
**BENBROOK WATER AUTHORITY
WATER WELL RULES**

TARRANT COUNTY, TEXAS

As Amended and Adopted, ~~XXXXXXXXXX~~April 19, 2016

TABLE OF CONTENTS

BACKGROUND AND PURPOSE	5
SECTION I. DEFINITIONS	5
SECTION II. OPERATING PERMITS	7
RULE 1 –OPERATING PERMITS	7
RULE 1.1 PERMIT MANDATORY.	7
RULE 1.2 PERMIT TERM.	8
RULE 1.3 REPLACEMENT WELLS.....	8
RULE 1.4 LOCATION OF NEW WELLS	9
RULE 2 – OPERATING PERMIT CONDITIONS	9
RULE 2.1 PERMIT CONDITIONS.....	9
RULE 2.2 AUTHORIZED QUANTITY OF PRODUCTION	10
RULE 2.3 PROTECTING THE SUSTAINABILITY OF THE AQUIFER	10
RULE 2.4 PROPORTIONAL ADJUSTMENT.....	10
RULE 2.5 PERMIT AMENDMENT	10
RULE 2.6 OWNERSHIP TRANSFER.....	10
RULE 2.7 PRODUCTION LIMITATIONS.....	11
RULE 2.8 COORDINATION AND COMPLIANCE WITH NORTHERN TRINITY GROUNDWATER CONSERVATION DISTRICT (“NTGCD”) RULES	11
RULE 2.9 WELLS EXEMPT FROM WATER USE FEES	11
RULE 3 – PERMIT EXEMPTIONS	11
RULE 3.1 EXEMPTIONS FROM PERMITTING.....	11
RULE 3.2 REGISTRATION REQUIRED FOR EXEMPT WELLS	12
RULE 3.3 WELL SPACING REQUIREMENTS FOR EXEMPT WELLS	12
RULE 4 – WELL SPACING AND MINIMUM TRACT SIZE REQUIREMENTS	12
RULE 4.1 SPACING, LOCATION, AND COMPLETION OF NEW WELLS.	12
RULE 4.2 SPACING FROM OTHER WELLS	13
RULE 4.3 SPACING OF EXISTING WELLS	13
RULE 4.4 MINIMUM TRACT SIZE REQUIREMENTS	13
RULE 5 – EXCEPTIONS TO SPACING AND MINIMUM TRACT SIZE	14
REQUIREMENTS	14
RULE 5.1 EXCEPTIONS TO SPACING REQUIREMENTS.	14
RULE 5.2. EXCEPTIONS TO MINIMUM TRACT SIZE REQUIREMENTS.....	16
RULE 6 APPLICATIONS FOR OPERATING PERMITS AND PERMIT AMENDMENTS	20
RULE 6.1 REQUIREMENTS FOR OPERATING PERMIT APPLICATIONS	20
RULE 6.2 AGGREGATION OF WITHDRAWAL AMONG MULTIPLE WELLS IN A CONSOLIDATED PERMIT APPLICATION.....	20
RULE 6.3 COMPONENTS OF PERMIT APPLICATION	20
RULE 7 BOARD CONSIDERATION OF PERMIT APPLICATIONS	23
RULE 7.1 FACTORS TO BE CONSIDERED FOR OPERATING PERMITS.....	23

RULE 7.2	STANDARD GOVERNING BOARD’S DECISION ON APPLICATIONS	24
RULE 8	HEARING ON PERMIT APPLICATIONS.....	24
RULE 8.1	PUBLIC HEARING REQUIRED.....	24
RULE 8.2	HEARING CONDUCTED BY PRESIDING OFFICER.....	24
RULE 8.3	MANNER OF HEARING	24
RULE 8.4	AUTHORITY OF PRESIDING OFFICER	24
RULE 8.5	NOTICE AND SCHEDULING OF HEARING.....	25
RULE 8.6	CONTENT OF NOTICE	25
RULE 8.7	POSTING OF NOTICE	25
RULE 8.8	DATE OF HEARING.....	26
RULE 8.9	APPEARANCE AT THE HEARING.....	26
RULE 8.10	PROCEDURAL ORDER AT THE HEARING.....	27
RULE 8.11	PRESENTATION OF EVIDENCE.....	27
RULE 8.12	RELEVANCE OF EVIDENCE	27
RULE 8.13	CONTINUANCE.....	27
RULE 8.14	UNCONTESTED HEARINGS	27
RULE 8.15	BOARD ACTION.	28
RULE 8.16	REQUEST FOR REHEARING AND APPEAL.....	28
RULE 9	PERMIT RENEWAL.....	28
RULE 9.1	PERMIT RENEWAL	28
RULE 9.2	BASIS FOR RENEWAL	28
RULE 9.3	BASIS FOR DENIAL	29
RULE 9.4	RENEWAL APPLICATION REQUIREMENTS.....	29
RULE 10	FILING APPLICATIONS; FEES; APPEALS; RECORDATION IN REAL PROPERTY RECORDS	29
RULE 10.1	METHOD OF FILING.....	29
RULE 10.2	ADMINISTRATIVE COMPLETENESS	29
RULE 10.3	GENERAL MANAGER AUTHORITY.....	30
RULE 10.5	RECORDING OF NOTICE	30
SECTION II.....		30
WELL REGISTRATION REQUIREMENTS		30
RULE 11	WATER WELL REGISTRATION	30
RULE 11.1	REGISTRATION MANDATORY	30
RULE 11.2	REGISTRATION POLICIES AND PROCEDURES	30
RULE 11.3	TERM	31
RULE 11.4	RE-REGISTRATION	31
RULE 11.5	OWNERSHIP TRANSFER	31
SECTION III.....		31
METERING AND REPORTING REQUIREMENTS.....		31
RULE 12	METERING	31
RULE 12.1	METERS REQUIRED.....	31
RULE 12.2	COSTS	32
RULE 12.3	METER INSTALLATION.....	32

RULE 12.4 METER ACCURACY TO BE TESTED.....	32
RULE 13 REPORTING.....	33
RULE 13.1 ANNUAL REPORT DUE	33
RULE 13.2 NOTICE OF OVERPUMPAGE	33
SECTION IV.....	33
RULES COMPLIANCE AND ENFORCEMENT; WELL PLUGGING AND CAPPING; WASTE	33
RULE 14 RULES COMPLIANCE AND ENFORCEMENT.....	33
RULE 14.1 CIVIL PENALTIES.....	33
RULE 14.2 NOTICE AND ACCESS TO PROPERTY.....	33
RULE 14.3 CRIMINAL OFFENSE.....	34
RULE 14.4 REMEDIES NOT EXCLUSIVE	34
RULE 14.5 PEACE OFFICER	34
RULE 15 CAPPING AND PLUGGING OF WELLS; WASTE PROHIBITED.....	34
RULE 15.1 CAPPING OF WELLS	34
RULE 15.2 PLUGGING OF WELLS	34
RULE 15.3 WATER QUALITY PROTECTION GRANT PROGRAM.....	34
RULE 15.4 WASTE PROHIBITED	35
SECTION V.....	35
SANITATION AND POLLUTION CONTROL OF THE AREAS IN.....	35
PROXIMITY TO THE AUTHORITY’S PUBLIC WATER SUPPLY WELLS.....	35
RULE 16 – PROTECTION OF PUBLIC WATER SUPPLY WELLS.....	35
RULE 16.1 GENERAL.....	35
RULE 16.2 POLLUTION PREVENTION	35
RULE 16.3 APPLIES TO AUTHORITY WELLS ONLY	35
RULE 16.4 PROHIBITED ACTIVITIES.....	35
RULE 16.5 PENALTY	36
RULE 16.6 REQUIRED REMOVAL.....	36
RULE 16.7 SUPERSEDING REGULATION OR STATUTE	36
RULE 16.8 EXEMPTIONS FOR AUTHORITY WELLS.....	36
RULE 17 CONSTRUCTION AND SEVERABILITY	36
RULE 17.1 CONSTRUCTION OF WORDS AND PHRASES.....	37
RULE 17.2 SEVERABILITY	37

BACKGROUND AND PURPOSE

The Texas Constitution authorizes the creation of conservation and reclamation districts to plan, develop, and regulate the use of water. The Benbrook Water Authority (the “Authority”) is a conservation and reclamation district, water control and improvement district, political subdivision, and local unit of government authorized by the Texas Legislature to provide water and wastewater service to its customers and to implement a regulatory program governing the drilling, equipping, completion, location, and production of groundwater wells to protect groundwater resources and the beneficial use of groundwater by the Authority and other well owners located within the Authority’s boundaries.

These rules are adopted by the Authority’s Board of Directors (“Board”) to implement the statutory powers of the Authority, and have been adopted at a properly noticed public meeting in compliance with the Texas Open Meetings Act and in accordance with Section 59 of Article XVI of the Texas Constitution, Chapters 49 and 51 of the Texas Water Code, and the Authority’s enabling Act [Acts 1955, 54th Leg., R.S., Ch. 123, as amended] (“Authority’s Act”). The original effective date of these rules was March 15, 2006. The effective date of any amendments to these rules is the sixth-fifth day after the date of publication of notice of these rules, pursuant to §§51.129 and 51.130 of the Texas Water Code. The most recent amendments to these rules became effective on (date).

