

## **Rule 3 Well Registration, Drilling Permits, and Operating Permits**

### ***Rule 3.0 Registration and Permitting***

- 3.0.A.** All wells located within the District except environmental sampling wells, environmental monitoring wells, environmental soil borings, geotechnical wells, and geologic exploration wells, shall be registered with the District. Based on the registration information, certain well owners shall be required to obtain operating permits.
  
- 3.0.B.** All registrations and permits issued by the District shall be subject to the District's Rules and to terms and conditions regarding the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practical the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.

**3.0.C.** The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules applicable to wells subject to registration and permitting. Registration of a well, issuance of a drilling permit, operating permit, or permit to substantially alter a well does not limit the District's authority to regulate a well or the production of water from a well.

**3.0.D.** The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, production capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District. All well and well site access shall be conducted in accordance with Rule 5.10.

**3.0.E.** The District makes no representations and shall have no responsibility with respect to the availability or quality of water.

*Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010. Renumbered December 10, 2012 by Board Order 2012-008, effective December 12, 2012. Amended July 22, 2024, by Board Order 2024-002; effective July 22, 2024.*

### **Rule 3.1 Existing Wells**

Any well in the District that was drilled and properly completed on or before May 17, 2005, is an existing well under these Rules. All existing wells are required to either register with the District under Rule 3.1.A. or obtain an operating permit from the District under Rule 3.1.B. A failure to take these steps may result in issuance of a notice of violation and assessment of a penalty under Rule 7.2. If an existing well is substantially altered, as defined by District Rules, after May 17, 2005, it becomes subject to the requirements of the District Rules applicable to new wells. Wells that were registered prior to May 17, 2005 with Kendall County are considered registered with the District.

*Amended April 12, 2021 by Board Order 2021-001, effective April 12, 2021.*

#### **3.1.A. Registration for Existing Well**

The owner or agent of an existing well located within the District shall register the well with the District. Forms for registering existing wells are available from the District Office. The owner shall provide all information required on the form and a copy of the completed State of Texas Well Report. This information shall include, but is not limited to:

- (1) The name of the well owner, mailing address, and telephone number;

- (2) A location map or property plat drawn on a scale that adequately details the well site, provides the latitude and longitude (WGS 84) of the well head, the property lines, the location of other existing wells on the subject tract, the location of the existing use(s), the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well;
- (3) Casing size, well depth, pump size, and production capability;
- (4) What the well is used for; and
- (5) If it is a water well, the information shall include what water from the well is used for and where water from the well is used.

No application fee under Rule 4.1. shall be charged for registering an existing well. The District shall issue a well number.

The District shall determine under Rule 3.5. whether the existing well must obtain an operating permit, and whether it is currently operational, abandoned, or plugged. No further approval is required of existing wells, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations. Changes in well conditions or operations or purpose of use of water from the well, may make the well subject to production limits under Rule 10. Increases in the production capability may require an operating permit.

### **3.1.B Operating Permit for Existing Well**

**All existing water wells in the District shall apply for an operating permit, except the following, which shall only require a registration:**

- (1) domestic and livestock groundwater wells in the District that are either drilled, completed, or equipped so that they are incapable of producing more than 25,000 gallons of groundwater per day;
- (2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or
- (3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities.

The owner or agent shall submit to the District an operating permit application on a form obtained from the District. All operating permit applications shall be signed and sworn to as required by Texas Water Code Section 36.113(b). In addition to the information required under Rule 3.1.A., the owner shall provide other information such as a water conservation plan and a drought contingency plan, and any other information deemed necessary by the District. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. No application fee under Rule 4.1. shall be charged for issuing an operating permit for an existing well.

If the application seeks less than the instantaneous rate of 5 gallons per minute **and** less than a total annual production of 1 acre-foot, once the application is deemed administratively complete, the General Manager will either deny the application or determine the production amount under Rule 10 and issue the permit. Per Rule 8.3, the application will be referred to the Board for a public hearing if the General Manager denies the application or if requested by the applicant.

If the application seeks more than the instantaneous rate of 5 gallons per minute **or** more than a total annual production of 1 acre-foot, once the application is deemed administratively complete, the District will determine the production amount under Rule 10. The application will be processed per Rule 8.3.

