PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE DISTRICT'S RULES FOR ADOPTION BY THE

Hudspeth County Underground Water Conservation District No. 1

Hudspeth County Underground Water Conservation District No. 1 (the District) is proposing to amend the District's rules. (The District's current rules were enacted on May 31, 2002.) The amendments to the rules, in part, propose changes or additions regarding permits, hearing procedures, the District's boundaries, existing and historic use period, penalties for violation of rules, election date, and other miscellaneous changes and additions to the District's existing rules. The details of the amendments to the proposed rules are more specifically contained in the proposed document which identifies all the proposed amendments.

Copies of the District's existing rules, the District's proposed rules, and related information are available on the internet at http:\\www.awblair.com\hcuwcd1. They are also available for review at the District's Office located at 107 S. Dotson Street in Dell City, Texas, Monday through Friday from 8:00 AM to NOON. To obtain a copy of the rules, please contact the District by phone at 915-964-2932, by US MAIL at PO Box 212, Dell City, Texas 79837 or by e-mail at hcuwcd1@dellcity.com.

As an aid to the District's Board, any person wishing to comment on the proposed rules should give written notice of such comments to the District by Noon on November 3, 2005. **The District will conduct a hearing on and consider adoption of the proposed rules at the District's Board meeting that is scheduled for November 3rd, 2005 at 6:00 pm at the Dell Telephone Meeting Room located at 610 S. Main, Dell City, Texas.** Oral comments and written comments regarding the proposed rules will be accepted by the Board during the hearing. Written comments will be accepted between now and the hearing, too. They should be mailed or hand-delivered to the District offices at the address identified above. Electronic copies of the written comments would be helpful, but are not a substitute for mail or hand delivery of any written comments. Any such written comments must be received no later than the closing of the hearing on November 3, 2005, unless the hearing officer extends the written comment period by no more than ten days during the hearing on November 3, 2005.

RULES OF THE
HUDSPETH COUNTY UNDERGROUND WATER
CONSERVATION DISTRICT NO. 1

The original Rules (which were sometimes referred to as "by-laws") of the Hudspeth County Underground Water Conservation District No. 1 were published on the December 7, 1990. Those original Rules are hereby repealed and replaced by the adoption of these Rules on the 31st day of May, 2002 as amended on November ?, 2005.

In accordance with Section 59 of Article XVI of the Texas Constitution and Chapter 36 of the Texas Water Code, the following Rules are hereby ratified and adopted as the Rules of this District by its Board. Each Rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The Rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the Rules of this District. To the end that these objectives are attained, these Rules will be so construed.

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1 DEFINITIONS AND CONCEPTS

1.1 DEFINITIONS OF TERMS

In the administration of its duties, the District follows the definitions of terms set forth in Chapter 36 of the Texas Water Code, and other definitions as follow:

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

"Affected Person" means, for any application, a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

"Agricultural Crop" means food or fiber commodities grown for harvest or commercial purposes that provide food, clothing, animal feed, or other commercially recognized products.

"Average Annual Consumptive Irrigation Requirement" means 2.80 acre-feet of groundwater withdrawals per acre per year.

"Aquifer" means a geologic formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Beneficial Use" or "Beneficial Purpose" means use of groundwater for:

(1) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial or recreational purposes;

(2) exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or

(3) any other purpose that is useful and beneficial to the users that does not commit or result in waste as that term is defined in these Rules.

"Board" means the Board of Directors of the District.

"Bone Spring-Victorio Peak Aquifer" means the portion of the aquifer located under the surface of the land within the boundaries defined in Exhibit B of these Rules.

"Casing" means a tubular, water tight structure installed in the excavated or drilled hole to maintain the well opening and, along with cementing, to confine the groundwaters to their zones of origin and to prevent the entrance of surface pollutants.

"Cement" means a neat Portland or construction cement mixture of not more than seven gallons of water per ninety-four (94) pound sack of dry cement, creating a cement slurry in which bentonite, gypsum, or other additives may be included.

"Consumptive Irrigation Requirement" means the quantity of irrigation water, exclusive of precipitation and stored soil moisture, that is required for Consumptive Use by an Agricultural Crop and all water lost to evaporation during the process of irrigation of an Agricultural Crop.

"Consumptive Use (Evapotranspiration)" means the quantity of water used by an Agricultural Crop in transpiration and evaporation of water from the soil surface adjacent to the crop.

"Deteriorated Well" means a well, the condition of which will cause, or is likely to cause, pollution of any groundwater in the District.

"District" means the Hudspeth County Underground Water Conservation District No. 1 created in accordance with Section 59 of Article XVI of the Texas Constitution and provisions of Chapter 36 of the Texas Water Code.

"District Office" means the office of the District, which may be changed from time to time by resolution of the Board.

"Existing and Historic Use Period" means the period of time from January 1, 1992 through the May 31, 2002~~Effective Date of these Rules~~ for all land within the boundaries of the District as such boundaries existed on May 31, 2002 and means the period of time from January 1, 1992 through November ?, 2005, for all other land within the boundaries of the District.

"Existing and Historic Irrigated Land" has the meaning as set forth in Section 6.12(i) of these rules.

"GPM" means gallons per minute.

"Groundwater" means water, other than underflow of surface water, below the surface of the earth within the District.

"Groundwater Reservoir" means a specific subsurface water-bearing stratum.

"Hearing Body" means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of law.

"Hearing Examiner" means the person appointed by the Board to conduct a hearing or other proceeding.

"Landowner" means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on such land surface.

"Leaching Fraction" means the fraction of infiltrated irrigation water that passes through the crop root zone and leaches sufficient salt from the root zone to maintain viable crop root zone. Based upon information available to the District, the Leaching Fraction for irrigation land in the District is determined by the Board to be equal to 0.30.

"Meter or Measuring Device" means a water flow measuring device required under these Rules or a permit of the District that can within +/- 5% of accuracy measure the instantaneous rate of flow and record the amount of groundwater produced from a Well System during a measure of time.