~~These rules are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the applicable laws of the State of the Texas. These rules are to be construed to attain those objectives.~~

SECTION I. DEFINITIONS

(1) “Agricultural irrigation” means the application of produced groundwater to soil for beneficial purposes as part of any of the following activities:

- a. cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- b. the practice of 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 or 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. wildlife management; and
- f. raising or keeping equine animals.

“Agricultural irrigation” does not include the application of produced water to a golf course or to landscaping features for residential, commercial, or other types of developments.

(2) “Aquifer” means a water bearing geologic formation in the Authority. See also the definition “layer of an aquifer.”

- (3) “Capacity” means the maximum rate in gallons per minute that a well, as equipped, is physically capable of producing groundwater at the wellhead.
- (4) “Domestic use” means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; and for watering of domestic animals. The term “domestic use” does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Further, “domestic use” does not include use by or for a public water system.
- (5) “Effective date” means XXX.
- (6) “Exempt well” means a new or an existing well that is exempt under Rule 3.1 from the requirement to obtain an Operating Permit.
- (7) “Existing well” means a well that was in existence, for which drilling commenced, or for which the Authority approved drilling prior to XXX (the effective date).
- (8) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.
- (9) “Layer of an aquifer” means (i) the Paluxy, which for purposes of these rules also includes any shallower formations; (ii) the Glen Rose, and (iii) the Twin Mountains geologic strata/hydrogeologic units.
- (10) “Leachate well” means a well used to remove contamination from soil or groundwater.
- (11) “New well” means a well for which drilling commenced on or after XXX (the effective date) except a well approved by the Authority prior to that date for drilling that was in fact drilled after that date.
- (12) “Nonexempt well” means a well that is required to obtain an Operating Permit under these rules.
- (13) “Operating Permit” means a permit required by the Authority for drilling, equipping, completing, substantially altering, operating, or producing groundwater from any nonexempt water well.
- (14) “Person” means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.
- (15) “Providing water for livestock or poultry,” as that term is used in this rule, means the use of groundwater by an individual or household for the open-range watering of livestock, exotic livestock, game animals, or fur-bearing animals.
- (16) “Property line” means the outer perimeter of a tract of land.

- (17) “Public water system” has the meaning assigned by the rules of the Texas Commission on Environmental Quality in Title 30, Texas Administrative Code Chapter 290.
- (18) “Registration” means a well owner providing certain information about a well to the Authority or an authorization that a well owner applies for from the Authority to engage in certain activities related to a well, as more particularly described under Rule 11.
- (19) “Substantially alter” with respect to the capacity of a well means to increase the maximum production capacity of the well as equipped in gallons per minute to a level that is higher than the maximum capacity set forth in the approved well registration for the well or, for a well without an approved well registration, the maximum capacity of the well prior to the alteration.
- (20) “Tract” means a surface estate plat, surface estate deed, or other legally recognized surface estate property configuration recorded in the deed records of the county in which the property is located and any contiguous tracts of land under the same ownership or lease of a single landowner, such as a corporation, partnership, trust, or individual, or persons holding as joint owners, joint lessees, or tenants in common.
- (21) “Well system” means two or more wells providing groundwater to a common distribution system, common natural or artificial storage facility, or common consumptive use.

SECTION II. OPERATING PERMITS

MANDATORY OPERATING PERMITS REQUIREMENT FOR DRILLING, EQUIPPING, COMPLETING, ALTERING, AND OPERATING GROUNDWATER WELLS

RULE 1 – DRILLING OPERATING PERMITS

Rule 1.1 Permit mandatory.

- (a) An Operating Permit is required by the Authority for drilling, equipping, completing, substantially altering, operating, or producing groundwater from any new or existing well that is not exempt from the requirement to obtain a permit under Rule 3.1.
- ~~(a) — The Authority requires a Drilling Permit for an exempt and nonexempt well sought to be drilled, equipped, or completed after the effective date of these rules, and for any exempt and nonexempt well existing on the effective date of these rules that will be replaced, altered, and/or reworked after the effective date of these rules. The Authority and its wells are exempt from the requirements of Rule 1 and its subparts.~~
- (b) The owner of an existing well that has produced groundwater for a beneficial use prior to the effective date of these rules who files a completed Operating Permit application with the Authority within ninety (90) days of the effective date of these rules may continue to operate the well without a permit until the Board takes final action on the Operating Permit application.

(c) A well owner must file a well registration application with the Authority in accordance with Rule 11 prior to Board consideration or approval of an application for an Operating Permit. A permit applicant who has not previously submitted an application for well registration with the Authority may do so simultaneously with submittal of the Operating Permit application, using a form provided by the Authority.

(d) Once an Operating Permit that authorizes drilling, equipping, completing, or substantially altering the capacity of a well is approved, the permit holder has one hundred twenty (120) days from the date of issuance of the permit to complete the drilling, equipping, well completion, or well alteration activities authorized in the permit. The General Manager may extend this deadline with good cause shown. A well completion report must be filed with the Authority within sixty (60) days of well completion using Texas Department of Licensing and Regulation Form #001 WWD.

Rule 1.2 Permit term. Unless specified otherwise by the Board or these rules, drilling permits are effective for a term ending 120 (one hundred twenty) calendar days after the date the permit is issued by the Authority, which may be extended by the General Manager with good cause shown. Unless specified otherwise by the Board or these rules, the initial Operating Permit is effective until December 31 of the next-fourth calendar year following the year in which the initial Operating Permit is issued. If renewed, such a permit shall thereafter be effective for a five-year term from the initial expiration date unless specified otherwise by the Board; provided, however, that an Operating Permit holder shall apply for a permit amendment at any time the permit holder desires to increase the quantity of water available for withdrawal and beneficial use specified in the permit.

Rule 1.3 Replacement wells. The General Manager may grant an application for a well registration or an Operating Permit amendment seeking a replacement well without notice, if the well is drilled within a reasonable distance of the existing well being replaced, in the sole discretion of the General Manager, and if it meets the following requirements:

(a) the replacement well will be completed and screened at an equal or greater depth than the well being replaced;

(b) the capacity of the replacement well as equipped will not exceed the maximum authorized and designed production capacity for the well that is being replaced; and

(c) immediately upon commencing operation of the replacement well, the well owner will cease all production from the well being replaced and will begin efforts to plug the well being replaced in compliance with the well plugging guidelines set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, which plugging shall be completed within ninety (90) days of commencing operation of the replacement well. Any person that plugs a well must submit a copy of the plugging report to the Authority and the Texas

Department of Licensing and Regulation within thirty (30) calendar days of plugging completion.

Rule 1.4 Location of new wells. After an Operating Permit has been issued, the well must be drilled at the location specified in the Operating Permit and its incorporated well registration.

RULE 2 – OPERATING PERMIT CONDITIONS

Rule ~~2.14.3~~ Permit conditions.

(a) The permit holder, by accepting the permit, agrees to abide by any and all groundwater withdrawal regulations established by the Authority that are currently in place, as well as any and all such regulations established by the Authority in the future. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of the permit and the rules of the Authority. In addition to any special provisions or other requirements incorporated into the permit, each permit is subject to the following standard permit provisions:

- (1) The permit terms may be modified or amended pursuant to the provisions of the Authority's rules to comply with statutory requirements.
- (2) The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.
- (3) The well site must be accessible to the Authority's representatives for inspection, and the permit holder agrees to cooperate fully in any reasonable inspection of the well and well site by the Authority's representatives.
- (4) The permit application and any accompanying well registration application pursuant to which ~~this-the~~ permit has been issued ~~is-are~~ incorporated in the permit, and the permit and registration are ~~is~~-granted on the basis of, and contingent upon, the accuracy of the information supplied in the ~~eat~~ applications. A finding that false information has been supplied is grounds for immediate revocation of the permit and registration.
- (5) Violation of a permit or registration's terms, conditions, requirements, or special provisions is punishable by civil and criminal penalties as provided by the Authority's rules and may subject the permit or registration to suspension or cancellation by the Authority's Board.
- ~~(6)~~ A permit or a registration issued by the Authority only authorizes the holder to drill and operate a well in accordance with the terms of the permit or registration. It does not vest the permit holder or registrant with any rights regarding the quality or quantity of the groundwater subject to the jurisdiction of the Authority, nor does the Authority make any representations regarding the physical quantity or quality of groundwater that a well may encounter.

Rule 2.2 Authorized quantity of production. The Authority shall designate the annual quantity of groundwater authorized to be withdrawn and used under an Operating Permit pursuant to the conditions of the Authority's Act, Chapters 49 and 51 of the Texas Water Code, and these rules, provided, however, that the quantity shall not exceed the lesser of the production limitations established under Rule 2.7 or an amount demonstrated by the applicant and determined by the Board to be necessary for beneficial use during the permit term, except as may be reduced if the Authority imposes restrictions as provided by the Authority's rules.