An operating permit shall require installation of a meter, specify and authorize the annual maximum groundwater production from the well, as provided by Rule 10, the owner of the well, the well number, the purpose of use permitted, and any special permit conditions, including the production fee, if required under Rule 4.4. All meters must be registered with the District under Rule 5.11.

*Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 20, 2007 by Board Order 2007029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010. Amended December 10, 2012 by Board Order 2012-008, effective December 12, 2012. Amended November 8, 2021 by Board Order 2021-005; effective November 8, 2021. Amended March 20, 2024, by Board Order 2024-001; effective March 20, 2024.*

## **Rule 3.2 New Wells – Registration of Exempt Wells**

### **3.2.A. Exempt Water Wells**

- (1) The operating permit requirements in Section 3.3 do NOT apply to the following new water wells, however Rule 6 spacing rules do apply to all wells, except wells registered under (d) below:

- (a) domestic and livestock or poultry groundwater wells in the District that are drilled on real property platted or subdivided **prior to** October 10, 2023, that are:
    - (1) located on a tract of land 6 acres or larger or meet 6-acre density, both specified under Rule 10.4; and
    - (2) either drilled, completed, or equipped so that they are incapable of producing more than 25,000 gallons of groundwater per day, which is 17.36 gallons per minute;
  - (b) domestic and livestock or poultry groundwater wells in the District, that are drilled on real property platted or subdivided **after** October 10, 2023, that are:
    - (1) either drilled, completed, or equipped so that they are incapable of producing more than 25,000 gallons of groundwater per day, which is 17.36 gallons per minute; and
    - (2) located or to be located on a tract of land larger than 10 acres;
  - (c) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;
  - (d) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities; or
  - (e) the drilling of a water well for temporary use to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District. This exemption may not exceed 180 days. The District may grant an extension of the exemption until the well is complete.
- (2) The District may require a well to be permitted by the District and to comply with all District rules if:
- (a) a groundwater well exempted under Subsection (1)(a) and (1)(b), herein, is altered to be capable of producing more than 25,000 gallons of groundwater per day or 17.36 gallons per minute;
  - (b) a groundwater well exempted under Subsection (1)(b), herein, is drilled to exceed more than one well for each 10 acres on the tract of land;
  - (c) the purpose of a well exempted under Subsection (1)(c), herein, is no longer used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas;

- (d) the withdrawals from a well exempted under Subsection (1)(d), herein, are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code; or
- (e) a groundwater well exempted under Subsection (1)(e), herein, are no longer used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the district.

**3.2.B. All exempt water wells, under Rule 3.2A, shall be registered with the District.**

- (1) **All exempt wells, whether new or existing, shall be registered with the District by the well owner or operator on a form(s) prescribed by the General Manager as an application for a Registration.** After review and determination by the General Manager that the well is exempt, the owner or operator shall be issued a Certificate of Registration. A fee may be charged for the registration of exempt wells.
- (2) **New exempt wells shall obtain a Certificate of Registration from the District prior to the well being drilled.** The applicant and/or the well driller violate the District's Rules and Chapter 36, Texas Water Code, by drilling or causing to be drilled, a well(s) without prior authorization from the District;
- (3) Exempt wells that are not registered with the District shall be subject to District enforcement for violation of District Rules.
- (4) Exempt wells that do not have a Registration shall not be protected by the District.

**3.2.C.** Forms for registering new wells are available from the District Office. The owner of an existing well that will be substantially altered shall seek authorization from the District, as required by Rule 3.4, prior to altering the well.

**3.2.D.** The owner shall provide all information required on the registration form. This information shall include, but is not limited to the information below and what may be required in Rule 3.3.A:

- (1) The name of the well owner, mailing address, and telephone number;
- (2) The proposed well location, including a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells, any existing or proposed wastewater systems, and other known potential sources of contamination within 300 feet of the proposed well showing compliance with Rule 6 spacing requirements. This map or plat shall

provide adequate detail to allow the District to determine compliance with Rule 10.4, if applicable.

- (3) Certification that the well is not located within 50 feet of or within the service area of a retail public water utility or community water system;
- (4) If the well is to be located within 50 feet of or within the service area of a retail public water utility or community water system, a document from the retail public water utility or community water system stating that it is unable or unwilling to provide service or that it has no objection to the location of the proposed well;
- (5) Casing size, well depth, pump size, and production capability;
- (6) What the well will be used for; and
- (7) If it is a water well, the information shall include what water from the well will be used for and where water from the well will be used. It shall also include a demonstration of beneficial use without waste.

