. Anyone interested in the proposal may attend the meeting and make oral comments at the time designated for comments.
- I. The District shall make and keep in its files an audio recording of the hearing.
- J. The Board shall issue a written order or resolution reflecting its decision and the proposal that the Board approves shall be an attachment to that written order or resolution.
- K. The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by the Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.

- L. If in the course of deliberation during the meeting, the Board decides it wants to substantially change the proposal, the Board shall “continue” or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposal, the District shall provide notice and opportunity for comment and hold a hearing on the substantially changed proposal under this Rule. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

## **7.2 Adoption of Emergency Rules**

- A. The District may adopt an Emergency Rule without following the notice and hearing provisions of Rule 7.1 if the Board:
  - (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires adoption of a Rule on less than 20 days’ notice; and
  - (2) Prepares a written statement of the reasons for its finding under Rule 7.2.A(1).
- B. An Emergency Rule under this Rule 7.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C. Except as provided by Rule 7.2.D, a Rule adopted under this Rule may not be effective for longer than 90 days.
- D. If notice of a hearing under Rule 7.1 is given before the Emergency Rule expires under Rule 7.2.C, the Emergency Rule is effective for an additional 90 days.

## **7.3 Public Interest Hearings**

- A. A public hearing may be held on any matter within the jurisdiction of the District Board when the District Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.

## **7.4 Contested Case Hearing Procedures**

If any applicant wishes to appeal any action of the District they may request a contested hearing before the Board by giving written request for a Contested Case Hearing within 10 days of the District Action.

## **A. Scheduling of Hearing**

- (a) The General Manager or Board may schedule a hearing on permit or permit amendment applications received by the District as necessary.
- (b) The General Manager or Board may schedule more than one application for consideration at a hearing.
- (c) A hearing must be held at the District's principal office unless the Board provides for hearings to be held at a different location.
- (d) A hearing may be held in conjunction with a regularly scheduled Board meeting.

## **B. Notice**

- (a) Not later than the 10th day before the date of the permit hearing, the General Manager or Board shall:
  - (1) post notice in a place readily accessible to the public at the District's principal office;
  - (2) provide notice to the county clerk of each county in the District; and
  - (3) provide notice by
    - (aa) regular mail to the applicant,
    - (bb) regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (d); and
    - (cc) regular mail to any other person entitled to receive notice under District rules.
- (b) The notice provided under Subsection (a) must include: (1) the name of the applicant; (2) the address or approximate location of the well or proposed well; (3) a brief explanation of the proposed permit, including any requested amount of groundwater, the purpose of the proposed use, and any change in use; (4) the time, date, and location of the hearing; and (5) any other information the General Manager or Board considers relevant and appropriate.
- (c) Failure to provide notice under Subsection (a)(3)(bb) does not invalidate an action taken by the District at the hearing.
- (d) A person may request notice from the District of a hearing on a permit. 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 District personnel establishing attempted service by first class mail, facsimile, or electronic mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.



## **C. Hearing Registration**

The District may require each person who participates in a hearing to submit a hearing registration form stating (a) the person's name; (b) the person's address; and (c) whom the person represents, if the person is not there in the person's individual capacity.

## **D. Hearing Procedures**

- (a) Hearings will be conducted in such manner as the Board deems most suitable to the particular case, and technical rules of legal and court procedure need not be applied. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively, and expeditiously as possible without prejudicing the rights of either applicants or protestants.
- (b) A hearing must be conducted by: (1) a quorum of the Board; or (2) an individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing.
- (c) Except as provided by Subsection (d), the Board president or the hearings examiner shall serve as the presiding officer at the hearing.
- (d) If the hearing is conducted by a quorum of the Board and the Board president is not present, the directors conducting the hearing may select a director to serve as the presiding officer.
- (e) The presiding officer may: (1) convene the hearing at the time and place specified in the notice; (2) set any necessary additional hearing dates, (3) designate the parties regarding a contested application, (4) establish the order for presentation of evidence, (5) administer oaths to all persons presenting testimony, (6) examine persons presenting testimony, (7) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party, (8) prescribe reasonable time limits for testimony and the presentation of evidence; (9) limit the number of witnesses appearing whose testimony may be merely cumulative, and (10) exercise the procedural rules related to hearings on permit or permit amendment applications.
- (f) A party in a hearing is: (1) the applicant or (2) is a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within a district's regulatory authority and affected by a permit or permit amendment application, not including persons who have an interest common to members of the public.
- (g) The District may allow any person, including District personnel, to provide comments at a hearing on an application.
- (h) The presiding officer may allow testimony to be submitted in writing and may require sworn written testimony. 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.