Rule 2.3 Protecting the sustainability of the aquifer. The Authority may limit the total annual production and maximum annual rate of groundwater withdrawal from any aquifer or layer of an aquifer within the Authority as the Authority determines to be necessary to ensure that groundwater may be used on a sustainable basis. The Authority's determination shall be based upon the best available hydrogeologic and other relevant scientific data, including but not limited to noted changes in the water levels, water quality, groundwater withdrawals, annual recharge, the loss of stored water in the aquifer or its layers, or future planning projections developed by or accessible to the Authority. Using the best available hydrogeologic and other relevant scientific information, the Authority will continue to study and accumulate data on the various aquifers and their subdivisionlayers located within the boundaries of the Authority, and may amend from time to time the limit on total annual production or the authorized rate of production either throughout the Authority or for a particular aquifer or its subdivisionlayers, based upon this data and any water resource management goals adopted by the Authority's Board.

Rule 2.4 Proportional adjustment. As determined by the Authority, if the total amount of production within an aquifer or its subdivisionlayers is greater than the annual sustainable amount available for withdrawal, production amounts may be decreased proportionally among all permit holders producing from that aquifer or its subdivisionlayers. When establishing proportional adjustment restrictions, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use.

Rule 2.5 Permit Amendment. An Operating Permit amendment is required prior to any deviation from the permit terms regarding the drilling of a well, the location of a proposed well, the maximum amount of groundwater to be produced from a well, ownership of a well or permit, the purpose of use of the groundwater, the location of use of the groundwater, or operation of additional wells, even if aggregate withdrawals remain the same.

Rule 2.6 Ownership Transfer. Absent an express reservation of rights in the transferor, the transfer of ownership of the well(s) designated by an Operating Permit is presumed to transfer ownership of the permit, and the transfer of the land and well site on which the well is located is presumed to transfer ownership of the well. The ownership of an Operating Permit may be transferred separately from the ownership of a well or the underlying land, subject to these rules and the permit's conditions. Upon transfer of ownership of any well(s), written notice must be given to the

Authority by the transferor or transferee as soon as practicable, but not longer than forty-five (45) days, and a permit amendment shall be applied for, if applicable.

Rule 2.7 Production Limitations. Subject to the Authority’s Act, Chapters 49 and 51 of the Texas Water Code, and these rules, the Authority shall not designate an annual quantity of groundwater authorized to be withdrawn and used under an Operating Permit which exceeds in any calendar year two (2) acre-feet per acre of land contiguous to the well site and owned or leased for the right to produce groundwater by the applicant as designated in the permit application.

Rule 2.8 Coordination and Compliance with Northern Trinity Groundwater Conservation District (“NTGCD”) Rules. The Authority and the NTGCD coordinate the oversight and regulation of nonexempt water wells located within the Authority’s jurisdiction. The General Manager shall forward a copy of all Operating Permits issued by the Authority and the well registrations incorporated in such Operating Permits to the NTGCD. Operating Permit holders shall comply with both the Authority’s rules and certain applicable rules of the NTGCD, including NTGCD rules regarding well registration, semi-annual groundwater production reporting, and payment of water use fees. Failure to comply with applicable NTGCD rules may result in an enforcement action against the permit holder by the NTGCD.

Owners of wells that are exempt from the requirement to obtain an Operating Permit under the Authority Rule 3.1 are only required to obtain an approved well registration from the Authority. Such exempt wells are not required to apply for a well registration or permit from the NTGCD or to report groundwater production or pay water use fees to NTGCD.

Rule 2.9 Wells Exempt from Water Use Fees.

Wells that are exempt from the requirement to obtain an Operating Permit under Rule 3.1 are also exempt from the metering, groundwater production reporting, and water use fee payment requirements of NTGCD.

RULE 3 – PERMIT EXEMPTIONS

Rule 3.1 Exemptions from Permitting.

(a) The Operating Permit requirements in these rules do not apply to:

(1) any new or existing well used solely for domestic use, ~~or for providing water for livestock or poultry, or for agricultural irrigation;~~

(1)(2) ~~A~~any new or existing well ~~or new well~~ that is not a public water supply well and:

(A) does not have the capacity, as equipped, to produce more than 17.36 gallons per minute, except as provided by Subsection (b) of this rule; and

(B) is used in whole or in part for any purpose of use other than solely for domestic use, for providing water for livestock; or poultry use, or for agricultural irrigation; or

(3) monitoring, leachate, or dewatering wells.

~~For the purposes of this rule, the term "domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; and for watering of domestic animals. The term "domestic use" does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Further, "domestic use" does not include use by or for a public water system.~~

~~The term "providing water for livestock or poultry," as that term is used in this rule, means the use of groundwater by an individual or household for the open range watering of livestock, exotic livestock, game animals, or fur-bearing animals.~~

(b) For purposes of determining whether the exemption set forth under Subsection (a)(2) of this rule applies, the capacity of a well that is part of a well system shall be determined by taking the sum of the capacities of each of the individual wells, as equipped, in the system. If the total sum of the capacities is greater than 17.36 gallons per minute, the well system and the individual wells that are part of it are not exempt under Subsection (a)(2) of this rule from the requirement to obtain an Operating Permit.

Rule 3.2 Registration Required for Exempt Wells. A registration form must be submitted to the Authority for each new and existing exempt well in accordance with Rule 11.

Rule 3.3 Well Spacing Requirements for Exempt Wells. A well that qualifies for an exemption from permitting under Rule 3.1 shall still comply with the all applicable well spacing and minimum tract size requirements under Rule 4.

RULE 4 – WELL SPACING AND MINIMUM TRACT SIZE REQUIREMENTS

Rule ~~4.14.6~~ Spacing, location, and completion of new wells.

(a) All new wells, exempt or nonexempt, must comply ~~at a minimum~~ with the spacing, location, and completion requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, except that wells shall not be located within ~~100-fifty~~ ~~(50one hundred)~~ feet from a property line. Water well drillers shall indicate the method of completion performed on the Well Report (Texas Department of Licensing and Regulation Form #001 WWD, Section 10, Surface Completion).

(b) Additionally, all new wells, exempt or nonexempt, and all existing wells that are substantially altered ~~must~~ shall comply with the well spacing and minimum tract size requirements in the following table. The well spacing and minimum tract size rules do not apply to replacement wells.

<u>Maximum Allowed Well Production</u>	<u>Minimum Tract Size</u>	<u>Spacing from Other Well Sites</u>	<u>Spacing from Property Line</u>
<u>The maximum amount of groundwater the well can actually produce as equipped in gallons per minute (gpm).</u>	<u>The minimum tract size that may be considered an appropriate site for a well.</u>	<u>The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered or permitted well, or approved well site completed in the same layer of an aquifer.</u>	<u>The minimum distance, in feet, that a new well or proposed well site may be located from all property lines of the tract of land on which it is to be located.</u>
<u>< 10 gpm</u>		<u>100 ft.</u>	<u>50 ft.</u>
<u>11 - 20 gpm</u>	<u>Minimum Tract Size = 2 Acres</u>	<u>200 ft.</u>	<u>100 ft.</u>
<u>21 - 40 gpm</u>		<u>600 ft.</u>	<u>200 ft.</u>
<u>41 - 60 gpm</u>		<u>1,000 ft.</u>	<u>400 ft.</u>
<u>61 - 80 gpm</u>		<u>1,400 ft.</u>	<u>600 ft.</u>
<u>80 - 100 gpm</u>		<u>1,800 ft.</u>	<u>800 ft.</u>
<u>>100 gpm</u>		<u>2,400 ft.</u>	<u>1,000 ft.</u>

Rule 4.2 Spacing from Other Wells. With regard to minimum spacing requirements from other wells, the requirements of this rule shall apply only to other registered or permitted wells or well sites previously approved by the Authority or otherwise known to exist by the Authority at the time it acts on an application that are drilled and completed in the same layer of an aquifer as the proposed well, including without limitation other wells or well sites owned by the person applying for the new well. The presumption in any application related to compliance with this rule shall be that the proposed well and the existing well are drilled and completed in the same layer of the aquifer, and the burden of proof is on the applicant to prove otherwise.

Rule 4.3 Spacing of ~~existing~~ Existing wells/Wells. Wells ~~drilled in existence~~ prior to the ~~effective date of these rules~~ March 15, 2006, and not later substantially altered are not subject to the spacing requirements of ~~this~~ these rules except that ~~these~~ existing wells shall have been drilled in accordance with state law and state agency rules in effect, if any, on the date such drilling commenced. A well drilled between March 15, 2006, and [redacted] (effective date) and not later substantially altered shall comply with the well spacing requirements of the Authority in effect on the date of drilling.

Rule 4.4 Minimum Tract Size Requirements.

(a) All wells drilled, completed, or substantially altered in any aquifer or layer of an aquifer in the Authority's boundaries after [redacted], the effective date of these rules, shall be located on a minimum tract size of two (2) acres. However, for a single domestic well serving two (2) or more residential households, the required minimum tract size for the well is calculated by multiplying two (2) acres by the number of households served by the well.

(b) There shall be no more than one (1) well, regardless of type, per two (2) acres, unless an exception has been granted by the Authority pursuant to Rule 5.2, in which case there shall be no more than one (1) well per number of acres of tract size approved pursuant to the exception.

(c) Subsection (a) of this rule shall not apply to:

(1) a well drilled prior to () and not substantially altered after that date; or

(2) a well for which an exception is granted under Rule 5.2.

RULE 5 – EXCEPTIONS TO SPACING AND MINIMUM TRACT SIZE REQUIREMENTS

Rule 5.1 Exceptions to Spacing Requirements.