**3.2.E.** The District shall issue a well number for the registered exempt well.

**3.2.F.** If the District determines that the information is complete, that the application fee has been paid, that location of the proposed well complies with Rule 6 spacing requirements, and Rule 10.4, if applicable, that no operating permit under Rule 3.3. is required, and that the registrant is in compliance with all District Rules and all required fees have been paid, the District shall issue a registration.

**3.2.G.** If no operating permit under Rule 3.3 is required, upon issuance of the registration, the owner may drill the well. A copy of the Registration shall be on-site while the well is being drilled. The issuance of a registration is not a guaranty of the availability of groundwater. The well shall comply with all State and District well construction and spacing requirements. The owner shall ensure that the driller files a copy of the State of Texas Well Report with the District within 60 days of well completion. Although no further approval is required, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations, all new wells are subject to the production limits imposed by Rule 10. Increases in the production capability or purpose of use may result in the well being reclassified so that the well owner would be required to apply for an operating permit and be subject to annual production fees under Rule 4.4.

**3.2.H.** Drilling shall begin within one year of approval of a registration. At that time, if no drilling has begun, the registration expires. The application fee is non-refundable. After expiration of a registration, an owner shall submit

a new registration application, accompanied by the appropriate application fee prior to drilling the well. The District may grant a one-time extension of no more than 180 days upon written request to the District.

*Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 20, 2007 by Board Order 2007029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010. Amended December 10, 2012 by Board Order 2012-008, effective December 12, 2012. Amended November 8, 2021 by Board Order 2021-005; effective November 8, 2021. Amended October 10, 2023 by Board Order 2023-010; effective Amended October 10, 2023.*

### **Rule 3.3 New Wells – Operating Permit for Non-Exempt Well**

- (1) **No person, including a well owner or well driller, shall construct or drill a well without first obtaining an operating permit from the District, unless the well is exempt under Rule 3.2.A.** An application for an operating permit must be completed in accordance with Rule 3.3.
- (2) **All new and existing wells shall be permitted by the District, unless the well is exempt under Rule 3.2.A** The permit shall be applied for by the well owner or operator on a form(s) prescribed by the General Manager as an application for an Operating Permit.
- (3) No person shall modify or alter an existing well or alter the size of a pump without an operating permit or permit amendment, unless the well is exempt under Rule **3.2.A.**
- (4) all permitted wells must comply with District Rules.

#### **3.3.A. Application**

***An application for an operating permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the well owner as required by Texas Water Code Section 36.113(b). The operating permit application must be granted by the District prior to the drilling of a water well and proposed production of water, all in accordance with the provisions of District Rules.***

A separate application is required for each well. Each application shall include the following:

- (1) Name, address, phone number, and facsimile number of the well owner or owners;
- (2) Name, address, phone number, and facsimile number of the person submitting the permit application;
- (3) Name of the proposed project, if any;



- (4) Any previous or other name(s) that identifies the tract of land;
- (5) Location and legal property description of the proposed project, including the location of the well(s), with physical address or description and GPS coordinates. The District may access the well location and take GPS coordinates and photographs;
- (6) the applicant must provide evidence that they have the legal authority to produce the groundwater associated with the land surface and the permit application. The applicant must also provide any documents that transfers that right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface and the permit application. A permit may be amended or revoked if the groundwater rights or right to produce are legally transferred to another person/entity. The applicant shall attest to the information required in this rule by a District-provided affidavit form and submit the affidavit with the permit application;
- (7) if the applicant is not the owner of the property, documentation establishing the applicable authority to construct and operate a well on the owner's property for the proposed use;
- (8) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose and any evidence supporting the authenticity of the intended beneficial use, including but not limited to a detailed water balance for the permitted water that describes the flow of water in and out of the system and identifies water loss;
- (9) identify the well owner's/operator's total number of acres of land and/or water rights contiguous in ownership with the land where the well is to be located, as required by Rule 10.2;
- (10) state the anticipated time within which the proposed construction or alteration is to begin;
- (11) if the requested production rate in the permit application is less than the instantaneous rate of 5 gallons per minute **and** less than a total annual production of 1 acre-foot, then a pump test is not required and the General Manager may approve the administratively complete permit application under Rule 3.3.C;
- (12) if the requested production rate in the permit application is more than the instantaneous rate of 5 gallons per minute **or** more than a total annual production of 1 acre-foot, then the following Aquifer Test Report, prepared by a Texas licensed professional engineer or a Texas licensed professional geoscientist, shall be provided with the permit application:
  - (A) The Aquifer Test Report shall at a minimum include the following:

- i. Test well and observation well (collectively referred to as a well couple). At a minimum, one test well (i.e., pumping well) and one observation well, shall be required to conduct an adequate aquifer test under this section. Additional observation wells shall be used for the aquifer test if it is practical or necessary to confirm the results of the test. The observation well(s) shall be completed in the same aquifer or aquifer production zone as the test well.
- ii. At a minimum, a 36-hour continuous pump test shall be conducted. Testing shall continue long enough to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. If the pumping rates remain constant for a period of at least four hours and a straight-line trend is observed on a plot of water level versus the logarithm of time pumped before the 36-hour limit has been reached, the pumping portion of the test may be terminated.
- iii. The frequency of water level measurements during the aquifer test shall be such that adequate definition of the time-drawdown curve is made available. As much information as possible shall be obtained in the first ten minutes of testing (i.e., pumping). Water level measurements shall continue to be taken at least hourly until the water level reaches 95% of the original starting level.
- iv. The time-drawdown and time-recovery data obtained during the aquifer test shall be used to determine aquifer parameters utilizing the nonequilibrium equations developed by Theis or Cooper-Jacob, or acceptable modifications thereof. The following aquifer parameters shall be determined:
  1. rate of yield and drawdown;
  2. specific capacity;
  3. efficiency of the pumped (test) well;
  4. transmissivity;
  5. coefficient of storage;
  6. hydraulic conductivity;
  7. recharge or barrier boundaries, if any are present;
  8. thickness of the aquifer(s)
  9. current saturated thickness

- v. Based on the information developed under the above sections, the following information shall be provided:
  - 1. the estimated drawdown of the aquifer at the well head over a ten-year period and over a fifty-year period, based on the proposed pumping rate;
  - 2. the estimated drawdown of the aquifer at the property boundary over a ten-year period and over a fifty-year period, based on the proposed pumping rate;
  - 3. the estimated production rate at which the well can be pumped to not exceed a drawdown of 20% of the current saturated thickness at the property boundary.
- (13) if the water is to be resold, provide a description of:
  - (A) the service area, the metering and leak detection and repair program,
  - (B) the drought or emergency water management plan, and
  - (C) information on each customer's water demands, including population and customer data, water use data, water supply system data, wastewater data, water conservation measures and goals, and the means for implementation and enforcement;
- (14) identify well(s) producing from the same formation on land adjacent to the property where the well is located and where the proposed well is to be located;
- (15) describe the location and use of existing wells on the property where the well is located or where the proposed well is to be located;
- (16) state the depth of the water-bearing formation which the applicant proposes to utilize for the well;
- (17) the application may be required to be accompanied by a map or plat drawn on a scale that adequately details the proposed project, showing:
  - (A) the location of the existing or proposed well(s);
  - (B) the location of the existing or proposed production monitoring device(s);
  - (C) the location of the existing or proposed water use facilities; and
  - (D) the location of the proposed or increased use or uses;
- (18) the permit application must be accompanied by an application fee;

- (19) a well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the applicable authorities, including the District;
- (20) the identity of the well driller, including the well driller's license number;
- (21) The permit and registration application may also require additional information, including but not limited to: a physical address of the well site location, a legal description of the property (plat or survey); a site map that shows the location and distance of the proposed well to existing wells, property lines, septic tank, drain field, structures, neighboring septic systems if located closer than 150 feet and any other sources of contamination within 50 feet; and a copy of the warranty deed, a construction diagram for well construction and/or plugging, pump specifications (including type, horsepower, and pump curve);
- (22) The District shall determine whether the application, maps, and other materials comply with the requirements of this rule. If the application does not comply with the requirements of these rules it shall be deemed administratively incomplete and returned to the applicant;
- (23) A copy of the well registration, if applicable;
- (24) The maximum well pumping capacity denoted in gallons per minute, as well as the annual maximum production requested in acre-feet per year, which will be used for the specified beneficial purpose.