- (i) 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 hearing. A person who files additional written material with the presiding officer under this section 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 section may file a response to the material with the presiding officer not later than the 10th day after the date the material was received.

## **E. Evidence**

- (a) The presiding officer shall admit clear and convincing evidence that is relevant to an issue at the hearing. Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to relying in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively, and expeditiously produced while preserving the substantial rights of the parties to the proceeding.
- (b) The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

## **F. Recording**

- (a) Except as provided by Subsection (b), the presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to a contested hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further

participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party.

- (b) If a hearing is uncontested, the presiding officer may substitute minutes or the report for a method of recording the hearing provided by Ch. 36 Texas Water Code.

## **G. Continuance**

The presiding officer may continue a hearing from time to time and from place to place without providing notice under section 8.2. If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties.

## **H. Report**

- (a) Except as provided by Subsection (e), the presiding officer may submit a report to the Board not later than the 30th day after the date a hearing is concluded.
- (b) The report must include: (1) a summary of the subject matter of the hearing, (2) a summary of the evidence or public comments received, and (3) the presiding officer's recommendation 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: (1) the applicant and (2) each person who provided comments or each designated party.
- (d) A person who receives a copy of the report under Subsection (c) 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.

## **I. Board Action**

The Board shall act on a permit application not later than the 60th day after the date the final hearing on the application is concluded.

## **J. Requests for Rehearing or Findings and Conclusions**



- (a) An applicant in a permit or permit amendment hearing or a District recognized party to a hearing may appeal a decision of the Board on a permit application by requesting written findings and conclusions or a rehearing before the Board not later than the 10th day after the date of the Board's decision.
- (b) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on a permit application. The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the Board receives the request. A person who requests a certified copy of the findings and conclusions from the Board may request a rehearing before the Board not later than the 10th day after the date the Board issued its decision.
- (c) A written request for rehearing must be filed in the District's principal office and must state the grounds for the request.
- (d) If the Board grants a request for a rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted.
- (e) 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.

## **K. Final Decision**

- (a) A decision on a Well Permit application or Permit Amendment application becomes effective as follows:
  - (1) 10 days after the date on which the President of the District signs the order or resolution, if no request for a rehearing has been received by the District. If a request for rehearing is filed on time,
    - (aa) on the date the Board denies the request for rehearing;  
or
    - (bb) the Board renders a written decision after rehearing.
- (b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file a suit against the District under Water Code Section 36.251 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.
- (c) An applicant or a party to a contested hearing may not file suit against the District under Texas Water Code Section 36.251 if a request for rehearing was not filed on time.

## **L. Consolidated Hearings**

- (a) Except as provided by Subsection (b), a 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: (1) drilling, equipping, operating, or completing a well or substantially altering the size of a well or well pump under Section 36.113; (2) the spacing of water wells or the production of groundwater under Section 36.116; or (3) transferring groundwater out of a District under Section 36.122.
- (b) A 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.