(a) An applicant for a proposed well that does not meet the requirements of Rule 4 shall be informed of the deficiency by the General Manager. The Board or General Manager may grant exceptions to the well spacing requirements under Rule 4 only after consideration of an application filed pursuant to this rule on a form approved by the Authority. All persons are required to schedule a pre-application meeting with the General Manager or Authority staff prior to submitting a spacing requirement exception application under this subsection to review project options that may be available to the person.

(b) An application for an exception filed pursuant to this rule must be sworn to or affirmed by the applicant, who shall swear or affirm that the facts contained in the application are true and correct to the best of the person's knowledge.

(c) An application for an exception to the spacing or tract size requirements under Rule 4 shall not be approved by the Authority unless the applicant demonstrates that there is no water available to the property from another source in accordance with Subsection (g) of this rule.

(d) An application for an exception to the spacing or tract size requirements under Rule 4 for a proposed new well that is exempt from the requirement to obtain an Operating Permit and will be used solely for domestic, livestock, or poultry watering purposes may be approved by the General Manager if (1) there is no adequate space available for a well on the property that complies with the required minimum spacing distance from other wells and from any property lines, and (2) the tract of land where the well will be located was platted or otherwise lawfully conveyed in its current configuration prior to (), the effective date of these rules, and was not further subdivided into smaller tracts after that date. Alternatively, the General Manager may set the application for consideration by the Board.

(e) All applications for an exception to the spacing or tract size requirements under Rule 4 that are not described by Subsection (d) of this rule must be approved by the Board.

~~(f) An exception application under Subsection (e) may be granted ~~considered~~ by the Board only after written notice has been given by the applicant ~~by mailing notice~~ by certified mail, return receipt requested, to all owners of property and of then-existing registered, ~~or permitted, or otherwise known~~ wells located within ~~a 1/2 mile radius~~ the minimum spacing distances set forth in Rule 4 from the location of the proposed well site, and after a public hearing at which all interested parties may appear and be heard. ~~Such~~ For nonexempt wells, the hearing shall be held in conjunction with the hearing on the application for an Operating Permit as provided in Rule 8, and the notice required under this rule shall be provided in addition to the notice of hearing on the permit application. Provided, however, if all such owners execute a waiver in writing, stating that they do not object to the granting of the exception, the Board may proceed, upon notice to the applicant only and without hearing, and take action to grant or deny the application in full or in part. The applicant shall provide notice under this ~~r~~Rule in a form and content as directed by the General Manager and shall mail the notice no less than thirty (30) days prior to the scheduled date of the public hearing given to the applicant by the General Manager. Proof of the mailed notice shall be given to ~~the~~ General Manager by the applicant no less than ten (10) days prior to the date of the public hearing.~~

~~(i) If the applicant for an exception to well spacing requirements presents waivers signed by all owners of property and of then-existing registered or permitted wells located within the minimum spacing distances from property lines from the location of the proposed well site stating that they have no objection to the proposed location of the well site, the Board, upon the General Manager's recommendation, may waive the spacing requirements for which waiver is sought by the applicant.~~

~~(e) An applicant may seek an exception to the spacing requirements on the grounds that the well or wells proposed in the application will produce groundwater from an aquifer or subdivision thereof other than the aquifer or subdivision thereof from which the then-existing permitted or registered wells that are closer than the minimum distances are producing.~~

~~(g) The Board may grant or deny an application filed pursuant to this rule on any reasonable grounds based on information contained in the application or properly and timely presented to the Board for its consideration at the public hearing, including without limitation anticipated impacts to other landowners, any registered well, previously approved well site, or unregistered well of which the Board is aware prior to granting or denying the application, and if:~~

~~(1) there is no water from a public water system or other economically feasible alternative water source available to the applicant; and~~

~~(2) drilling the well would not be in conflict with an approved plat or other authorizations from the platting authority that are applicable to the tract.~~

The Board will not approve an application for an exception to spacing requirements from the applicant's own wells or well sites that is sought in order to circumvent, or has the effect of circumventing, the well spacing requirements for a single larger capacity well on the applicant's property.

- (h) At any time before taking final action on an application for an exception under this rule, the Board may require an applicant to perform site-specific testing which may include drilling a test well and/or monitoring well completed and screened at a depth determined by the Board as appropriate for determining impacts to other wells, or by other hydrogeologic testing and analysis in accordance with Rule 6.3(8) and (9). The Authority has the right to notice and the opportunity to be present when the well test is being conducted.
- (i) If the Board or General Manager grants an exception to the spacing requirements, the General Manager shall inform the applicant in writing by utilizing a method described in Rule 10.1.
- (j) The burden of proof in any proceeding related to an application for an exception to a spacing requirement shall be on the applicant. An existing well for which the Authority does not have data or information on the layer of the aquifer in which the well is completed will be presumed to be completed in the same layer as the proposed well. The Board may impose additional restrictions or special conditions on the exact location, construction, completion, operation, or production of a well to be drilled pursuant to an exception that it grants.
- (k) A hearing will be held on wells that are exempt from Operating Permit requirements only when an exception to well spacing or minimum tract size requirements is sought, except for applications approved by the General Manager.

Rule 5.2. Exceptions to minimum tract size requirements.

- (a) The Board or General Manager may grant exceptions to the minimum tract size requirements of Rule 4 only after consideration of an exception application submitted on a form provided by the Authority. All persons shall schedule a pre-application meeting with the General Manager or Authority staff prior to submitting a minimum tract size requirements exception application to review project options that may be available to the person.
- (b) An application for an exception filed pursuant to this rule must be sworn to or affirmed by the applicant, who shall swear or affirm that the facts contained in the application are true and correct to the best of the person's knowledge.
- (c) An applicant may seek an exception to the minimum tract size requirements of the Authority only if the applicant is able to present evidence that:
 - (1) a well is proposed to be located on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully conveyed prior to (), the effective date of these rules, as a tract that is too small to comply with the minimum tract size set forth under Rule 4 and was not further subdivided into smaller tracts after that date; and
 - (2) no water from a public water system other economically feasible alternative water source is available to the applicant.

- (d) Applications for an exception under this rule for a well that is exempt from the requirement to obtain an Operating Permit and will be used solely for domestic, livestock, or poultry watering use may be approved or denied by the General Manager or, in the discretion of the General Manager, set for consideration by the Board at a Board meeting or hearing called for that purpose.
- (e) Applications for an exception under this rule for any well other than a well described by Subsection (d) of this rule, shall be presented to the Board for consideration at a regularly scheduled Board meeting or hearing. If the proposed well requires an Operating Permit, the hearing on the application for an exception under this rule will be held in conjunction with the hearing on the application for an Operating Permit.
- (f) If the Board or General Manager grants an exception to the minimum tract size requirements, the General Manager shall inform the applicant in writing by utilizing a method described in Rule 10.1.
- (g) The burden of proof in any proceeding related to an application for an exception to a minimum tract size requirement shall be on the applicant. The Board may impose additional restrictions or special conditions on the exact location, construction, completion, operation, or production of a well to be drilled pursuant to an exception that it grants.

RULE 2 — OPERATING PERMITS

- ~~Rule 2.1 — Permit mandatory. The owner of a nonexempt water well, existing on the effective date of these rules or new, or any other person with lawful authority to operate the well, must obtain an Operating Permit from the Authority prior to operating the well and withdrawing and placing groundwater from the well to beneficial use. However, the owner of an existing well that has produced groundwater for a beneficial use prior to the effective date of these rules who files a completed permit application with the Authority within 90 days of the effective date of these rules may continue to operate the well without a permit until the Board takes final action on the permit application. The Authority and its wells are exempt from the requirements of Rule 2 and its subparts.~~
- ~~Rule 2.2 — Term. Unless specified otherwise by the Board or these rules, the initial Operating Permit is effective until December 31 of the next calendar year following the year in which the initial Operating Permit is issued. If renewed, such a permit shall thereafter be effective for a five-year term from the initial expiration date unless specified otherwise by the Board; provided, however, that an Operating Permit holder shall apply for an amendment at any time it desires to increase the quantity of water available for withdrawal and beneficial use specified in the permit.~~
- ~~Rule 2.3 — Authorized quantity of production. The Authority shall designate the annual quantity of groundwater authorized to be withdrawn and used under an Operating Permit pursuant to the conditions of the Authority's Act, Chapters 49 and 51 of the Texas Water Code, and these rules, provided, however, that the quantity shall~~

~~not exceed the lesser of the production limitations established under Rule 2.9 or an amount demonstrated by the applicant and determined by the Board to be necessary for beneficial use during the permit term, except as may be reduced if the Authority imposes restrictions as provided by the Authority's rules.~~

~~Rule 2.4 — Protecting the sustainability of the Aquifer. The Authority may limit the total annual production and maximum annual rate of groundwater withdrawal from any aquifer within the Authority as the Authority determines to be necessary to ensure that groundwater may be used on a sustainable basis. The Authority's determination shall be based upon the best available hydrogeologic, geographic, and other relevant scientific data, including but not limited to noted changes in the water levels, water quality, groundwater withdrawals, annual recharge, the loss of stored water in the aquifer, or future planning projections developed by or accessible to the Authority. Using the best available hydrogeologic, geographic, and other relevant scientific information, the Authority will continue to study and accumulate data on the various aquifers and their subdivisions located within the boundaries of the Authority, and may amend from time to time the limit on total annual production or the authorized rate of production either throughout the Authority or for a particular aquifer or its subdivision, based upon this data and any water resource management goals adopted by the Authority's Board.~~