For permits issued after May 16,2022, the maximum well pumping capacity denoted in gallons per minute does not mean that the well is authorized by the District to pump that maximum capacity. The authorized amount of water to be produced annually by a permittee is not tied to the pump size. The authorized withdrawal amount of groundwater is stated in each well permit as the rate of production, which authorizes a maximum gpm production, not to exceed a specified number of acre-feet of groundwater production each year.

- (25) A water conservation plan;
- (26) A drought contingency plan;
- (27) A demonstration that the purpose of use and production amount are consistent with the District Management Plan;
- (28) A demonstration of other sources of water available for the requested production amount and use;
- (29) A pump test as described in Rule 5.13, unless waived by the District;

- (30) Any other information deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36 and address specific District needs; and
- (31) Application fee required by Rule 4.1.A(2).

### **3.3.B. Administrative Completeness of Application**

In order to adequately address the purposes and requirements of Texas Water Code Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant. The applicant shall be notified when the application has been reviewed and deemed administratively complete. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. If an application remains administratively incomplete for more than 180 days following either the original application date or the date that the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.

### **3.3.C. Consideration of Operating Permit Applications**

The District shall promptly act on each administratively complete application for an operating permit. A permit application seeking less than the instantaneous rate of 5 gallons per minute **and** less than a total annual production of 1 acre-foot may be acted on by the General Manager.

Within 60 days after the date an operating permit application or application to substantially alter a well is determined to be administratively complete, the application shall either be acted on by the General Manager or referred to the Board in accordance with the provisions of Rule 8.3.

The District shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each application. The District shall consider the following, which include the considerations required by Texas Water Code Section 36.113(d):

- (1) Does the application conform to the requirements of Chapter 36 and these Rules?
- (2) Is the well located within 50 feet or within the service area of a retail public water utility or community water system? If so, has the applicant shown that the utility or community water system is unable or unwilling to provide water service or that it has no objection to the location of the well?

- (3) Has the applicant considered other sources of water available for the requested use and production amount?
- (4) Does the proposed use of water unreasonably affect existing groundwater and surface water resources or existing permit holders?
- (5) Has the applicant demonstrated that the proposed well will be for beneficial use without waste?
- (6) Are the proposed use of water and production amount consistent with the District's approved District Management Plan?
- (7) Has the applicant agreed to avoid waste and achieve water conservation?
- (8) Will the conditions and limitations in the permit prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells?
- (9) Does the application include an acceptable drought contingency plan?
- (10) Does the application include an acceptable water conservation plan?
- (11) Has the applicant agreed to use reasonable diligence to protect groundwater quality?
- (12) Has the applicant agreed to follow the District's rules on well plugging at the time of well closure?"
- (13) Are the applicant and the well in compliance with all District rules and have all required fees been paid?
- (14) Is the proposed use of water from the well wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape?
- (15) This section does not apply to the renewal of an operating permit issued under §36.1145.

**D.** An operating permit shall require installation of a meter, and specify and authorize the annual maximum groundwater production from the well as provided by Rule 10. All meters must be registered with the District under Rule 5.11.

**E.** The issuance or amendment of an operating permit is not a guaranty of the availability of groundwater.

**F.** The District shall issue a well number for the permitted well.

- G.** Drilling shall begin within one year of approval of an operating permit. At that time, if no drilling has begun, the operating permit expires. The application fee is non-refundable. After expiration of an operating permit, an owner shall submit a new operating permit application accompanied by the appropriate application fee prior to drilling the well. The District may grant a one-time extension of no more than 180 days upon written request to the District.

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**Rule 3.4 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation**

**3.4.A Change in Well Conditions or Operations**

- (1) No person shall take any of the following actions related to a well located in the District without notifying and receiving authorization from the District:
  - (a) change the type of use of a well;
  - (b) change the place of use of the water produced from the well;
  - (c) alter the size or depth of a well, the well pump, or its pumping volume;
  - (d) plug a well; or
  - (e) change the status of a well from active to non-active.
- (2) Changes may be processed administratively, may require an amendment to an existing operating permit, may make an exempt well be required to obtain an operating permit, and may make a well subject to the production limits of Rule 10.
- (3) Changes that affect compliance with spacing requirements of Rule 6 will be denied unless a Variance is obtained under Rule 7.
- (4) No pump installer or water well driller shall make changes to a well if the owner or agent has not applied for and obtained the appropriate authorization under this Rule.