## **7.5 Hearings Conducted by State Office of Administrative Hearings**

- A. If the District receives a timely filed request for a contested case hearing, the application shall be set for an evidentiary hearing.
- B. Notice required by the Open Meetings Act shall be provided for the hearing if conducted by a quorum of the Board.
- C. The evidentiary hearing must be conducted by:
  - a) a quorum of the Board or an individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing. The Board President or the hearings examiner shall serve as the presiding officer at the hearing. If the hearing is conducted by a quorum of the Board and the President is not present, the Directors conducting the hearing may select a Director to serve as the presiding officer.
  - b) Upon request of the applicant or of the protestant, the Board may delegate to the State Office of Administrative Hearings (SOAH) the authority to conduct hearings designated by the Board.
    - i. If the Board refers a contested case hearing to SOAH, then the applicable rules of practice and procedure of SOAH (1 Tex. Admin. Code Ch. 155) govern any contested case hearing of the District, as supplemented by these rules and Chapter 36, Water Code.
    - ii. If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case



hearing shall serve as the hearing examiner and consider applicable District rules and policies in conducting the hearing. However, the District may not supervise the administrative law judge.

- iii. If the Board refers a contested case hearing to SOAH, the District may not attempt to influence the findings of facts or the administrative law judge's application of the law in a contested case hearing except by proper evidence and legal argument.
- iv. 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. The party must file such a request not later than the fourteenth (14) day before the date the evidentiary hearing is scheduled to begin. The Board order granting the contested case hearing may designate a location for the hearing inside the boundaries of the District or in Travis County at a location designated by SOAH. The party requesting the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, five business days before the hearing begins, deposit with the District an amount sufficient to pay the contract amount. At the conclusion of the hearing, the District shall refund any excess money to the paying party.

**D. The presiding officer has the following authority and obligations:**

- a) May convene the hearing at the time and place specified in the notice;
- b) May set any necessary additional hearing dates;
- c) May designate the parties regarding a contested application;
- d) May establish the order for presentation of evidence;
- e) May administer oaths to all persons presenting testimony;
- f) May examine persons presenting testimony;
- g) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;
- h) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- i) May prescribe reasonable time limits for testimony and the

presentation of evidence;

- j) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
  - k) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and
  - l) May continue a hearing from time to time and from place to place without providing notice. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties.
- E. The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party.
- F. If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30<sup>th</sup> day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board written exceptions to the report within 10 days of issuance of the report. The report shall include:
  - a) A summary of the subject matter of the hearing;
  - b) A summary of the evidence received; and
  - c) The hearing examiner's recommendations for Board action on the subject matter of the hearing.
- G. The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the application is



concluded.

**H. Request for rehearing or findings and conclusions shall be considered as follows:**

- a) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may administratively appeal a decision of the Board on an application by requesting written findings and conclusions or a rehearing before the Board.
- b) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- c) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.
- d) 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. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- e) 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.

**I. A decision by the Board on an application is final if:**

- a) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- b) 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.

**J. An applicant or a party to a contested hearing may file a suit against the**

District under Texas Water Code § 36 to appeal a decision on an application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

## **7.6 Hearings on Enforcement Actions**

- A.** If the District receives a written request for a hearing within 30 days from a respondent who has received a notice of violation from the District, or wishes to appeal any enforcement action, including the denial or rescinding of a well registration the District shall decide at which board meeting the enforcement action will be considered. The board meeting at which the enforcement action is considered under this rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.
- B.** Notice required by the Open Meetings Law shall be provided for the meeting.
- C.** Notice of the hearing on the enforcement action shall be mailed to the respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date:
- D.** Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.
- E.** The Board, at its sole discretion, may administer an oath to the staff, the applicant and anyone who makes oral comments on the application.
- F.** The board, at its sole discretion, may appoint a Hearings Officer or committee of the Board as a Hearing Body to conduct the hearing on the enforcement action. Any hearing conducted by a Hearing Body, shall be conducted in the same manner as provided in this rule. At the close of the hearing, the Presiding Officer of the Hearing Body shall make a written recommendation to the Board. The recommendation shall become part of the record. The board is not required to approve the recommendation of the Hearing Body.