"Open Meetings Law" means Chapter 551, Texas Government Code, as it may be amended from time to time.

"Open Records Law" means Chapter 552, Texas Government Code, also called the "Public Information Law," as it may be amended from time to time.

"Other Land" means all land located within the boundaries of the District that are not classified by the District as Existing and Historic Irrigated Land.

"Party" means a person who is an automatic participant in a proceeding before the District as set forth under Section 10.5(c); or a person who is an "affected person" as defined under these Rules and who files a written notice of intent to contest pursuant to Section 10.4(b) of these Rules.

"Person" means an individual, corporation, limited liability company, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

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

"Presiding Officer" means the president, vice-president, secretary or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.

"Quorum" means a majority of the members of the Board.

"Registration" means a certificate issued by the District for a well that is exempt from an Operating or Validation Permit.

"Rule" means the rules and regulations of the District.

"Texas Rules of Civil Procedure" and "Texas Rules of Evidence" mean the civil procedure and evidence rules, as adopted by the Supreme Court of Texas, as amended, and in effect at the time of the action or proceeding. Except as modified by these Rules, the rights, duties and responsibilities of the Presiding Officer acting under the Texas Rules of Civil Procedure and the Texas Rules of Evidence are the same as a court acting under those rules, without a jury.

"Transition Period" means the time period from January 1, 2002 through December 31, 2002.

Types of Permits:

"Drilling Permit" means a permit required by the District for a new well to be drilled, including test wells, or an existing well that is to be re-drilled, except as set forth under Section 6.14 of these Rules.

"Operating Permit" means a permit required by the District for the operation of any non-exempt new Well System, for which there is no Validation Permit or amendment thereto to include such Well System, and which authorizes the quantity of groundwater that may be withdrawn from such Well System for use within the District's boundaries as determined in Chapter 3 of these Rules.

"Transfer Permit" means a permit required by the District which authorizes the transfer of groundwater produced by a Well System for which the Well Owner possess a Operating or Validation Permit from the District to a place of use outside of the boundaries of the District.

"Validation Permit" means a permit required by the District for the operation of any non-exempt existing Well System and authorizing the quantity of groundwater that may be withdrawn from such Well System for use within the District's boundaries as determined in Chapter 3 of these Rules.

Types of Wells:

"Exempt Well" means a well, which may be either a new or an existing well, that is exempt under Chapter 7 of these Rules, and is not required to have an operating or validation permit, but shall be registered with the District.

"Existing Well" means a well which, prior to the Effective Date of these Rules, was in existence and from which water was capable of being withdrawn.

"Excluded Well" means a well drilled for oil, gas, sulfur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluid or for any purpose, under permits issued by the Railroad Commission of Texas.

"Index Well Network" means a monitoring well or series of monitoring wells from which the Water Allocation shall be determined pursuant to Chapter 3 of these Rules. The District shall ensure that each well in the Index Well Network is equipped with a continuous water level recorder and the recorded water level data is periodically verified by field measurements by District staff.

"Injection well" means a well into which fluids are injected.

"Monitoring well" means a well installed to measure some property of the groundwater or the aquifer that it penetrates.

"New Well" means a well for which drilling has commenced on or after the Effective Date of these Rules.

"Non-exempt Well" means either an existing or a new well which does not meet the criteria of an Exempt Well pursuant to Chapter 7 of these Rules.

"Waste" means any one or more of the following:

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

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

(c) unintentional escape of groundwater from a groundwater reservoir for non-beneficial use to any other reservoir or geologic stratum that does not contain groundwater;

(d) pollution or harmful alteration of groundwater in a groundwater reservoir above the background groundwater quality by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(e) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the ~~Texas Natural Resource Conservation Commission~~ Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;

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

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

(h) operating a deteriorated well.

"Water Allocation" means the quantity of groundwater which may be withdrawn each year in a two year period from the portion of the Bone Spring-Victorio Peak Aquifer within the boundaries of the District pursuant to a Validation or Operating Permit issued by the District.

"Well" means any facility, device or method used to withdraw groundwater from a groundwater reservoir in the District.

"Well Operator" means the person who operates a Well System.

"Well Owner" means the person who owns a possessory interest in the land upon which a Well System is located or to be located, the Well System, or the groundwater withdrawn from such Well System.

"Well System" means a well or group of wells where the sum total of annual water authorized by the District to be withdrawn from such Well System is limited to the applicable Water Allocation as determined by these Rules.

"Withdraw" means the act of extracting or producing groundwater by pumping or any other method.

1.2 EFFECTIVE DATE OF RULES

The Effective Date of these Rules is the date on which such Rules were adopted by the Board. <u>Amendments to rules are effective on the date on which the amendments were adopted by the Board, except when statues in Chapter 36 of the Texas Water Code provide otherwise.</u>

1.3 AUTHORITY OF DISTRICT

The Hudspeth County Underground Water Conservation District No. 1 is political subdivision of the State of Texas organized and existing under and by virtue of Article XVI Chapter 59 of the Texas Constitution. The District was created pursuant to Vernon's Texas Civil Statutes Article 7880-1, *et. seq*, by a petition presented on December 31, 1956 to the Hudspeth County Commissioner's Court and confirmed by an election held on February 16, 1957.

1.4 DISTRICT BOUNDARIES

The boundaries of the District are those defined on the 15th day of August, 1955 by the Board of Water Engineers of the State of Texas as "Subdivision Number One, of the Underground

Water Reservoir in Hudspeth County, Texas" as amended by Section 20 of House Bill 3442 of the 78nd Regular Session of the Texas Legislature (see Exhibit A attached to these Rules).

1.5 PURPOSE OF RULES

These Rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging groundwater in the District, and these Rules are adopted under the District's statutory authority to prevent waste and to protect the rights of owners of interests in groundwater.

1.6 USE AND EFFECT OF RULES

These Rules are used by the District in the exercise of the powers conferred by law and in the accomplishment of the purposes of the law creating the District.