### **3.4.B. Change in Use That Requires a Well to Have an Operating Permit**

- (1) If the production of groundwater from a well or the capability to produce groundwater from a well increases to more than 25,000 gpd (17.36 gpm), an operating permit shall be required.
- (2) It is the responsibility of the owner of such a well to apply for an operating permit no later than 90 days prior to making the changes that render such well subject to this Rule.
- (3) A change in use from domestic or livestock to any other purpose or use, regardless of production capability, shall likewise require the owner to obtain an operating permit.
- (4) No pump installer or water well driller shall make changes to a well if the owner or agent has not applied for and obtained the appropriate authorization under this Rule.

### **3.4.C. Change in Ownership**

- (1) Any change in ownership of a well shall be reported to the District by the purchaser on an approved form within 60 days after the change.
- (2) Both the seller and the purchaser shall sign the change in ownership form.
- (3) If there are unpaid production fees at the time of transfer, the new owner shall become responsible for payment of such fees.
- (4) For wells with an operating permit, failure to timely notify the District may result in the permit being revoked under Rule 3.4.G.
- (5) Change in ownership is considered a minor amendment.

### **3.4.D. Operating Permit Term**

- (1) Operating permits issued by the District are valid for a period of five (5) years from the effective date, unless otherwise specified by the District as a special permit condition.



- (2) Such a special permit condition may include the need for additional data regarding the impact of the well on the aquifer or surrounding wells.
- (3) The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit.

#### **3.4.E. Renewal of Operating Permits**

- (1) An application for renewal of an operating permit shall be submitted no later than 90 days prior to the expiration date of the operating permit and shall be accompanied by the appropriate application fee under Rule 4.1. The renewal application may require that the applicant identify the amount of water loss in the well system and permitted use. If an application to renew a permit is not received during this time, the permit may lapse and the well owner may be subject to penalty if the well is operated without a valid permit. Once the permit has lapsed, the landowner or well owner may have to apply for a new operating permit.
- (2) Decision on Renewal Application—
  - (a) Except as provided by Subsection (ii), the District, by its General Manager, shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:
    - i the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and
    - ii the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.
  - (b) The District is not required to renew a permit under this section if the applicant:
    - i is delinquent in paying a fee required by the District;
    - ii is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or

- iii has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.
- (c) If the District is not required to renew a permit under Subsection (b)(ii), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.
- (d)
  - (i) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under District rules, the permit as it existed before the permit amendment process remains in effect until the later of:
    - ii. the conclusion of the permit amendment or renewal process, as applicable; or
    - iii. final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.
- (e) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under Section 36.1145 without penalty, unless Subsection (b) of that section applies to the applicant.
- (f) The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District's rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

#### **3.4.F. Well Changes Requiring an Operating Permit Amendment**

- (1) An amendment to an operating permit is required for any change to the operation, use, or condition of a non-exempt well, including changing the production limit, the type of use of the well, the place of use of the water produced from the well, the size or depth of a well, a well pump, or its pumping volume.

(2) Amendments are characterized as major or minor according to the requirements of this Rule 3.4.F. Such characterization will determine the process involved for consideration and approval of an amendment.

(3) Major Amendment

(a) A major amendment to an operating permit is required to increase the annual production limit, to change the type of use or to change the location of withdrawal.

(b) An application for a major amendment shall be submitted at least 90 days prior to the date the change is to take place, on a form obtained from the District and accompanied by the appropriate application fee under Rule 4.

(c) The District shall notify the applicant when the application has been reviewed and deemed administratively complete. No major amendment application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District.

(d) Within 60 days after the date a major amendment application is determined to be administratively complete, the application shall be referred to the Board in accordance with the provisions of Rule 8.3.

(e) The application for a major amendment shall be considered as provided in Rule 3.3.C.

(f) No pump installer or water well driller shall make changes to a well if the owner has not applied for and obtained the appropriate authorization under this Rule.