## **RULE 8. SEALING, CAPPING AND PLUGGING OF WELLS**

### **8.1 Sealing of Wells**

- A.** Following due process, the District may, upon orders from the courts, seal, cap, or plug wells that are in violation of the District Rules.
  - (a) A well may be sealed when:



- (1) A well is drilled without a valid registration or permit;
  - (2) No application form has been filed for a permit to withdraw ground water from an existing well which is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or
  - (3) The Board has denied, cancelled or revoked a registration or permit.
- (b) The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District; other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.
- (c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping ground water from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

## **8.2 Capping of Wells**

- A. The District requires all unused wells to be capped to prevent waste, pollution, or further deterioration of a well casing. The well must remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well must be capped; if, however, the casing is in a deteriorated condition that would permit commingling of water strata, the well must be plugged or repaired. The cap must be capable of sustaining a weight of at least four hundred (400) pounds and not easily removed.

## **8.3 Plugging of Wells**

- A. Abandoned wells must be plugged in accordance with the standards established by the Texas Department of Licensing and Regulation's Well Driller and Pump Installers Rules. No such well may be used for disposal of trash, garbage, sewage, wastewater or other foreign material. It is the responsibility of the owner to see that such a well is

plugged to prevent pollution of the ground water and to prevent injury to persons.

- B. The District may assist the owner in plugging of water wells, if requested by the owner, to the extent allowed by District resources, to help defray the cost associated with the plugging of abandoned wells that are registered or permitted with the District and were drilled prior to the adoption of these rules. Water wells that supply or are associated with a public water system are not eligible for assistance through the well plugging fund. A test or blast hole in quarries or mines or a well or excavation constructed to explore for or produce oil, gas, or other minerals, is not eligible for assistance through the well plugging fund.
- C. Any person that plugs a well in the District shall submit a copy of the plugging report to the District within sixty (60) days of plugging completion.
- D. Water Well Drillers are required to notify both the owner of the property and the District in writing whenever a well must be plugged. The notification to the District shall be submitted on a District form and submitted within thirty (30) days.

## **RULE 9. WASTE**

### **9.1 Prohibition against Waste and/or Wasteful Use of Groundwater**

- A. Ground water shall not be produced in such a manner as to constitute waste as defined in Section 1.1 of these Rules.
- B. Any owner producing or using ground water shall use every possible precaution, in accordance with the latest approved methods, to stop and prevent waste of such water.
- C. Ground water pumped for industrial use will be considered waste if the quantity is in excess of the quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification to be the maximum amount of water necessary to efficiently meet the demands for the particular use or application in question.
- D. Groundwater pumped into ponds, lakes, tanks, reservoirs, natural watercourses is considered Waste of Groundwater unless a permit to do so was obtained from TCEQ.
- E. Any Well providing Groundwater as of February 24, 2010 to ponds, lakes, tanks, reservoirs, or other surface impoundments shall

obtain a Permit from TCEQ to continue such use unless Exempt under another rule.

- F. Any groundwater that is authorized under these rules to be pumped into lakes, ponds, tanks, reservoirs, natural watercourses, or other surface impoundments for holding water shall be subject to discontinuation during drought conditions as outlined by the District's Drought Management Plan.

## **RULE 10. INVESTIGATIONS AND ENFORCEMENT**

### **10.1 Right to Inspect and Test Wells**

- A. The District's officers, employees, agents, or representatives shall have the right at all reasonable times and after reasonable attempt to notify the owner, to enter upon lands on which a well or wells may be located within the boundaries of the District, to:
  - (a) Inspect such well or wells;
  - (b) Make any other reasonable and necessary inspections and tests that may be required or necessary for the enforcement of the District rules;
  - (c) Refusing to allow District personnel access to a site for necessary inspections, investigations, or tests can be grounds for referral to the Board or other Government entities for enforcement.
- B. The operation of any well may be enjoined by the Board of Directors immediately upon the refusal to allow the gathering of information as provided for in these rules.