~~Rule 2.5 — Proportional adjustment. As determined by the Authority, if the total amount of production within an aquifer or its subdivision is greater than the annual sustainable amount available for withdrawal, production amounts may be decreased proportionally among all permit holders producing from that aquifer or its subdivision. When establishing proportional adjustment restrictions, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use.~~

~~Rule 2.6 — Permit conditions. The permit holder, by accepting the permit, agrees to abide by any and all groundwater withdrawal regulations established by the Authority that are currently in place, as well as any and all regulations established by the Authority in the future. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of the permit and the rules of the Authority. In addition to any special provisions or other requirements incorporated into the permit, each permit is subject to the following standard permit provisions:~~

~~(a) — The permit terms may be modified or amended pursuant to the provisions of the Authority's rules or to comply with statutory requirements.~~

~~(b) — The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.~~

~~(c) — The well site must be accessible to the Authority's representatives for inspection, and the permit holder agrees to cooperate fully in any~~

~~reasonable inspection of the well and well site by the Authority's representatives.~~

- ~~(d) The application pursuant to which this permit has been issued is incorporated in the permit, and the permit is granted on the basis of, and contingent upon, the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.~~
- ~~(e) Violation of a permits terms, conditions, requirements, or special provisions is punishable by civil or criminal penalties as provided by the Authority's rules and may subject the permit to cancellation by the Authority's Board.~~
- ~~(f) A permit issued by the Authority does not vest the permit holder with any rights regarding the level of quality or quantity of the groundwater subject to the jurisdiction of the Authority, nor does the Authority make any representations regarding the physical quantity or quality of groundwater that a well may encounter.~~

~~Rule 2.7 — Permit Amendment. A permit amendment is required prior to any deviation from the permit terms regarding the drilling of a well, the location of a proposed well, the maximum amount of groundwater to be produced from a well, ownership of a well or permit, the purpose of use of the groundwater, the location of use of the groundwater, or operation of additional wells, even if aggregate withdrawals remain the same.~~

~~Rule 2.8 — Ownership Transfer. Absent an express reservation of rights in the transferor, the transfer of ownership of the well(s) designated by a permit is presumed to transfer ownership of the permit, and the transfer of the land and well site on which the well is located is presumed to transfer ownership of the well. The ownership of a permit may be transferred separately from the ownership of a well or the underlying land, subject to these rules and the permit's conditions. Upon transfer of ownership of any well(s), written notice must be given to the Authority by the transferor or transferee as soon as practicable, but not longer than 45 days, and a permit amendment shall be applied for, if applicable. Within 45 days following the transfer of ownership of any well(s), the transferee shall file an affidavit in the real property records of Tarrant County, Texas. Such affidavit shall be executed by the transferee, and shall state that all notices required to be given under this Rule have been timely mailed or delivered by the transferee. The transferee shall attach to the affidavit (a) a copy of the Operating Permit, and (b) a copy of all notices given as required by this Rule.~~

~~Rule 2.9 — Production Limitations. Subject to the Authority's Act, Chapters 49 and 51 of the Texas Water Code, and these rules, the Authority shall not designate an annual quantity of groundwater authorized to be withdrawn and used under an Operating Permit which exceeds in any calendar year 2 (two) acre feet per acre of land~~

~~contiguous to the well site and owned or leased for the right to produce groundwater by the applicant as designated in the permit application.~~

RULE 63 – APPLICATIONS FOR DRILLING PERMITS, OPERATING PERMITS, AND PERMIT AMENDMENTS

Rule ~~63.1~~ Requirements for Operating Permit Applications. To secure an Drilling Permit, Operating Permit or, ~~and~~ permit amendment, an application must be filed, and applicable fees must be paid, if any, ~~and notice must be issued as provided for in these rules.~~ Application forms will be provided by the Authority and furnished to the applicant upon request. All permit applications submitted to the Authority regarding nonexempt wells which were in existence, completed, and that had produced groundwater for a beneficial use prior to ~~the effective date of these rules~~ March 15, 2006, will not be subject to any fee requirement the Board may establish for processing permit applications or renewals.

Rule ~~63.2~~ Aggregation of withdrawal among multiple wells in a consolidated permit application. One application may be filed for an Drilling Permit ~~or~~ Operating Permit, or for renewal thereof, for which the applicant seeks authority to put to beneficial use a quantity of groundwater aggregated among two or more wells that may be withdrawn from any one or more of these wells where all wells included in the application ~~are tied to the same distribution system~~ will be part of the same well system. However, a separate well registration application must be submitted for each well in the system.

Rule ~~63.3~~ Components of permit application. All applications for a permit shall be in writing and sworn to ~~that the facts contained in the application are true and correct to the best of the applicant's knowledge~~ and shall include the following:

- (1) the name and mailing address of the applicant and the owner of the land on which the well will be located;
- (2) if the applicant is other than the owner of the land constituting the well site for the proposed or existing well, documentation establishing the applicable authority to drill or operate a well for the proposed use, as applicable;
- (3) the location of each well, ~~and~~ the estimated rate at which water will be withdrawn, and the layer of the aquifer in which the well will be completed;
- (4) a declaration that the applicant will comply with the Authority's rules and all groundwater use permits issued to the applicant and all plans promulgated pursuant to the Authority's rules;
- (5) a location map of all then-existing wells, including then-existing wells of the Authority, within ~~a ¼ mile radius of the proposed well or the existing well to be modified or otherwise permitted~~ the applicable minimum spacing distance from other wells set forth under Rule 4;

- (6) a map or other documentation from the tax appraisal district or other county office indicating the location of the proposed well or the existing well to be modified or otherwise permitted, the subject property, and adjacent all property owners' physical addresses and mailing addresses that have land located in whole or in part within the applicable minimum spacing distance from property lines set forth under Rule 4;
- (7) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose; and
- (8) a hydrogeological report shall be attached to Operating Permit applications meeting the following conditions:

- (9) (A) requests to operate a nonexempt well with an annual maximum permitted use of at least 5 acre feet;:-
- (B) requests to amend and increase by at least 5 acre feet the annual maximum permitted use of an Operating Permit;:- and-or
- (A) requests for an exception to the well spacing requirements under Rule 5.1.

(10)(9) hydrogeological reports required under this rule shall include the following information:

- (A) address the area of influence of the well for which a permit is being requested;:- and
- (B) include an assessment of the geology at the site of the well for which a permit is being requested and a description of the aquifer that will supply water to the well.

~~Rule 3.4 — Notice of filing of an application. All permit applicants must provide notice by publication in a newspaper of general circulation in the Authority, and by certified mail, return receipt requested, to all property owners within a one-fourth (1/4) mile radius of the existing or proposed well that is the subject of the application.~~

~~All public notices covered by this section must include the following information on a form first approved by the Authority prior to issuance or publication:~~

- ~~(1) — name and address of the applicant;~~
- ~~(2) — date the application was filed;~~
- ~~(3) — location and a description of the well that is the subject of the application; and~~
- ~~(4) — a brief summary of the information in the application.~~

~~(2) The applicant must provide the Authority with the following information for the Authority to declare that the application is administratively complete:~~

~~(1) proof of publication of public notice;~~

~~proof of mailing by certified mail of the public notice to the property owners identified to receive notice in accordance with this Rule; and~~

~~(2) a list of the names and addresses of the property owners notified by certified mail.~~

RULE 4 — PERMIT EXEMPTIONS

~~Rule 4.1 The Authority's Operating Permit requirements in these rules do not apply to a well used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day and that:~~

~~(a) was in existence, completed, and had produced water for a beneficial use prior to the effective date of these rules on a tract of land of any size; or~~

~~(b) is a new well that does not meet the requirements of Rule 4.1(a) and is located or to be located on a tract of land larger than 10 acres in size,~~

~~The Authority's Operating Permit requirements also do not apply to monitoring, leachate, or dewatering wells. For the purposes of this rule, the term "domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; and for watering of domestic animals. The term "domestic use" does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Further, "domestic use" does not include use by or for a public water system. The term "providing water for livestock or poultry," as that term is used in this rule, means the use of groundwater by an individual or household for the open range watering of livestock, exotic livestock, game animals, or fur-bearing animals.~~

~~Rule 4.2 A registration form must be filed for each new and existing exempt well in accordance with Rule 9.2.~~

~~Rule 4.3 A well qualifying for exemption under Rule 4.1 which was in existence on the effective date of these rules was required to be drilled in accordance with the state laws in effect, if any, on the date such drilling commenced pursuant to Rule 1.7. A new well which qualified for exemption under Rule 4.1 must comply with the requirements of Rule 1.6, but may be granted an exception by the Board under Rule 1.8.~~

~~Rule 4.4 A well exempt under this section will lose its exempt status if the well is subsequently used for a purpose or in a manner that is not exempt.~~

RULE 75 – BOARD CONSIDERATION OF PERMIT APPLICATIONS

~~Rule 5.1 – Factors to be considered for Drilling Permits. The Authority’s Board shall take into consideration each and every one of the following criteria when evaluating an application for a Drilling Permit:~~

- ~~(a) the application contains all the information requested;~~
- ~~(b) whether the well and withdrawal from the well at the proposed rate and quantity will affect existing well owners due to its proposed location and, if so, whether the location can be changed to minimize any such effects;~~
- ~~(c) whether the proposed drilling, equipping, and completion of the well will comply with Chapter 1901, Occupations Code, and any rules adopted under that chapter; and~~
~~whether the proposed well location is compliant with the well spacing and location requirements of these rules; and~~
- ~~(e) the proposed well construction and operation activities will not threaten or otherwise impact the groundwater supplies of the Authority;~~

Rule 7.15.2 Factors to be Considered for Operating Permits.