1.7 AMENDING OF RULES

The Board may from time to time, after notice and hearing, amend these Rules or adopt new rules.

1.8 PURPOSE OF DISTRICT

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution.

1.9 OWNERSHIP OF GROUNDWATER

The ownership and rights of the owners of the lands within the District and their lessees and assigns in groundwater are hereby recognized, and nothing in Chapter 36 of the Texas Water Code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by these Rules.

1.10 HEADINGS AND CAPTIONS

The Section and other headings and captions contained in these Rules are for reference purposes only and do not affect in any way the meaning or interpretation of these Rules.

1.11 CONSTRUCTION

Construction of words and phrases are governed by the Code Construction Act, Chapter 311, Subchapter B, Texas Government Code. Whenever a singular noun is used, it may refer to a plural; whenever a plural noun is used, it may refer to a singular.

1.12 METHODS OF SERVICE UNDER THE RULES

Except as otherwise provided in these Rules, any notice or document required by these Rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified or registered mail sent to recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number and shall be accomplished by 5:00 o'clock p.m. (local time in Dell City, Texas) of the date on which it is due. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer commencing after 5:00 o'clock p.m. (local time in Dell City, Texas) shall be deemed complete the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed period of time after service, three days will be added to the prescribed period. Where service by other methods has proved unsuccessful, the service may be complete upon publication of the notice in a newspaper of general circulation in Hudspeth County, Texas or by such method as the Hearing Body may provide.

1.13 SEVERABILITY

If any one or more of the provisions contained in these Rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other Rules or provisions of these Rules, and these Rules must be construed as if such invalid, illegal or unenforceable Rules or provision had never been contained in these Rules.

2 DISTRICT ORGANIZATION

2.1 BOARD OF DIRECTORS

(a) The governing body of the District is the Board of Directors, which shall consist of five directors elected for four-year terms.

(b) Vacancies in the office of director shall be filled by appointment of the Board. If the vacant office is not scheduled for election for longer than two years at the time of the appointment, the Board shall order an election for the unexpired term to be held as part of the next regularly scheduled director's election. The appointed director's term shall end on qualification of the director elected at that election.

(c) The Board is created to determine policy and to regulate the withdrawal of groundwater within the boundaries of the District, and to exercise its rights, powers and duties in a manner that will effectively and expeditiously accomplish the purposes of the law creating the District and Chapter 36 of the Texas Water Code. The Board's responsibilities include, but are not limited to, adoption and enforcement of reasonable rules, policies, permits, and orders.

2.2 QUORUM

A majority of the membership of the Board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the Board is sufficient for transacting any business of the District.

2.3 OFFICERS

(a) After each directors' election, the Board shall meet and elect officers.

(b) Members and officers serve until their successors are elected or appointed and sworn in accordance with the Chapter 36 of the Texas Water Code and these Rules. The Board shall elect a president, vice president, secretary, and any other officers or assistant officers as the Board may deem necessary.

(b) The president is the chief executive officer of the District, presides at all meetings of the Board, and shall execute all documents on behalf of the District. The vice president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the District are properly kept and shall attest the president's signature on all documents.

(d) The Board may appoint another director, the General Manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the District, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the District.

(e) After any election or appointment of a director, the District shall notify the executive director of the ~~Texas Natural Resource Conservation Commission~~ Texas Commission on Environmental Quality within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the District for such purpose.

(f) In the absence of a General Manager, the president shall exercise all of the duties delegated to the General Manager under these Rules.

2.4 SWORN STATEMENT, BOND, AND OATH OF OFFICE

(a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for $10,000 payable to the District and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the Board and paid for by the District.

(d) The sworn statement shall be filed as prescribed by the Texas Constitution. The bond and oath shall be filed with the District and retained in its records. A duplicate original of the oath shall also be filed with the Secretary of State of Texas within 10 days after its execution and need not be filed before the new director begins to perform the duties of office.

2.5 GENERAL MANAGER

(a) The Board may employ or contract with a person to perform such services as General Manager for the District as the Board may from time to time specify. The Board may delegate to the General Manager full authority to manage and operate the affairs of the District subject only to orders of the Board.

(b) The Board may delegate to the General Manager the authority to employ all persons necessary for the proper handling of the business and operation of the District and to determine the compensation to be paid all employees other than the General Manager.

(c) A director may not be employed as General Manager of the District. The compensation of a General Manager who also serves as a director shall be established by the other directors.

(d) The General Manager is chief administrative officer of the District and General Manager shall have authority to manage and to operate the affairs of the District, subject only to the direction given by the Board through policies and resolutions adopted by it. At least annually, the Board shall determine the compensation to be paid to the general manger and review the actions and performance of the General Manager to determine how the General Manager has fulfilled his responsibilities and whether additional responsibilities should be delegated to him. The General Manager, with the approval of the Board, may employ all persons necessary for the proper handling of the business and operation of the District.

2.6 MANAGEMENT OF DISTRICT

(a) The Board shall be responsible for the management of all the affairs of the District. The District shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the Board for the conduct of the affairs of the District, including, but not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff.

(b) The Board shall set the compensation and terms for consultants.

(c) In selecting attorneys, engineers, auditors, financial advisors, or other professional consultants, the District shall follow the procedures provided in the Professional Services Procurement Act, Subchapter A, Chapter 2254, Texas Government Code.

(d) The Board shall require an officer, employee, or consultant who collects, pays, or handles any funds of the District to furnish good and sufficient bond, payable to the District, in an amount determined by the Board to be sufficient to safeguard the District. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the District. Such bond shall be signed or endorsed by a surety company authorized to do business in the state.

(e) The Board may pay the premium on surety bonds required of officials, employees, or consultants of the District out of any available funds of the District, including proceeds from the sale of bonds.

(f) The Board may adopt bylaws to govern the affairs of the District to perform its purposes. The Board may, by resolution, authorize its General Manager or other employee to execute documents on behalf of the District.

(g) The Board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the District to perform its purposes.