### **10.2 Right to Enter Land**

- A. District employees and agents are entitled to enter any public or private property within the boundaries of the District or adjacent to any reservoir or other property owned by the District at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water or any natural resources in the state or the compliance with any rule, regulation, permit, policy, or other order of the District.



District employees or agents acting under this authority who enter private property shall notify when possible any occupant or management of their presence; and shall exhibit proper credentials.

### **10.3 Conduct of Investigation**

- A.** Investigations or inspections that require entrance upon property must be conducted at reasonable times and must try to be consistent with the Establishment's and the District's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves, when possible, to the owner, lessee, operator, or person in charge of the well or property.

### **10.4 Revocation**

- A.** A Well Registration, Well Permit, Export Permit, Permit for Community Water System, or other Aquifer Penetrations authorized and issued under these rules may be subject to revocation for abandonment, non-compliance with District or State rules, policies, resolutions, or deviation from the purposes or terms of the "Application of Intent to Drill or Alter a Well", "Well Registration", Well Permit, Well Permit conditions, Export Permit, or Export Permit Conditions.
- B.** The General Manager may forward a complaint to the Board to consider a permit revocation, suspension, amendment, or registration (exempt status) revocation for violations of District and State rules, policies, resolutions, or permit conditions. These violations can include a violation of the District's Drought Management Plan.
- C.** If a Well Registration or Well Permit is revoked, rescinded, or revised the applicant shall be entitled to a hearing before the Board of Directors. A written request for such a hearing must be filed with the District within 30 days of District action. The District shall give notice of such hearing and shall proceed to conduct such hearing as provided for in these rules.

- D. If an Application of Intent to Drill, Alter a Well, Well Permit, or well registration is revoked or rescinded, the entire fee is forfeited to the District.
- E. Hearings authorized by this rule will be subject to the provisions of Rule 7.6, Enforcement Hearings.

## **10.5 Violation of Rules**

### **A. Civil Suit -**

- (a) As authorized by the Texas Water Code, Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed \$10,000.00 per day per violation; each day of a continuing violation constitutes a separate violation. The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a complaint filed in a court of competent jurisdiction. In addition, the District may seek and the court shall grant recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.
- (b) Prior to instituting such a suit, the District shall send a Notice of Intent to Sue to the person who is believed to be in violation of law, including violation of a District Rule, order, or permit.

### **B. District Enforcement – District enforcement action will be taken after all efforts to obtain compliance have failed.**

- (a) The District shall send a notice of violation to a person who is believed to be in violation of law, including violation of a District Rule, order or permit. The notice shall include information about the violation, may require remedial action and may assess a penalty. The notice shall provide the opportunity for a public hearing under these rules.
- (b) Upon recommendations from District staff, the Board may assess penalties for non-compliance with District Rules, including failure to comply with conditions of a permit issued by the District. Penalties will be assessed in accordance with the following schedule:

<b>Non-Compliant Action</b>	<b>Max. Penalty</b>
Failure to notify District of start of all drilling and completion activity, location, date and time. This includes all pump installation and modification.	\$1,000.00
Starting to drill or drilling a well without a permit or registration	Up to \$10,000
Failure to timely submit Well Drilling & Completion Reports	Up to \$2500.00
Violation of any District Rule, policy, or permit requirement	Up to \$10,000.00
False statement on a permit application, permit amendment, permit transfer, annual production report, well registration application, or any District form.	Up to \$10,000.00
Ignoring any request for inspection, or not allowing any District inspection of a well, or ignoring or denying any request for access to a site for any legitimate District investigation.	Up to \$10,000.00
Failure to notify both the District and the property owner in writing on the requirement to plug any abandoned or deteriorated well. Also, failure to plug any existing well that had a replacement well authorized by the District to be drilled.	Up to \$10,000.00
Failure to follow District Directives Mandated by the District Drought Management Plan	Up to \$10,000.00