(a) The Authority’s Board shall take into consideration each ~~and every one~~ of the following criteria when evaluating an application for an Operating Permit:

- (1) the application contains all the information requested;
- (2) each water well complies with production limitations and the well spacing, location, and minimum tract size requirements of these rules, and whether an application for an exception to those requirements has been submitted ~~and production limitations identified in these rules;~~
- (3) whether the proposed drilling, equipping, and completion of the well will comply with Chapter 1901, Occupations Code, and any rules adopted under that chapter;
- (2)(4) the proposed use of water does or does not unreasonably affect existing groundwater resources or the beneficial use of groundwater by the Authority or existing well owners;
- (3)(5) the proposed use of water is dedicated to a beneficial use;
- (4)(6) the proposed well construction and operation activities will not threaten or otherwise impact the groundwater supplies of the Authority; and
~~the applicant agrees to use reasonable diligence to protect groundwater quality and to avoid waste and achieve water conservation; and~~

(7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality, including compliance with Chapter 1902, Occupations Code, and that the applicant will follow well plugging guidelines at the time of well closure.

Rule ~~7.25-3~~ Standard governing Board's decision on applications. The Authority may not unreasonably withhold issuance of a permit if an applicant proves by competent sworn testimony or documentation that the proposed water well will not unreasonably affect existing groundwater resources or the beneficial use of groundwater by the Authority or other existing well owners, that the applicant agrees to use reasonable diligence to protect groundwater quality, including compliance with Chapter 1901, Occupations Code, and any rules adopted under that chapter, that the proposed well construction and operation activities will not threaten or otherwise impact the groundwater supplies of the Authority, and that the application complies with the well spacing, minimum tract size, and production requirements of ~~the Authority~~ these rules. The burden of proof in any proceeding related to an application for an Operating Permit or well registration shall be on the applicant.

RULE 86 – HEARING ON PERMIT APPLICATIONS

Rule 86.1 Public hearing required. A quorum of the Authority's Board shall take evidence, admit protestants to an Operating Permit application or an application for an exception to spacing requirements, consider the relevant factors in these rules, and make a decision in a public hearing conducted in accordance with these rules.

Rule 86.2 Hearing conducted by Presiding Officer. The Authority shall designate one of its Board Members or any other person to conduct the hearing as Presiding Officer.

Rule 86.3 Manner of hearing. The Presiding Officer shall conduct the hearing in the manner determined by the Presiding Officer to be most appropriate for the particular hearing.

Rule 86.4 Authority of Presiding Officer.

 The Presiding Officer has the authority to:

- (1) determine whether evidence is admissible;
- (2) establish the order for presentation of evidence;
- (3) administer oaths to all persons presenting testimony;
- (4) examine witnesses and allow other Board Members to examine witnesses;

- (5) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
- (6) conduct public hearings in an orderly manner in accordance with these rules;
- (7) recess or continue any hearing from time to time and place to place; and
- (8) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.

Rule ~~86.5~~ Notice and scheduling of hearing. Once an application for an Operating Permit is deemed the Authority has received an administratively complete ~~application for a Drilling Permit or Operating Permit~~, the Authority's General Manager will ~~issue~~ prepare and post written notice ~~of a public hearing on the~~ application in accordance with these rules. Notice of an application for an exception to the well spacing requirements under Rule 5 shall be provided in accordance with Rule 5.1(f) and such application shall be scheduled for public hearing in conjunction with the hearing on the Operating Permit.

Rule ~~86.6~~ Content of notice. Notices of all hearings of the Authority shall be prepared by the General Manager and shall, at a minimum, state the following information:

- (1) the name and address of the applicant;
- (2) the name or names of the owner or owners of the land if different from the applicant;
- (3) the time, date, and location of the hearing;
- ~~(4)~~ the address or approximate proposed location of the well, if different than the address of the applicant;
- ~~(5)~~ the proposed use and maximum capacity of the well, and the annual amount of groundwater applied for production;
- ~~(4)(6)~~ whether an exception to the well spacing or minimum tract size requirements of these rules has been applied for;
- ~~(5)(7)~~ a brief summary of the General Manager's recommendation; and
- ~~(6)(8)~~ any other information the Board or General Manager deems appropriate to include in the notice.

Rule ~~86.7~~ Posting of notice. Not less than thirty (30) calendar days prior to the date of the hearing, notice shall be:

(1) posted by the General Manager at a place convenient to the public in the Authority's Office;

~~(1)~~(2) posted on the Authority's internet website;

~~(2)~~(3) provided by the General Manager to the County Clerk of Tarrant County, whereupon the County Clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse; and

~~(3)~~(4) provided to the applicant in written form.

Rule ~~86.8~~ Date of hearing. The General Manager shall set a permit hearing date within thirty (30) calendar days after the date the application is deemed administratively complete ~~application is submitted~~. The permit hearing shall be held within thirty fiveforty (4035) calendar days after the setting of the date. Within this same time frame, the General Manager shall post notice and set a hearing on the application before the Authority Board. The General Manager may schedule as many applications at one hearing as the General Manager deems necessary.

Rule ~~86.9~~ Appearance at the hearing. Protestants and non-protestant interested persons may present evidence, exhibits, or testimony, or make an oral presentation as allowed by the Presiding Officer. A person appearing in a representative capacity may be required to prove proper authority. Each person attending and participating in a hearing of the Authority must submit on a form provided by the Authority, prior to or at the commencement of the hearing, the following information: the person's name and address, who the person represents if other than himself, whether the person wishes to testify, whether the person is protesting the application, and any other information relevant to the hearing.

(1) Protestants: A person other than the General Manager desiring to protest an application for ~~a Drilling Permit or~~ an Operating Permit shall file with the Authority a notice of protest that must be received by the Authority no later than ~~five (5) days prior to~~ the date of the hearing and prior to action by the Board on the application. The notice of protest shall set forth the protestant's justiciable interest and how that justiciable interest would be adversely affected by the permit proposed by the application. The person protesting the application shall appear at the hearing or include in its notice of protest an explanation of why the person is unable to attend the hearing. The Board may take testimony and shall deliberate and take official action at the hearing to determine whether the protestant has sufficiently demonstrated their justiciable interest and how that justiciable interest ~~would~~could be adversely affected by the permit proposed by the application. If the Board finds that a protestant does not adequately establish that its justiciable interest ~~is~~could be affected by the proposed permit, then the protestant shall not be allowed to further participate in the hearing.

(2) Non-protestant interested persons: A person may appear at a hearing in person or by representative provided the representative is fully authorized, in

writing, to speak and act for the principal. Provided, however, any person other than the General Manager desiring to protest an application must timely file a notice of protest and qualify pursuant to Subsection (a)(1) of this rule as a condition to participating as an official protestant in the hearing.

Rule 86.10 Procedural order at the hearing. After the Presiding Officer calls a hearing to order, the Presiding Officer shall announce the subject matter of the hearing and the order and procedure for presentations. The Presiding Officer may prescribe reasonable time limits for the presentation of evidence and oral argument.

Rule 86.11 Presentation of evidence. When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form, but shall be subject to cross-examination. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. If requested with good cause shown and if allowed in the sole discretion of the Presiding Officer, any person who appears at a hearing and makes a presentation before the Board may supplement that presentation by filing additional written evidence with the Board within up to ten (10) calendar days after the date of conclusion of the hearing, as determined by the Presiding Officer.

Rule 86.12 Relevance of evidence. The Presiding Officer may admit evidence if it is relevant to an issue at the hearing. The Presiding Officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

Rule 86.13 Continuance. The Presiding Officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishingposting, serving, mailing, or otherwise issuing a new notice, except as required by the Texas Open Meetings Act, Chapter 551, Government Code. If a hearing or other proceeding is continued and a time and place for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the Presiding Officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to persons who submitted a hearing registration form under this ~~Section~~ section, and any other person the Presiding Officer deems appropriate, and posted in accordance with the Texas Open Meetings Act.

Rule 86.14 Uncontested Hearings. If no persons timely protest the application and the General Manager proposes to grant the application, whether a partial or full grant, the application shall be considered uncontested. If, during a contested case hearing, all interested persons contesting the application withdraw their protests or are found by the Board not to have a justiciable interest affected by the application, or the parties reach a negotiated or agreed settlement which, in the judgment of the Board, settles the facts or issues in controversy, the proceeding will be considered an uncontested hearing.

Rule ~~86~~.15 Board Action. Within ~~sixty (60)~~ calendar days after the final hearing date is concluded, the Board must take action on the subject matter of the hearing.