2.7 CONFLICTS OF INTEREST

A director of the District is subject to the provisions of Chapter 171, Texas Local Government Code, relating to the regulation of conflicts of officers of local governments.

2.8 GENERAL ELECTIONS

(a) All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for in Chapter 36 of the Texas Water Code. Write-in candidacies for any District office shall be governed by Subchapter C, Chapter 146, of the Texas Election Code.

(b) The directors of the District shall be elected according to the precinct method as defined by Chapter 12, page 1105, Special Laws, Acts of the 46th Legislature of Texas, Regular Session, 1939. To be qualified to be elected as a director, a person must be a registered voter in the precinct that the person represents.

(c) Elections shall be held ~~in January or thereabout~~ on the second Saturday of May of each odd numbered year.

2.9 FEES OF OFFICE; REIMBURSEMENT

(a) A director is entitled to receive fees of office of not more than $150 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed $9,000 a year.

(b) Each director is also entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the District.

(c) In order to receive fees of office and to receive reimbursement for expenses, each director shall file with the District a verified statement showing the number of days actually spent in the service of the District and a general description of the duties performed for each day of service.

2.10 POLICIES

(a) Subject to the law governing the District, the Board shall adopt the following in writing:

(1) a code of ethics for District directors, officers, employees, and persons who are engaged in handling investments for the District;

(2) a policy relating to travel expenditures;

(3) a policy relating to District investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of District investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services;

(5) policies that ensure a better use of management information, including:

(A) budgets for use in planning and controlling cost;

(B) an audit or finance committee of the Board; and

(C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards."

(b) The state auditor may audit the financial transactions of the District if the state auditor determines that the audit is necessary.

2.11 NOTICE OF MEETINGS

Notice of meetings of the Board shall be given as set forth in the Open Meetings Act, Chapter 551 of the Texas Government Code.

2.12 MEETINGS

(a) The Board shall hold regular meetings at least monthly. It may hold meetings at other times as required for the business of the District.

(b) Meetings shall be conducted and notice of meetings shall be posted in accordance with the Open Meetings Act, Chapter 551, of the Texas Government Code. A meeting of a committee of the Board, where less than a quorum is present is not subject to the provisions of the Open Meetings Act, Chapter 551, of the Texas Government Code.

(c) The Board may hold special meetings at the request of the President, or by written request of at least two Board members.

2.13 RECORDS

(a) The Board shall keep a complete account of all its meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

(b) The records of each District are the property of the District and are subject to Chapter 552, of the Texas Government Code.

(c) The preservation, storage, destruction, or other disposition of the records of each District is subject to the requirements of Chapter 201, of the Texas Local Government Code, and Rules adopted there under.

2.14 CONTRACTS

(a) The District shall contract, and be contracted with, in the name of the District.

(b) The District may purchase property from any other governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

2.15 EXECUTIVE COMMITTEES

The President may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

3 REGULATION OF SPACING AND PRODUCTION

3.1 REQUIRED WELL SPACING

A new well may not be drilled within 50 feet from the property line of any adjoining landowner.

3.2 EXCEPTIONS TO SPACING REQUIREMENTS

(a) If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements will not apply to the new proposed well location, except as provided by Chapter 28 of the Texas Water Code.

(b) Providing an applicant can show, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the required spacing of 50 feet, the issue of spacing requirements will be considered during the contested case process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board must limit the production of the well to ensure no injury is done to adjoining landowners or the Bone Spring-Victorio Peak Aquifer.

3.3 PRODUCTION LIMITATIONS DURING TRANSITION PERIOD

(a) During the Transition Period, the maximum annual quantity of groundwater that may be withdrawn or produced by an owner of an non-exempt existing Well System that has produced and beneficially used groundwater for irrigation purposes in accordance with the determination of Existing and Historic Irrigated Lands under Section 6.12 of these Rules shall not be greater than 5.0 acre-feet per acre for application on irrigable land.

(b) During the Transition Period, the maximum annual quantity of groundwater that may be withdrawn by an owner of a non-exempt existing Well System that has produced and beneficially used groundwater for non-exempt purposes other than irrigation shall be no greater than the maximum annual amount of water that the Well Owner withdrew and beneficially used in any one year during the Existing and Historic Use Period.

(c) During the Transition Period, for an owner of an existing non-exempt Well System other than those described in subsections (a) and (b) of this Section, or for an owner of any new Well System, the maximum annual quantity of groundwater that may be withdrawn by such Well Owner shall be in accordance with a new Operating Permit applied for and issued by the District under these Rules. Any new Operating Permits issued during the Transition Period shall be subject to further reductions, conditions or limitations based upon the District's Certified Management Plan and the final issuance of Validations Permits as set forth under Chapter 6 of these Rules.

3.4 PRODUCTION LIMITATIONS AFTER TRANSITION PERIOD

(a) This Section pertains to production limitations after the Transition Period.

(b) Pursuant to Chapter 36 of the Texas Water Code and to achieve the goals of the District's Management Plan, including managing the sustainability of the Bone Spring-Victorio Peak Aquifer, this Section establishes production limitations for all Operating, Validation, and Transfer Permits after the Transition Period based upon the allocation of groundwater

withdrawals that are determined by the level of the aquifer, as set forth under Sections 3.5 through 3.8 below.

(c) The maximum annual quantity of groundwater that may be withdrawn from an existing Well System under a Validation Permit issued by the District for irrigation use shall be no greater than the product of the applicable Water Allocation per acre, as quantified in Section 3.5 of these Rules multiplied by the number of acres of land determined by the District to be Existing and Historic Irrigated Land (see Section 6.12 of these Rules) that is owned or controlled by the Well Owner.

(d) The maximum annual quantity of groundwater that may be withdrawn under a Validation Permit issued by the District for a non-exempt existing Well System that has produced and beneficially used groundwater for non-exempt purposes other than irrigation shall be no greater than the maximum annual amount of water that the Well Owner withdrew and beneficially used in any one calendar year during the Existing and Historic Use Period subject to the limitations set forth in Sections 3.5 through 3.8 below.