- (c) Failure to pay the penalty will result in an enforcement action by the Board.
  - (d) Failure to comply with District and State Rules will result in denial of authorization to operate in the County and removal of the driller or pump installer's name from the list of District Certified Water Well Drillers and Pump Installers. Additionally, the driller or pump installer shall be referred to TDLR (Texas Department of Licensing and Regulation) or any other appropriate regulatory for possible enforcement action.
- C. Violations under the jurisdiction of other governmental agencies, such as the TCEQ, TDLR, and Bandera County, will be referred to the appropriate entity for possible enforcement action.
- D. All wells and well owners and other persons subject to District jurisdiction, shall comply with all applicable rules, orders, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

## **10.6 Enforcement of Rules**

- A. If the Board determines that requirements have not been met, then the board may choose from the following actions to ensure compliance with District Rules:



- (a) Begin the permit hearing process for permit or registration revocation or suspension.
- (b) The Board of Directors, by majority vote, may adopt a schedule of civil penalties to be levied for breach of any rule of the District, not to exceed the maximum amount allowable per day per violation, and each day of a continuing violation constitutes a separate violation. Enforce these rules by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction.
- (c) Assess reasonable civil penalties for breach of any District Rule as authorized in Chapter 36 of the Texas Water Code. A penalty under this rule is in addition to any other penalty provided by law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located. If the District prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The court shall fix the amount of the attorney's fee.
- (d) Order a non-compliant well to be sealed or plugged after a notice and hearing conducted according to the procedure required by these rules.
- (e) Continue to work with the owner until compliance is met. The District may mandate the monitoring of groundwater use by requiring a meter on the well. The District may mandate the provision of regular production reports as determined by the Board.

Any combination of the above actions or any other reasonable means, as determined by the board, may be used to ensure compliance.

## **10.7 Failure to Comply**

- A. Failure to comply with District and State Rules will result in denial of authorization to operate in the County and removal of the driller or pump installer's name from the list of District Certified Water Well Drillers and Pump Installers. Additionally, the driller or pump installer shall be referred to TDLR (Texas Department of Licensing and Regulation) or any other appropriate regulatory for possible enforcement action.

## **RULE 11. EMINENT DOMAIN**

- A.** The District may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property if that property interest is:

  - (1) Within the boundaries of the district; and
  - (2) Necessary for conservation purposes, including recharge and reuse.
- B.** The power of eminent domain authorized in this section may not be used for the condemnation of land for the purpose of:

  - (1) Acquiring rights to groundwater, surface water or water rights;  
or
  - (2) Production, sale, or distribution of groundwater or surface water.
- C.** The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to deposit a bond as provided by Section 21.021(a), Property Code.
- D.** In a condemnation proceeding brought by the district, the district is not required to pay in advance or give bond or other security for costs in the trial court, to give bond for the issuance of a temporary restraining order or a temporary injunction, or to give bond for costs or supersede as on an appeal or writ of error.
- E.** In exercising the power of eminent domain, if the district requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived from the old facility.

## **RULE 12. DESIRED FUTURE CONDITIONS (DFC)**

### **Section 12.1 Groundwater Management Area 9**

- A.** The Texas Water Development Board (TWDB) has adopted rules in the Texas Administration Code, Chapter 356, related to groundwater management. The District is located in Groundwater Management Area (GMA) 9.
- B.** The TWDB has established the Modeled Available Groundwater (MAG) for the GMA 9 and the District. The MAG may be reviewed and changed as additional data is developed. GMA-9 has adopted a Desired Future Conditions to monitor the aquifer.
- C.** To manage the DFC, the Board has approved rules and policies designed to manage and protect the groundwater resources in the County. Also, the District has an approved management plan and maintains a Board approved Drought Management Plan.

### **Section 12.2 Management Plan**

The District has in coordination with surface water management entities on a regional basis developed a management plan that addresses the following management goals, as applicable:

- (1) Providing the most efficient use of groundwater;
- (2) Controlling and preventing waste of groundwater;
- (3) Controlling and preventing subsidence;
- (4) Addressing conjunctive surface water management issues;
- (5) Addressing natural resource issues;
- (6) Addressing drought conditions;
- (7) Addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective;
- and
- (8) Addressing the desired future conditions adopted by the district under Water Code Section 36.108.

