

the Texas Water Code;

WHEREAS, the Rules shall continue to be amended by the Board from time to time as necessary or appropriate after proper notice and public meeting;

WHEREAS, the Authority proposes the following amendments to the Rules: 1) adding definitions of terms used throughout the Rules; 2) eliminating Drilling Permits and requiring only Operating Permits for nonexempt wells; 3) simplifying the criteria to qualify as a well exempt from the requirement to obtain an Operating Permit, and including agricultural irrigation as an exempt use; 4) providing an exemption from the requirement to obtain an Operating Permit for certain wells with a production capacity under 17.36 gpm; 5) clarifying the respective roles and duties of and the coordination between the Authority and the Northern Trinity Groundwater Conservation District (the “NTGCD”); 6) revising spacing requirements to be based on a well’s maximum production capacity, and adding spacing requirements from other wells in addition to spacing requirements from property lines; 7) establishing a minimum tract size requirement for new wells of no more than one well per two acres; 8) requiring all new wells, whether or not exempt, and all existing wells that are substantially altered, to meet the Authority’s spacing and minimum tract size requirements; 8) providing a more detailed process for requesting an exception from the Authority’s spacing requirements, and establishing a process for requesting an exception to the minimum tract size requirements; 9) revising the scope and manner of the notice required to be provided for various applications; 10) allowing applications and other documents to be filed by email or online through the Authority’s website; 11) providing that all applications shall be administratively complete before the application may be acted upon; 12) authorizing the Board to establish a schedule of administrative fees for the processing of applications; 13) authorizing the General Manager to require notice of any permit, registration, exception, or any other information, to be posted in the real property records; 14) clarifying the General Manager’s authority to make certain decisions without going to the Authority’s Board, and to delegate certain responsibilities to the Authority staff; 15) requiring a meter to be installed on all permitted, nonexempt wells, regardless of production capacity; 16) prohibiting waste of groundwater within the Authority’s boundaries; 17) making minor typographical, formatting, and clarifying corrections to certain rules; and 18) other non-substantive clarifying and conforming changes;

WHEREAS, the Board finds that defining terms used in the Rules provides clarity, prevents errors, and makes the Rules more user-friendly;

WHEREAS, the Board finds it unnecessary to require a person to obtain both a Drilling Permit and an Operating Permit from the Authority, as the latter prohibits a person from drilling a groundwater well prior to receiving an Operating Permit from the Authority;

WHEREAS, the Board finds that the proposed clarification of the types of wells that are exempt from the requirement to obtain a permit more accurately reflect the Authority’s desire to

minimize the impacts of groundwater pumping while avoiding over-regulation of smaller wells and wells used for very specific purposes;

WHEREAS, the Board finds that agricultural irrigation is similar to the exempt uses of water provided for in the existing Rules, and that it is reasonable to add agricultural irrigation as an exempt use under the Rules;

WHEREAS, the Board finds that it is beneficial to water well owners within the Authority's boundaries to understand the respective roles and duties of the Authority and the NTGCD, and that clarification will facilitate compliance with both entities' requirements for water well owners;

WHEREAS, the Authority finds that it is authorized under the Authority Act and Texas Water Code Section 36.116(a) to establish well spacing requirements that are designed to minimize interference between wells, requiring all new water wells, whether exempt or nonexempt, to be spaced a certain distance from property lines and existing wells, based on the maximum production capacity of the proposed well;

WHEREAS, the Board finds that in order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure and to prevent interference between wells, the Authority is authorized under the Authority Act and Texas Water Code Section 36.116 and 36.002(d)(1) to establish a minimum tract size of not more than one well per two acres upon which a new well, whether exempt or nonexempt, may be drilled;

WHEREAS, the Board finds that establishing a process for requesting an exception to well spacing and minimum tract size requirements is necessary to allow for situations wherein a person cannot meet the requirements without experiencing economic or other legitimate hardship;

WHEREAS, the Board finds that clarifying hearings procedures on applications for exceptions to well spacing and minimum tract size requirements is necessary to sufficiently inform interested persons of their rights with regard to supporting or challenging any such application;

WHEREAS, the Board finds that revised notice procedures are necessary to ensure that notice of certain applications is received by those persons most likely to be affected by the application;

WHEREAS, the Board finds that allowing applications and other documents required to be filed with the Authority to be filed by email or online through the Authority's website makes the process easier and more convenient for applicants;

WHEREAS, the Board finds that requiring that an application be declared administratively helps the application to be processed in a timelier manner and avoids unproductive back-and-forth between the applicant and Authority staff;

WHEREAS, the Board finds that authorizing the Board to establish a schedule of fees to cover administrative costs for processing applications is necessary to carry out its duties relating to the regulation of water wells and is authorized by § 36.205, Texas Water Code;

WHEREAS, the Board finds that authorizing the General Manager to require notice of any permit, registration, exception, or any other information, to be posted in the real property records is necessary in certain instances to ensure that future property owners are aware of the existence of wells, the Authority's regulation of wells, or other information pertaining to the groundwater resources on the property;

WHEREAS, the Board finds that clarifying the General Manager's authority to make certain decisions without going to the Authority's Board and to delegate certain responsibilities to the Authority staff helps the Authority to operate more efficiently and allows the Board to focus on more critical decisions;

WHEREAS, the Board finds in order to ensure that accurate records and reports be made of the production of groundwater within the Authority pursuant to Texas Water Code Section 36.111, it is necessary to require metering of non-exempt wells, regardless of production capacity;

WHEREAS, the Board finds that it is necessary to fulfill the Authority's purpose as a conservation and reclamation district created under Article XVI, § 59, of the Texas Constitution, and in accordance with Chapter 36 of the Texas Water Code, to prevent the waste of groundwater, as that term is defined in Chapter 36, Texas Water Code;

WHEREAS, the Board finds that making minor typographical, formatting, and non-substantive or clarifying corrections to the Rules makes the Rules more user-friendly, lessens the possibility for confusion, misinterpretation, or misapplication of the Rules, and improves the efficiency of the Authority's processes;

WHEREAS, the Board finds that the proposed amendments to the Authority Rules, attached hereto as "Attachment A," are each and all merited and necessary to support the Authority's efforts in managing the groundwater resources within the boundaries of the Authority in a manner consistent with the requirements of Chapter 36, Water Code, and the Authority Act, and that each proposed amendment to the Authority Rules is supportable under the laws of the State of Texas; and

WHEREAS, the Board finds that all provisions of the Authority’s Rules as amended are duly authorized by the powers and duties granted to the Authority under the Authority Act and Texas Water Code Chapters 49, 51, and 36.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BENBROOK WATER AUTHORITY AS FOLLOWS:

1. The above recitals are true and correct.
2. The Board of Directors for the Authority hereby adopts the attached amended Rules for the Authority.
3. The Board of Directors, its officers, and the General Manager are further authorized to take any and all actions necessary to implement this resolution.
4. The Authority’s General Manager and legal counsel are further authorized to make any typographical corrections, formatting, and other non-substantive changes to the Authority Rules.
5. The Rules attached hereto and adopted by the Board of Directors shall be effective the fifth day after the date of publication of notice of these Rules, pursuant to §§51.129 and 51.130 of the Texas Water Code.

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 29th day of March, 2022.

BENBROOK WATER AUTHORITY

By: _____
President

Secretary