(e) The maximum annual quantity of groundwater that may be withdrawn from a Well System under any Operating Permit issued by the District for Other Land use shall be no greater than the product of the applicable Water Allocation per acre, as quantified in Section 3.5 of these Rules, multiplied by the number of acres of land determined by the District to be Other Land that is owned or controlled by the Well Owner.

(f) To the extent not otherwise provided for in any Validation or Operating Permit, the maximum daily average flow rate that any single non-exempt well shall be pumped is limited to the maximum flow rate in gallons per minute, as stated in the such permit.

(~~f~~g) No production limits are established for Exempt Wells under this Section. However, production limitations exist for Exempt Wells as inherent to their ability to obtain exempt status under Chapter 7 of these Rules.

3.5 WATER ALLOCATIONS DETERMINATION FOR IN-DISTRICT IRRIGATION USE

(a) The 2 year monthly moving average of the water surface elevation measured in feet above mean sea level (U.S. Dept. of Commerce, National Geodetic Vertical Datum of 1929) as measured in the monitoring well identified by the Texas Water Development Board as Well No. 48-07-516 and located within the District (the "Average Water Elevation") shall be determined by the Board by January 31st of each odd year using the 24-month period ending on the previous December 31st. The Average Water Elevation shall be calculated according to the procedures of Section 3.6 of these Rules. The initial Average Water Elevation shall be determined by the Board by January 31, 2003.

(b) The Water Allocations for irrigation use in subsection (c) of this Section 3.5 are equal to the Average Annual Consumptive Irrigation Requirement divided by the sum of one minus the Leaching Fraction and based upon the Average Water Elevation.

(c) The Water Allocation shall be determined based on the following factors:

(1) The Water Allocation for Validation Permits for Existing and Historic Uses for in-District irrigation shall be 4.000 acre-feet per year per acre of Existing and Historic Irrigated Land for the two-year period following a Board determination that the Average Water Elevation is greater than 3570.0 feet.

(2) The Water Allocation for all Operating Permits shall be determined on a pro-rata basis for in-District use up to 4.000 acre-feet per year per acre of land authorized for production under such Operating Permits for the two-year period following a Board determination that the Average Water Elevation is greater than 3580.0 feet. The Water Allocation under this Section 3.5(c)(2) shall be calculated upon the amount of water that the District determines is available for allocation based on the degree to which the Average Water Elevation is greater than 3580.0 and divided by the total amount of acreage authorized for production under such Operating Permits. When such Average Water Elevation is equal to or less than 3580.0 feet, no Operating Permits shall be entitled to any Water Allocation.

(3) In the event that the Average Water Elevation is equal to or less than 3570.0 feet but greater than or equal to 356~~5~~0.0 feet, the District by resolution may establish a Water Allocation on a pro-rata basis between 4.0 and 3.0 acre-feet per acre for all Validation Permits of Existing and Historic Use for in-District irrigation of an Agricultural Crop. For uses other than irrigation, the Water Allocation shall be a pro-rata reduction of the amount of groundwater authorized for production or withdrawal by Validation Permits of Existing and Historic Use for other than irrigation use by the same percentage amount the Validation Permits of Existing and Historic Use for irrigation of an Agricultural Crop are reduced below the amount stated in Section 3.5(c)(1) of these Rules.

(4) In the event that the Average Water Elevation is less than 3560.0 feet, the District by resolution may establish the following Water Allocation for all Validation Permits of Existing and Historic Use:

(A) For in-District irrigation of an Agricultural Crop, the Water Allocation shall be 3.00 acre-feet per acre per year;

(B) For uses other than irrigation, the Water Allocation shall be a pro-rata reduction of the amount recognized in Validation Permits of Existing and Historic Use for use other than irrigation by the same percentage amount the Validation Permits of Existing and Historic Use for irrigation of an Agricultural Crop are reduced below the amount stated in Section 3.5(c)(1) of these Rules.

3.6 CALCULATION OF TWO YEAR MOVING AVERAGE OF MONTHLY WATER SURFACE ELEVATIONS

(a) The 2 year moving average of monthly water surface elevation measured in feet above mean sea level (U.S. Dept. of Commerce, National Geodetic Vertical Datum of 1929) measured in Texas Water Development Board (TWDB) Well No. 48-07-516 (Average Water Elevation) shall be calculated according to the following formula:

$$A_{j+n} = \sum_{i=j}^{j+n} \frac{E_i}{n}$$

Where A_{j+n} equals the 2 year moving average of monthly water surface elevation above mean sea level (U.S. Dept. of Commerce, National Geodetic Vertical Datum of 1929) measured in TWDB Well No. 48-07-516 for the year ending in the month $j+n$, n equals 24 (2 years), j equals the monthly index number (j= 1 for January of 1900, j = 1200 for December of 1999), and E_i equals the average water elevation in TWDB Well No. 48-07-516 for month i.

(b) The table shown below lists the Average Water Elevations for January 1999 through December 2000. The Average Water Elevation at the end of the year 2000 equals 3,573.27 feet which is the arithmetic average of the monthly water elevation for the months of January, 1999 through December of 2000.

(c) The monthly water elevation shall be determined as the arithmetic average of the daily water elevation measurements made in TWDB Well No. 48-07-516.