(4) Minor Amendment

(a) A minor amendment to an operating permit a change in the ownership of the well; the size or depth of a well, well pump, or the well's pumping volume that does not increase the authorized annual production amount or the annual production capability of the well; or a change in the approved conservation and drought contingency plan.

- (b) An application for a minor amendment, on a form obtained from the District, must be submitted at least 30 days prior to the date the change is to take place. A minor amendment application fee must also be submitted, if one has been established under Rule 4.
- (c) The General Manager may process and approve a minor amendment.
- (d) No pump installer or water well driller shall make changes to a well if the well owner has not applied for and obtained the appropriate authorization under this Rule.

#### **3.4.G. Operating Permit Involuntary Amendment or Revocation**

- (1) Operating permits are subject to involuntary amendment or revocation if a change in State law or District Rules requires such action; for violation of District Rules; violation of the permit, including special permit conditions; violation of the provisions of Texas Water Code Chapter 36; waste of groundwater; nonpayment of production fees; or other actions that the District determines to be detrimental to the groundwater resources within the District, including noncompliance with the District's conservation plan or drought contingency plan.
- (2) If an involuntary amendment or revocation is the result of an enforcement action under District Rule 7 and the respondent permit holder requests a hearing, it shall be referred to the Board for action under District Rule 8.7.
- (3) If an involuntary amendment or revocation is not the result of an enforcement action under District Rule 7 and the permit holder requests a hearing, it shall be referred to the Board for action under District Rule 8.4.

#### **3.4.H. Replacing a Well**

- (1) In order to qualify as a replacement well, the well that is being replaced must be properly registered or have an operating permit and be in compliance with District Rules.
- (2) The replacement well must be no nearer to adjoining property lines than the well it is replacing, unless the replacement well is an exempt well and the owner of the replacement Well complies with Rule 6.

- (3) The replacement well shall not have the capability of producing more water than the original capacity of the well it is replacing, unless the replacement well is an exempt well and the owner of the replacement well complies with Rule 6.
- (4) Prior to drilling a replacement well, the well owner must submit a replacement well form to the District. If the General Manager determines that the well is a replacement well as described in this Rule 3.4.H, the District will make changes in the approved registration and operating permit, if any, authorizing drilling and operation of the replacement well.
- (5) In case of emergency with the potential to affect human or livestock health or safety, a replacement well may be drilled and the required replacement well form must be submitted within 2 business days.
- (6) A well that has been replaced under this Rule 3.4.H must be plugged within 30 days.
- (7) The drilling and completion standards in effect at the time of drilling the replacement well shall apply to the replacement well.

*Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010. Amended December 10, 2012 by Board Order 2012-008 effective December 12, 2012. Amended February 13, 2017 by Board Order 2012-008; effective February 13, 2017. Amended November 8, 2021 by Board Order 2021-005; effective November 8, 2021.*

### **Rule 3.5 Wells Subject to Operating Permits**

- 3.5.A.** All water wells located within the District, having the capacity to produce more than 25,000 gallons per day (17.36 gallons per minute) shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. and pay a production fee under Rule 4.4.
- 3.5.B.** All water wells located within the District incapable of producing more than 25,000 gallons per day (17.36 gallons per minute), except such wells used for domestic or livestock purposes that are exempt under Rule 3.2.A, shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. Such wells are not required to pay a production fee under Rule 4.4.
- 3.5.C.** A well may be issued a temporary or one-time authorization for the limited purpose, production volume, and duration specified in the authorization.

Such authorization is limited solely to the terms specified in the authorization and does not create a right to produce water from the well in the future. Such authorization shall be obtained under Rules 3.1.B. or 3.3 and shall pay a production fee under Rule 4.4.

*Amended October 10, 2023 by Board Order 2023-010; effective Amended October 10, 2023.*

### **Rule 3.6 TRANSFER OF GROUNDWATER OUT OF THE DISTRICT**

#### **RULE 3.6.A. PERMIT REQUIRED**

Groundwater produced from a well within the District may not be transported outside the District's boundaries unless the Board has issued the well owner or operator a transport permit, except as provided within these Rules.

#### **RULE 3.6.B. APPLICABILITY**

- (1) A person proposing to transport groundwater out of the District must obtain a transport permit, in addition to a drilling/operating permit for a new well, or an operating permit for an existing well, to:
  - (a) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or
  - (b) transfer groundwater out of the District on or after March 2, 1997, under a new arrangement.
- (2) The District may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.