### **Section 12.3 Drought Management Plan**

The District has approved a drought management plan to protect the aquifer in times of drought.





**BANDERA COUNTY RIVER AUTHORITY  
AND GROUNDWATER DISTRICT**

**DROUGHT  
MANAGEMENT  
PLAN**

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*Adopted October 10, 2013*

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OCTOBER 10, 2013

# **BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT**

## **DROUGHT MANAGEMENT PLAN**

### **1. Drought Status Guidelines and Requirements**

The Bandera County River Authority and Groundwater District has the authority to monitor and restrict the production from all Permitted Wells during times of drought. Permitted Wells are wells that are not exempt from permitting under Chapter 36 of the Water Code and under District Rules. This Board approved Drought Management Plan places the following reasonable restrictions on Permitted Wells.

All pumping of groundwater into ponds, lakes, impoundments, natural watercourses, or reservoirs is considered a waste of groundwater unless exempted or permitted under District and / or TCEQ Rules.

### **2. Recommended Restrictions on All Well Users During Drought**

Under State law and District Rules exempt well owners are not restricted during drought conditions. However, exempt well owners are expected to be good neighbors and informed stewards of the aquifer, adhering to accepted conservation practices. However, exempt well users who have been found to be wasting water as defined by District rules are subject to District enforcement actions.

### **3. Drought Stage Triggers**

Drought Stages are triggered by the U.S. Drought Monitor, <http://www.droughtmonitor.unl.edu>. However, Drought Stages can be adjusted at the discretion of the District when aquifer levels, rainfall, and river flow conditions warrant.

### **4. Initiation and Termination of Drought Stages**

The District shall provide public notification of the initiation or termination of drought stages by the following:

- Posting at the District's office
- In the newspapers of general circulation
- By direct mailing and/or e-mails to owners/operators of Permitted Wells
- Posting on the Districts' website [www.bcragd.org](http://www.bcragd.org)



## **5. Restrictions for Permitted Wells Including Wells Serving a Public Water System**

When there is a conflict between the Districts' Drought Management Plan and a public water supplier's plan, the more stringent of the two shall prevail. Public water supplies should implement the appropriate stage of their Drought Management Plan when these following drought stages are declared.

The following five stages give recommended watering practices for exempt wells and mandate required restrictions for permitted wells. These conservation measures are important to achieve the water conservation goal required for each Drought Stage.

## **6. Drought Stages 1, 2, 3, 4, and 5 are described below.**

### **STAGE 1(D0): ABNORMALLY DRY (MILD DROUGHT)**

Conservation Goal -10 % Reduction in pumping

**A.** Water permit users shall limit irrigation, including the irrigation of landscaped areas and turf, to the hours after 6:00 PM and before 8 AM to reduce water losses due to evaporation.

**B.** The following uses of water are defined as non-essential and shall be prohibited:

1. Washing down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.
2. Washing down buildings or structures for purposes other than immediate fire protection.
3. Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such a leak.

### **STAGE 2 (D1): MODERATE DROUGHT**

Conservation Goal – 20% Reduction in pumping

**A.** Water permit users shall limit irrigation, including the irrigation of landscaped areas and turf to the designated watering hours before 8:00 AM and after 8:00 PM

**B.** The following uses of water are defined as non-essential and shall be prohibited:

1. Washing down any sidewalks, walkways, driveways, parking lots, tennis

courts, or other hard-surfaced areas.

2. Washing down buildings or structures for purposes other than immediate fire protection.

3. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such a leak.

4. Washing any motor vehicle, motorbike, boat, trailer or other vehicle other than a public safety vehicle on a premises other than a commercial car wash or service station and not in the immediate interest of public health, safety, and welfare.