Table of TWDB Well No. 48-07-516 Water Elevations (2 Year Moving Average) for Years 1997 through 2000

Month	Water Surface Elevation	Average Water Elevations (ft)	Month	Water Surface Elevation	Average Water Elevations (ft)
Jan-97	3,586.295	--	Jan-99	3,584.30	3,575.87
Feb-97	3,588.686	--	Feb-99	3,586.00	3,575.29
Mar-97	3,587.251	--	Mar-99	3,584.25	3,574.72
Apr-97	3,579.167	--	Apr-99	3,579.30	3,574.50
May-97	3,575.924	--	May-99	3,574.85	3,574.42
Jun-97	3,571.424	--	Jun-99	3,569.27	3,574.59
Jul-97	3,568.901	--	Jul-99	3,566.90	3,574.92
Aug-97	3,569.175	--	Aug-99	3,565.41	3,575.28
Sep-97	3,569.000	--	Sep-99	3,565.50	3,575.70
Oct-97	3,572.193	--	Oct-99	3,569.00	3,575.95

Nov-97	3,578.904	--	Nov-99	3,574.54	3,575.73
Dec-97	3,583.216	--	Dec-99	3,579.22	3,575.10
Jan-98	3,586.295	--	Jan-00	3,582.65	3,574.09
Feb-98	3,588.686	--	Feb-00	3,584.69	3,572.63
Mar-98	3,587.417	--	Mar-00	3,582.14	3,570.98
Apr-98	3,580.73	--	Apr-00	3,578.11	3,569.76
May-98	3,574.46	--	May-00	3,572.99	3,569.09
Jun-98	3,569.27	--	Jun-00	3,565.72	3,569.06
Jul-98	3,565.45	--	Jul-00	3,563.39	3,569.78
Aug-98	3,565.00	--	Aug-00	3,559.35	3,570.98
Sep-98	3,563.38	--	Sep-00	3,559.69	3,573.51
Oct-98	3,565.79	--	Oct-00	3,563.65	3,577.38
Nov-98	3,574.54	--	Nov-00	3,570.45	3,580.22
Dec-98	3,580.22	--	Dec-00	3,577.25	3,573.27

3.7 WATER ALLOCATION DETERMINATION FOR TRANSFER PERMITS

The Water Allocation for Transfer Permits shall be limited to :

(1) the sum of one minus the Leaching Fraction multiplied by the applicable Water Allocation as determined under Section 3.5 of these Rules for In-District Irrigation Use; or

(2) one hundred percent (100%) of the amount specified in a permit issued for non-exempt uses other than irrigation.

3.8 APPLICABILITY TO OTHER AQUIFERS

Notwithstanding anything to the contrary in these Rules, Sections 3.3 through 3.7 of these Rules do not apply to any Well System that the Board finds are not hydrologically connected to Bone Spring-Victorio Peak Aquifer or will not impair Existing and Historic Use and holders of Operating or Validation Permits for withdrawal of groundwater from the Bone Spring-Victorio Peak Aquifer. However, the burden shall be on the person applying for a Validation, Drilling ,or Operating Permit under these Rules to demonstrate to the Board, and the Board must find, that a particular Well System is or will be drilled into an aquifer that is hydrologically disconnected from the Bone Spring-Victorio Peak Aquifer or that the amount of groundwater sought by the applicant for withdrawal does not impair Existing and Historic Use, or holders of Operating or Validation Permits. It shall be the Board's privilege to exempt such a Well System from any requirement of these Rules to the extent that the Board finds that it is necessary and prudent to do so.

4 DISTRICT GROUNDWATER MANAGEMENT PLAN

(a) Following notice and hearing, the District shall adopt a comprehensive management plan that addresses the following management goals, as applicable:

(1) providing the most efficient use of groundwater;

(2) controlling and preventing waste of groundwater;

(3) controlling and preventing subsidence;

(4) addressing conjunctive surface water management issues;

(5) addressing natural resource issues;

(6) addressing drought conditions;

(7) addressing conservation, and

(8) controlling groundwater withdrawals within the District to maintain sustainability of the Bone Spring-Victorio Peak Aquifer.

(b) The District management plan, or any amendments to the District management plan, shall be developed by the District using the District's best available data and such plan shall be forwarded to the regional water planning group for consideration in their planning process.

(c) In the management plan described the District shall:

(1) identify the performance standards and management objectives under which the District will operate to achieve the management goals;

(2) specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed Rules;

(3) include estimates of the following:

(A) the existing total usable amount of groundwater in the District;

(B) the amount of groundwater being used within the District on an annual basis;

(C) the annual amount of recharge, if any, to the groundwater resources within the District and how natural or artificial recharge may be increased; and

(D) the projected water supply and demand for water within the District; and

(4) address water supply needs in a manner that is not in conflict with the appropriate approved regional water plan if a regional water plan has been approved under Section 16.053 of the Texas Water Code.

(d) The District shall adopt rules necessary to implement the management plan.

(e) The Board shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this Chapter 4.

(f) The Board shall submit the adopted Management Plan to the Texas Water Development Board for certification according with Section 36.1071 of the Texas Water Code.

5 FLOW MEASUREMENT

5.1 GENERAL PROVISIONS

(a) All owners of Non-exempt Wells or Well Systems located within the District shall equip such wells with flow metering device(s) meeting the specifications of these Rules and shall operate the meters on such wells to measure the instantaneous flow rate and cumulative amount of groundwater withdrawn from the well.

(b) A meter shall be installed by the owner or operator of any existing operational non-exempt Well System no later than four months after the Effective Date of these Rules.

(c) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall ensure an error of not greater than plus or minus five percent.

(d) The owner of a Well System shall be responsible for the installation, operation, maintenance, and repair of the meter associated with that Well System.

5.2 TYPES OF METERS

(a) The types of meters approved for installation are:

(1) Internal Impeller Meter,

(2) Magnetic,

(3) Time-Delay Ultrasonic, and

(4) Any flow measurement method approved in writing by the General Manager of the District.

(b) All meters must be equipped with a non-resettable mechanical or electronic flow volume accumulator that reads in acre-feet.

(c) Types of flow meters prohibited by the District are:

(1) Doppler Ultrasonic Flow Meters,

(2) Pitot Tube, and

(3) Open Discharge.

(d) No metering method may be installed or modified prior to written approval given by the General Manager of an application filed with the District.