#### **RULE 3.6.C. APPLICATION**

An application for a transport permit must be filed in the District office and must include the information and studies required under Rule 3 for a drilling and/or operating permit, plus the following information:

- (1) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, including the:
  - (a) location of the proposed receiving area for the water to be transported;
  - (b) information describing alternate sources of supply that might be utilized by the applicant and the groundwater user, and the feasibility and practicability of utilizing such supplies; and
  - (c) description of the amount and purpose of use in the proposed receiving area for which water is needed.

- (2) the projected effect of the proposed groundwater transport on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District, including the Rule 8.4 information and studies and any proposed plan of the applicant to mitigate adverse hydrogeological impacts of the proposed transport of water from the District.
- (3) the approved Regional Water Plan and certified District Management Plan, including a description of how the proposed transport is addressed in any approved regional water plan(s) including the Region G Regional Water Plan and, the certified District Management Plan.
- (4) a technical description of the facilities to be used for transportation of water and a time schedule for any construction thereof, that will be used to establish the term of the transport permit, under Section 36.122 (i) of the Texas Water Code.
- (5) state the presently anticipated duration for the proposed transport of groundwater;
- (6) provide information showing what water conservation measures the applicant has adopted, what water conservation goals the applicant has established, and what measures and time frames are necessary to achieve the applicant's established water conservation goals; and
- (7) if and when the water is to be resold to others, provide a description of the applicant's service area, metering, leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each subsequent customer's water demands, including population and customer data, water use data, water supply system data, alternative water supply, water conservation measures and goals, conjunctive use, and the means for implementation and enforcement of all applicable rules, plans, and goals.

**RULE 3.6.D. HEARING AND PERMIT ISSUANCE**

- (1) Applications for transport permits are subject to the hearing procedures provided by these Rules in Section 8.
- (2) In determining whether to issue a permit to transfer groundwater out of the District, the Board shall be fair, impartial, and nondiscriminatory and shall consider the following factors when deciding whether to issue or impose conditions on a drilling, operating, or transport:

- (a) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
  - (b) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
  - (c) the approved Region L Water Plan and certified District Management Plan.
- (3) The District may not deny a transport permit based on the fact that the applicant seeks to transport groundwater outside of the District and may not impose more restrictive permit conditions on transporters than the District imposes on existing in-District users, unless:
- (a) such limitations apply to all subsequent new operating permit applications and permit amendment applications to increase use by historic users, regardless of type or location of use;
  - (b) such limitations bear a reasonable relationship to the existing District Management Plan; and
  - (c) such limitations are reasonably necessary to protect existing use.
- (4) In addition to conditions provided by Section 36.1131, Texas Water Code, the operating permit to transport water out of the District shall specify:
- (a) the amount of water that may be transferred out of the District;
  - (b) the period for which the water may be transferred, which shall be:
    - (i) at least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to the terms 30 years if construction of a conveyance system is begun before the expiration of the initial term; or
    - (ii) at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit;
  - (c) reporting requirements, including but not limited
    - (i) to flow meter installation, testing, and regulation calibration,



- (ii) submission of production reports to the District,
  - (iii) separate meter requirements for exported water from non-exported permitted water;
    - (A) the installation and reporting of monitoring wells;
    - (B) Well Assistance provisions, if applicable;
    - (C) the required submission of all groundwater conveyance and user agreements related to the export permit;
    - (D) water conservation and drought contingency plans; and
    - (E) periodic review and permit limitations based on aquifer conditions.
- (5) The District may periodically review the amount of water that may be transferred under an operating permit to transport water out of the District and may limit the amount if additional factors considered, related to the factors in Subsection (2), above.
- (6) After conducting its periodic review, more restrictive permit conditions may only be imposed if the factors in Subsection (3), above, are met.

**RULE 3.6.E. FEES INCLUDED WITH APPLICATION**

The transport permit application must be accompanied by the application processing fee, inspection fee, or other fees as appropriate. Such fees must be paid before notice is published and mailed. Payment of all fees including water use fees remain the responsibility of the permit holder.

*Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended October 10, 2023 by Board Order 2023-010; effective Amended October 10, 2023.*