Rule ~~86~~.16 Request for Rehearing and Appeal. A decision of the Board concerning a hearing matter may be appealed by filing a request for rehearing before the Board within ~~twenty (20)~~ calendar days of the date of the Board's decision. The date of the Board's decision shall be the date of the Board's vote to deny or grant the application, whether a partial or full grant, or otherwise act on the application. Such a rehearing request must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal to District Court may be brought. The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the Board shall conduct a rehearing within ~~forty-five (45)~~ calendar days of the decision to grant the rehearing. The failure of the Board to grant or deny the request for rehearing within ~~ninety (90)~~ calendar days of the filing date shall constitute a denial of the request by operation of law.

RULE ~~97~~ – PERMIT RENEWAL

Rule ~~97~~.1 Permit Renewal. Renewal applications shall be provided by the Authority prior to expiration of the Operating Permit term, and shall be filed with the Authority no later than October 20th of the year in which the permit will expire. Operating Permits will not be renewed unless the well has been drilled at the time of the renewal application. The General Manager may rule on any renewal application that seeks renewal with the identical permit conditions in the existing permit without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances.

~~Any permit holder seeking renewal may appeal the General Manager's ruling by filing, within ten (10) calendar days of notice of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting. The General Manager shall inform the Board of any renewal applications granted or denied. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager. The General Manager may authorize An applicant for a permit renewal ~~to~~ may continue operating under the conditions of the prior permit, subject to any changes necessary under proportional adjustment regulations or these rules, for any period in which the renewal application is the subject of a hearing.~~

Rule ~~97~~.2 Basis for Renewal. While there is no automatic right of renewal, an application for renewal will be approved if the General Manager or Board finds that the applicant's continued use of groundwater will remain in compliance with the terms, provisions, and requirements of the applicant's current permit and the

Authority Act and rules, subject to adjustment by the General Manager or Board for any new production limits or proportional adjustment requirements that may be applicable to the renewed permit.

Rule 97.3 **Basis for Denial.** The General Manager or Board may deny a renewal application on grounds that the applicant is in violation of the Authority's rules, the Authority's Act, or Chapters 49 or 51, Water Code, or that the applicant has a previous violation on record with the Authority that has become a final order of the Authority's Board and is no longer subject to a motion for rehearing before the Authority, which has not been corrected or overturned by a court, including, but not limited to, being current ~~on payment of~~ on all fees and penalties due to the Authority. The Authority has the burden of proof regarding establishment of any such violation. This rule shall not be interpreted in a manner that creates a standard in connection with the renewal of a permit that would preclude the Authority from lawfully revoking a permit for violation of the permit terms, the Authority's rules or Act, or Chapters 49 or 51, Water Code.

Rule 97.4 **Renewal Application Requirements.** The Authority will timely provide a form for an application for renewal prior to expiration of the permit term. The renewal application will be a streamlined application and will not include all of the elements required for an original application.

RULE 108- FILING APPLICATIONS AND OTHER OF DOCUMENTS; FEES; APPEALS; RECORDATION IN REAL PROPERTY RECORDS

Rule 108.1 **Method of filing.** Applications, requests, and other documents required to be filed with the Authority shall be filed either by hand delivery ~~or~~, mail, ~~or telephonic document transfer~~ to the Authority's office, by email to permits@benbrookwater.com, or by submission through the filing system by following the instructions on the Authority's internet website: www.benbrookwater.com. The document shall be considered filed as of the date received by the Authority for a hand delivery; as of the date reflected by the official United States Postal Service postmark if mailed; and at the time of transfer or receipt for email or website filing, telephonic document transfers, except that a transfer occurring after 5:00 p.m. local time of the recipient shall be deemed complete on the following business day. as of the date on which the telephonic document transfer is complete, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If a person files a document by facsimile fax, he or she must file a copy by mail within three (3) calendar days.

Rule 10.2 **Administrative completeness.** Applications for permits, registrations, spacing exceptions, and others shall be administratively complete, which means to include all applicable information requested in the application form. The General Manager or the General Manager's staff will make a determination on whether the application is administratively complete, and will notify the applicant of any deficiencies. An application will be deemed to have expired if the applicant fails to

provide missing information in the application within ninety (90) days of a request from the General Manager or staff.

Rule 10.3 General Manager Authority. Where authority to act under these rules is delegated to the General Manager, the General Manager may delegate such authority to act to the Authority staff, although the General Manager maintains ultimate responsibility. Where authority to act under these rules is delegated to the General Manager, a person may appeal the decision of the General Manager to the Board by filing a written request for such an appeal with the General Manager within thirty (30) days of the action by the General Manager. The General Manager shall schedule the matter for timely consideration by the Board.

Rule 10.4 Administrative fees. The Board may establish and amend from time to time a schedule of administrative fees for the processing of applications under these rules. Such fees shall not unreasonably exceed the cost to the Authority of processing the applications.

Rule 10.5 Recording of notice. The General Manager may require notice of any Operating Permit, well registration, approved exception to the well spacing or minimum tract size requirements of these rules, or any other information that would be helpful to a future purchaser of real property within the boundaries of the Authority to be posted in the real property records of Tarrant County for any property with a water well, and may require the well owner to execute any documents necessary for such recordation as a condition of final Operating Permit, well registration, or exception approval and issuance.

SECTION II.

MANDATORY WELL REGISTRATION REQUIREMENTS OF ALL WELLS LOCATED WITHIN THE AUTHORITY'S BOUNDARIES

RULE 119. WATER WELL REGISTRATION

Rule 119.1 Registration mandatory. All water wells within the boundaries of the Authority, whether existing or new, whether exempt and-or nonexempt, must be registered with the Authority and are required to comply with the Authority's registration requirements in these rules. The Authority and its wells are exempt from the requirements of ~~Rule 9~~ this rule and its subparts.

Rule 119.2 Registration policies and procedures. A registration ~~form-application~~ must be filed on a form provided by the Authority for each new ~~exempt~~ well prior to withdrawing and putting the groundwater to beneficial use. ~~A registration form application must be filed no later than 1 (one) year from the effective date of these rules for each exempt well existing on the effective date of these rules. A registration application shall be submitted to the Authority no later than March 15, 2007, for any well in existence on March 15, 2006, that is not yet registered. The Authority~~

~~shall make registration forms available soon after the effective date of these rules. Authority staff will review the registration form application and make a determination on whether the application is administratively complete and whether the well meets the permitting exemptions provided in these rules. The General Manager may approve an administratively complete registration application that is exempt from the requirement to obtain a permit if it complies with these rules, or may set it for consideration by the Board. Providing If the Authority's determination is that the well is exempt, the registrant of the exempt well may withdraw and put groundwater to beneficial use. If the Authority's determination is that the well is nonexempt, the applicant must also submit an application for an Operating Permit, and the registration and permit applications once administratively complete will be set for consideration by the Board.~~

- Rule 119.3 Term: A registration certificate is perpetual in nature, subject to cancellation for violation of these rules.
- Rule 119.4 Re-registration: If the owner or operator of a registered well plans to change the type of use of the groundwater, increase the withdrawal rate, or substantially alter the size of the well or well pump in a manner that does not require an Operating Permit, the well must be re-registered.
- Rule 119.5 Ownership Transfer: Upon the ownership transfer of any well(s) covered by a registration, the new registration holder must provide notice of transfer of the registration to the Authority within forty-five (45) ~~(forty-five)~~ calendar days from the date of the change in ownership.

SECTION III. **METERING AND REPORTING REQUIREMENTS**

RULE 120 – METERING

Rule 120.1 Meters required.

- (a) A meter must be installed to meet the Authority's specifications, at the well owner's cost, on each permitted non-exempt well ~~that is capable of producing more than 25,00017.36 gallons per day, at the time of completing the well, and prior to commencing the production of groundwater for beneficial use. This requirement is effective ninety (90) days after the effective date of these rules for nonexempt wells that were in existence, completed, and producing groundwater for a beneficial use on the effective date of these rules. Meters are not required to be installed on nonexempt wells that are drilled, completed, or equipped so that they are incapable of producing more than 25,00017.36 gallons per day, as long as an alternative measuring method approved by the Authority is used to record and report groundwater production from this type of well. Further, meters are not required to be installed on exempt wells exempt under Rule 3.1 from the requirement to obtain an Operating Permit.~~

- (b) The only type of meters that may be installed on a well permitted or registered with the Authority are an electronic meter, a radio-read meter, or a mechanically driven, totalizing water meter. For a mechanically driven, totalizing water meter, the totalizer must not be resettable by the permittee and must be capable of a maximum reading greater than the maximum expected pumpage during the permit term. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters as those standards existed on the date the meter is installed~~the effective date of these rules~~. Water meters installed to meet the Authority's requirements shall be calibrated to ensure an accuracy reading range of 95% to 105% of actual flow. Bypasses are prohibited unless they are also metered. Meters are not required to be installed on exempt wells.

Rule 120.2 **Costs.** The Authority may allocate funds for a portion or all of the meters required under this subsection, and may supply the meters, in the sole discretion of the Board. However, installation costs are to be paid by the well owner. Costs of meter maintenance shall be borne by the well owner or operator, if applicable.

Rule 120.3 **Meter Installation.** The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter installation, or the meter's accuracy must be verified by the permittee in accordance with Rule 120.4. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.