(e) The General Manager shall approve an application to install a metering method if the General Manager finds the application shows the following:

(1) the meter has a certified error of not greater than plus or minus five percent;

(2) for a meter, it meets the American Water Works Association Standard C704-92 for design, materials, and accuracy;

(3) the meter has a non-resettable totalizer, or lock box with resettable digital readout;

(4) the totalizing register of the meter has the capacity to record the total quantity of groundwater withdrawn for at least one full year; and

(5) the meter if used for the distribution of potable water, shall be American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 certified.

(f) The Well Owner or operator shall give written notice to the District 30 days prior to the installation or modification and the intended start date so the District may inspect and approve the meter installation or modification.

5.3 PRE-EXISTING METERS AND ALTERNATIVE MEASURING METHODS

(a) Within 4 months of the Effective Date of these Rules, the Well Owner or operator shall register any existing meter or alternative measurement(s) method with the District

(b) All meters existing on the Effective Date of these Rules and registered in accordance with subsection (a) of this Section, shall be inspected by the District for compliance with the meter specifications set forth in this Chapter 5. If the meter complies with these specifications, the General Manager shall approve the meter in writing and advise the owner or operator of the approval. If the meter does not comply with these specifications, the General Manager will issue a notice of deficiency and direct the owner of the meter to install a new meter or modify the existing meter in compliance with this Chapter 5 within 45 days.

(c) If at any time the Well Owner or operator has reason to believe that a condition, of any kind whatsoever, may exist that affects the accuracy of a meter, then the Well Owner or operator shall, within seven days of learning of the fact(s), notify the General Manager that the accuracy of the meter may be in question. Such notification shall be in writing.

(d) The General Manager may conduct an investigation and, if facts warrant, direct the Well Owner or operator, at the Well Owner's cost, to evaluate and test the accuracy of the meter and take appropriate corrective action, including replacement, to restore the accuracy and proper working condition of the meter in conformance with the requirements of these Rules.

5.4 REMOVAL AND DISABLING OF METERS

(a) A meter may not be removed or otherwise disabled including for routine maintenance, unless the Well Owner or operator gives the District notice, in writing, of the intent to remove or disable the meter. Except in cases of routine maintenance, such notice must be approved in writing by the General Manager before the meter is removed or disabled.

(b) A meter may be removed or otherwise disabled, only by the Well Owner or operator or his or her authorized representative.

(c) During a period that a meter is removed or otherwise disabled, groundwater may not be withdrawn from the well, unless the General Manager has approved an alternative measuring method.

5.5 METER READING AND GROUNDWATER USE REPORTING

(a) Every holder of an Operating, Transfer, or Validation Permit shall accurately read the meter on a quarterly basis and shall file the results with the District no later than 30 days after the end of each quarter (30 days after March 31, June 30, September 30, and December 31).

(b) The District shall furnish quarterly groundwater use report forms. In completing the report, a permit holder shall fill in the blanks to the best of their knowledge and ability in accordance with the instructions that accompany each form.

(c) No groundwater use report is required to be filed by persons owning an Exempt Well.

5.6 PROHIBITION AND ENFORCEMENT

(a) No person may take any action that disables or impairs a meter from accurately measuring and recording the instantaneous flow rate and cumulative amount of groundwater withdrawn from a well.

(b) If the groundwater withdrawals are not being metered in accordance with this Section 5 of these Rules, the Board may:

(1) issue an order suspending the right to make withdrawals from such Well System not being metered in accordance with this Chapter 5; or

(2) issue an order requiring corrective action to bring the operation of the Well System into compliance with this Chapter 5.

6 PERMITS, RECORDS, REPORTS, AND LOGS

6.1 GENERAL PROVISIONS APPLICABLE TO PERMITS AND WELL REGISTRATIONS

(a) An Operating Permit, a Validation Permit, or an amendment thereto is required to withdraw or produce water from a Non-exempt Well or for the substantial altering of the size or capacity of a Non-exempt Well or for the altering of an Exempt Well if such alteration would render the well non-exempt, or for using the water withdrawn from an Exempt Well for purposes other than the use authorized by the exemption..

(b) A permit confers only the right to use the permit under the provisions of these Rules. The permit's terms may be modified or amended pursuant to the provisions of these Rules.

(c) Withdrawal or production of groundwater from all non-exempt Well Systems must be measured by the owner or operator and reported to the District according to the requirements of Chapter 5 of these Rules.

(d) Well sites must be accessible to District representatives for inspection, and the permit holder agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

(e) The application pursuant to which an Operating Permit or Validation Permit is issued will be incorporated in the permit, and the permit will be 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 may be grounds for immediate amendment or revocation of the permit.

(f) Within 30 days after the date of change in ownership of a Well System, a permit or registration holder must notify the District in writing of the name of the new owner. Any person who becomes the owner of a currently permitted or registered well must, within 30 calendar days from the date of the change in ownership, file an application for an amendment to effect a transfer of the permit or registration.

(g) Violation of a permit's terms, conditions, requirements, or special provisions, including pumping, withdrawing, or producing amount of groundwater in excess of the maximum quantities authorized by a permit issued by the District, is a violation of these Rules and is punishable by penalties as provided by these Rules.

(h) Any applications submitted to the District and for which the applicant has requested that such applications be processed concurrently, the District will process and the Board will consider such applications concurrently according to the standards and rules applicable to each.

(i) Any change in the withdrawal or use of groundwater during the term of a permit issued by the District may not be made unless the Board has first approved a permit amendment authorizing the change.

(j) A permit or a permit amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the production capabilities of the well to more than its authorized or permitted production rate.

(k) The District may impose more restrictive permit conditions on new permit applications and permit amendment applications to increase use by historic users if the limitations:

(1) apply to all subsequent new permit applications and permit amendment applications to increase use by historic users, regardless of type or location of use;

(2) bear a reasonable relationship to the existing District management plan; and

(3) are reasonably necessary to protect existing use.

6.2 RECORDS AND REPORTS

The driller of any water well within the District shall file a report with the District detailing the drilling, equipping, and completing of the wells within 30 days after such well is completed. Such report shall include any and all information submitted by the driller to any agency of the State of Texas.