### **STAGE 3 (D2): SEVERE DROUGHT**

Conservation Goal – 30% Reduction in pumping

**The following drought restrictions and any subsequent enforcement actions not only apply to all permit holders and public water suppliers but to anyone who utilizes water from a public water supply system or any District permit holder in the County.**

**A.** Water permit users shall limit irrigation, including the irrigation of landscaped areas and turf to every other day during the designated watering hours before 8:00 AM and after 8:00 PM.

**B.** The following use of water defined as non-essential shall be prohibited:

1. Washing down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.

2. Washing down buildings or structures for purposes other than immediate fire protection.

3. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such a leak.

4. Washing any motor vehicle, motorbike, boat, trailer or other vehicle other than a public safety vehicle on a premises other than a commercial car wash or service station and not in the immediate interest of public health, safety, and welfare.

5. Permittees with wells permitted to pump into surface impoundments shall discontinue pumping. This does not apply to those wells permitted for non-domestic irrigation.

6. The filling of swimming pools is prohibited, however, pool levels may be maintained because of evaporation.

## **STAGE 4 (D3): EXTREME DROUGHT**

### **Drought Emergency**

Conservation Goal- 40% Reduction in pumping

**The following drought restrictions and any subsequent enforcement actions not only apply to all permit holders and public water suppliers but to anyone who utilizes water from a public water supply system or any District permit holder in the County.**

- A.** Water permit users shall limit irrigation, including the irrigation of landscaped areas and turf to one day a week during the designated watering hours before 8:00 AM and after 8:00 PM. However, golf courses that use treated wastewater effluent or other non-groundwater sources are allowed to utilize those sources for the watering of golf course greens, tees, and fairways.
- B.** The following use of water defined as non-essential shall be prohibited:
  - 1. Washing down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.
  - 2. Washing down buildings or structures for purposes other than immediate fire protection.
  - 3. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such a leak(s).
  - 4. Washing any motor vehicle, motorbike, boat, trailer or other vehicle not occurring on the premises of a commercial car wash or service station and not in the immediate interest of public health, safety, and welfare should be prohibited.
  - 5. All Permittees with wells permitted to pump into surface impoundments shall discontinue pumping. This does not apply to those wells permitted for non- domestic irrigation.
  - 6. The filling or adding to swimming pools is prohibited.
  - 7. Leak proof troughs shall be used to supply water to livestock.
- C.** **The issuance of new water well permits, and amendments may be suspended except to replace an existing well.**



## **STAGE 5 (D4) – EXCEPTIONAL DROUGHT**

### **Drought Emergency**

Conservation Goal 50% Reduction in pumping

**The following drought restrictions and any subsequent enforcement actions not only apply to all permit holders and public water suppliers but to anyone who utilizes water from a public water supply system or any District permit holder in the County.**

- A.** All requirements of Stage 4 remain in effect in Stage 5.
- B.** Irrigation of all landscape areas and turf is prohibited at all times.
- C.** All Permittees with wells permitted to pump into surface impoundments shall discontinue pumping.
- D.** The issuance of new water well permits, and amendments may be suspended except to replace an existing well.
- E.** All existing permits may have their authorized pumping amounts reduced by the District for the duration of Stage 5 and possibly even if the County falls back into Stage 4.
- F.** Any other measures deemed necessary by the Board to protect public health and safety.

## **7. Enforcement**

- A.** Failure to follow restrictions mandated by the Districts' Drought Management Plan can result in enforcement actions being initiated by the District. District rules authorize the imposition of fines up to \$ 10,000 for each infraction.
- B.** During Stage 4 and Stage 5, Public Water Suppliers and permittees may refer customers who fail to comply with any mandated drought restrictions to the District for possible enforcement actions.
- C.** Exempt well users that have been found to be wasting water, as defined by District rules, are subject to District enforcement actions.

## **8. Variances**

**\*Variances to this plan can be issued only when site specific conditions warrant and are subject to District approval.**