Rule 120.4 **Meter Accuracy to be Tested.** The General Manager may require the permittee, at the permittee's expense, to test the accuracy of a water meter and submit a certificate of the test results. The certificate shall be on a form provided by the Authority. The General Manager may further require that such test be performed by a third party qualified to perform such tests. The third party must be approved by the General Manager prior to the test. Except as otherwise provided herein, certification tests will be required no more than once every three (3) years for the same meter. If the test results indicate that the water meter is registering an accuracy reading outside the range of 95% to 105% of the actual flow, then appropriate steps shall be taken by the permittee to repair or replace the water meter within ninety (90) calendar days from the date of the test. The Authority, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the Authority's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the permittee

shall reimburse the Authority for the cost of those tests and investigations, and the permittee shall take appropriate steps to bring the meter or meters into compliance with these rules within ninety (90) calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement of accuracy is impaired, the Authority may require the permittee, at the permittee's expense, to take appropriate steps to remedy the problem and to retest the water meter within ninety (90) calendar days from the date the problem is discovered and reported to the permittee.

RULE 131 – REPORTING

- Rule 131.1 Annual report due. An annual report of total groundwater withdrawal during the calendar year shall be filed with the Authority by ~~all non-exempt well~~the owners of all wells required to have an Operating Permit no later than February 1st each year.
- Rule 131.2 Notice of overpumpage. Immediate written notice shall be given to the Authority in the event an Operating Permit holder has exceeded the quantity authorized by the Operating Permit. An Operating Permit holder shall seek a permit amendment immediately upon recognizing that it will likely exceed its permit allocation.

SECTION IV.

RULES COMPLIANCE AND ENFORCEMENT; WELL PLUGGING AND CAPPING; WASTE

RULE 142 – RULES COMPLIANCE AND ENFORCEMENT

- Rule 142.1 Civil penalties. If it appears that a person has violated, or is violating any provision of the Authority's Rules, the Board of Directors may institute and conduct a suit in the name of the Authority for injunctive relief, recovery of a civil penalty of not more than \$5,000 per violation, or both injunctive relief and a civil penalty. The Authority may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the Authority before the court. For obligations under the Authority's Rules that impose a continual duty on a person, each day of a continuing violation constitutes a separate violation for purposes of enforcement.
- Rule 142.2 Notice and access to property. Board Members and Authority agents and employees are entitled to access to all property within the boundaries of the Authority to carry out technical and other investigations necessary to the implementation of the Authority's Rules, for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Authority, or as otherwise authorized by § 49.221 of the Texas Water Code. Prior to entering upon property, the person seeking access shall notify any occupant or management of their presence. Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the

establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, occupant, management, lessee, well operator, or other appropriate person in charge.

Rule ~~142~~.3 Criminal offense. A person who violates a rule of the Authority commits a criminal offense which, pursuant to § 51.241 of the Texas Water Code, is a Class C misdemeanor. The Board may prosecute a violation of the Authority's Rules as a civil penalty and/or a criminal offense.

Rule ~~142~~.4 Remedies not exclusive. The remedies provided for in this rule are not exclusive of any other civil remedies or criminal penalties available under state or federal law.

Rule ~~142~~.5 Peace officer. The Authority may employ a peace officer or reserve peace officer to prevent or abate the commission of any offense against the rules of the Authority. Any peace officer or reserve peace officer employed by the Authority shall exercise only those duties assigned by the Authority and authorized by § 49.216 of the Texas Water Code, and shall comply with the statutory requirements set forth by § 49.216 prior to performing any duties on behalf of the Authority.

RULE 153 – CAPPING AND PLUGGING OF WELLS; WASTE PROHIBITED

Rule ~~153~~.1 Capping of wells. The Authority may require a well to be capped to prevent waste, prevent pollution, or prevent 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, provided however that the casing is not in a deteriorated condition that would permit comingling of water strata, in which case the well must be plugged. The cap must be capable of sustaining a weight of at least four hundred (400) pounds and must be constructed with a water tight seal to prevent entrance of surface pollutants into the well itself, either through the well bore or well casing.

Rule ~~153~~.2 Plugging of wells. A deteriorated or abandoned well must be plugged in accordance with the Texas Department of License and Regulation, Water Well Drillers and Pump Installers Rules (16 TAC Chapter 76). It is the responsibility of the landowner to see that such a well is plugged to prevent pollution of the underground water and to prevent injury to persons and animals. Registration of the well is required prior to, or in conjunction with, well plugging.

Any person that plugs a well in the Authority must submit a copy of the plugging report to the Authority and the Texas Department of License and Regulation within thirty (30) calendar days of plugging completion.

Rule ~~153~~.3 Water Quality Protection Grant Program. The Authority may establish a Water Quality Grant Program to provide grants to landowners who have one or more

water wells located on their property that are required to be capped or plugged under these rules. The grants provided by the Water Quality Protection Grant Program will be awarded based on criteria established by the Board. The landowners who receive grants must use the Water Quality Protection Grant Program grants to cap or plug the applicable water well(s) or for a water quality protection project approved by the Board.

Rule 15.4 Waste prohibited. No person shall engage in any conduct with respect to groundwater within the Authority's boundaries that constitutes waste, as that term is defined in Chapter 36, Texas Water Code.

SECTION V.
SANITATION AND POLLUTION CONTROL OF THE AREAS IN
PROXIMITY TO THE AUTHORITY'S PUBLIC WATER SUPPLY WELLS

RULE 164 – PROTECTION OF PUBLIC WATER SUPPLY WELLS

Rule 164.1 General. This rule sets forth uniform requirements for the users of, and the construction of facilities in or on, land within one hundred fifty feet (150') of the Authority's public water supply wells in order to promote sanitary conditions in and around such wells, to secure all such land from pollution hazards, and to enable the Authority to comply with all applicable state and local regulations.

Rule 164.2 Pollution prevention. The objective of this rule is to prevent certain uses and the construction of facilities in or on land surrounding the Authority's public water supply wells, which might create a danger of pollution to the water produced from such wells.

Rule 164.3 Applies to Authority wells only. This section applies only to the water wells owned and operated by the Authority. If a person is unsure of the general or exact location of one or more of the Authority's wells, the Authority will provide a person with such well location information upon written request to the Authority.

Rule 164.4 Prohibited activities. The following activities are prohibited within the designated areas of land surrounding the Authority's wells:

- (1) Construction and/or operation of any underground petroleum and/or chemical storage tank, liquid transmission pipeline, stock pen, feedlot, dump grounds, privy, cesspool, sewage treatment plant, sewage wet well, sewage pumping station, drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems, solid waste disposal site, land on which sewage plant or septic tank sludge is applied, land irrigated by sewage plant effluent, septic tank perforated drain field, absorption bed, evapotranspiration bed, area irrigated by low dosage, low angle spray on-site sewage facility, military facility, industrial facility, wood treatment facility, liquid petroleum and petrochemical production, storage, and/or transmission facility, Class 1, 2, 3, and/or 4 injection well,

pesticide storage and/or mixing facility, abandoned well, inoperative well, improperly constructed water well of any depth, and all other construction or operation that could create an unsanitary condition is prohibited within, upon, or across all areas of land within a 150-foot radius of the Authority's wells. For the purposes of this rule, "improperly constructed water wells" are those wells that do not meet the surface and subsurface construction standards for a public water supply well.

- (2) Construction and/or operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, and cemeteries is specifically prohibited within, upon, or across any area of land within a 50-foot radius of the Authority's wells.
- (3) Construction of homes or building upon any area of land within a 150-foot radius of the Authority's wells is permitted, provided the restrictions described in items (1)A and (2)B above are met and the person engaging in the construction otherwise has the legal authority to do so.
- (4) Normal farming and ranching operations are not prohibited by this rule; provided, however, livestock shall not be allowed within a 50-foot radius of the Authority's wells.
- (5) Any other activity prohibited under the rules of the Texas Commission on Environmental Quality related to protection of groundwater sources for public water systems in Title 30, Texas Administrative Code § 290.41(c).

Rule 164.5 Penalty. Any person who violates any provision of this rule shall be subject to civil and criminal penalties under Rule 142.

Rule 164.6 Required Removal. Any person who violates any provision of this rule shall be required to remove the prohibited construction or potential source of contamination within thirty (30) days after notification by the Authority that they are in violation of this rule, or within such time as otherwise required by order of the Board.

Rule 164.7 Superseding Regulation or Statute. Whenever any applicable statute, regulation, or permit of any state, federal, or other agency having jurisdiction over the subject matter of this rule, is in conflict herewith, the stricter requirement shall apply, unless mandated otherwise.

Rule 16.8 Exemptions for Authority wells. The Authority's water wells are exempt from the requirement to obtain a registration or permit under these rules, but shall be considered as existing wells for purposes of the well spacing requirements from existing wells under Rule 4. The General Manager shall register the Authority's water wells with the Northern Trinity Groundwater Conservation District and submit groundwater production reports and water use fee payments in accordance with the rules of such district.

Rule ~~175~~.1 Construction of words and phrases. A reference to a section or rule without further identification is a reference to a section or rule in these ~~r~~Rules. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

Rule ~~175~~.2 Severability. In case any one or more of the provisions contained in these rules shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other rules or provisions hereof, and these rules shall be construed as if such invalid, illegal, or unenforceable rule or provision had never been contained herein.