6.3 DRILLERS' LOGS

The driller of any water well within the District shall keep accurate drillers' logs and that copies of drillers' logs and electric logs shall be filed with the District within 30 days after such drilling is complete.

6.4 APPLICATION REQUIREMENTS FOR ALL PERMITS

(a) All permits are granted in accordance with the provisions of these Rules, and acceptance of a permit constitutes an acknowledgment and agreement that the permit holder will comply with these Rules.

(b) The application for a permit shall be in writing and sworn to.

(c) The following shall be included in the permit application:

(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 property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the District's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

(7) a drought contingency plan;

(8) a statement of the purpose for which the well is to be used;

(9) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(10) the location of the use of the water from the well; and

(11) any other information deemed necessary by the Board.

(d) A finding by the Board that substantive information contained in a permit application is false or incorrect is sufficient grounds for the application to not be accepted as administratively complete.

(e) The determination as to when an application for a permit is administratively complete shall be made by the Board.

6.5 PERMITS ISSUED BY DISTRICT

(a) All permits issued by the District shall state the following:

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

(2) the date the permit is issued;

(3) the date the permit is to expire;

(4) the conditions and restrictions, if any, placed on the rate and amount of withdrawal of groundwater; and

(5) any other information, conditions, or restrictions the District prescribes.

(b) The permit shall be recorded with the Clerk of Hudspeth County, Texas.

6.6 WELL REGISTRATION

(a) An owner of an Exempt Well or an owner of a Non-Exempt Well, for which such well is not included in an application for a Validation or Operating Permit, shall register such well with the District no later than six months after the Effective Date of these Rules and provide the District with the following information:

(1) the name and mailing address of the registrant and the owner of the land on which the well is or will be located;

(2) if the registrant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the existing or proposed use and the amount of water used or to be used for each purpose;

(4) the location of each well and the estimated rate at which water is or will be withdrawn;

(5) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

(6) a requirement that the water withdrawn under the registration be put to beneficial use at all times;

(7) the location of the use of the water from the well; and

(8) any other information deemed necessary by the Board.

(b) The District shall issue a certificate of registration to an owner that applies for registration and such application for registration meets the requires set forth in these Rules for the following types of wells:

(1) a new Exempt Well;

(2) an Exempt Well existing before the Effective Date of these Rules; or

(3) a Non-exempt Well existing before the Effective Date of these Rules and for which a Validation or Operating Permit has not been issued by the District.

(c) The owner of a well described under Subsection (b)(2) or (b)(3) of this Section 6.6 shall provide the District with affidavit stating that a well existed before the Effective Date of these Rules.

(d) A registration certificate shall provide the owner of a well described under Subsection (b)(3) of this Section 6.6 with evidence that a well existed before the Effective Date of these Rules for purposes of grandfathering the well from the requirement to obtain a Drilling Permit from the District or meeting the well spacing requirements of these Rules.

(e) A well that is issued a registration under Subsection (b)(3) of this Section 6.6 shall not be operated without obtaining an approved Operating Permit or amendment to a Validation Permit issued by the District that includes the well.

(f) Failure of the owner of a well described under Subsection (b) of this Section 6.6 to file for a registration from the District under this Section may subject the Well Owner to enforcement and penalty as provided by Section 11 of these Rules.

(g) All Well Validation Certificates issued pursuant to Rule 3.023 of the District's rules that were in effect prior to the Effective Date of these Rules, as amended, shall be sufficient for fulfilling the requirements to register a well under this Section 6.6, upon proper presentation of the Well Validation Certificate to the District. The holder of such a Well Validation Certificate shall not operate a Non-exempt Well after January 1, 2003, without an Operating Permit or Validation Permit issued under these Rules, as amended.

6.7 AMENDMENT OF PERMIT

(a) Any substantial changes in a permit shall not be made without amendment of the permit by the District.

(b) Any substantial amendment to a permit shall not be made without prior notice and an opportunity for a hearing.

(c) Substantial changes to a permit include, but are not limited to, increases in the annual quantity of groundwater authorized to be withdrawn and the location of groundwater withdrawal, <u>and Board determinations under Section 6.13(f)(3).</u>

(d) Any non-substantial changes to the permit, including but not limited to, changes in ownership of the land the Well System is located on, or well replacement, may be made by Board resolution.

6.8 ADMINISTRATIVELY COMPLETE APPLICATION FOR A PERMIT

The Board shall consider each application for a permit as to whether such application is administratively complete. The Board shall promptly consider and act on each administratively complete application for a permit. An application for a permit will expire if

the information requested in the application is not provided to the District within ~~90~~ 60 days of such request.

6.9 DRILLING PERMITS

(a) A landowner, or any other person acting on behalf of the landowner, must obtain a Drilling Permit before a Non-exempt Well may be drilled, equipped, or completed after the Effective Date of these Rules, including test wells, or before re-drilling an existing well, except as set forth under Section 6.14 of these Rules.

(b) An application for a Drilling Permit shall contain all information requested in Section 6.4 of these Rules.

(c) An application for a Drilling Permit submitted under this Section shall not be unreasonably denied by the District for such a well, as long as:

(1) the application describes a well that meets the District's well completion standards under Chapter 13 of these Rules and complies with the District's spacing regulations under Chapter 3 of these Rules; and

(2) the application is submitted in conjunction with an application for an Operating Permit or an application to amend a Validation Permit to include the proposed well.

(d) A Drilling Permit issued in accordance with this Section 6.9 shall only be valid for a term not to exceed six months from the date of issuance.

(e) No water shall be withdrawn or produced from well that is issued a Drilling Permit by the District, except for the purposes of drilling or testing the well during the time the Drilling Permit is valid, and the well shall not be placed into operation without the owner of such well first receiving an Operating Permit or amendment to a Validation Permit from the District that includes such well.

6.10 OPERATING PERMITS

(a) An Operating Permit is required by the District for the operation, production, or withdrawal of groundwater from any Non-exempt Well for which there is no Validation Permit or amendment thereto to include such well, and such Operating Permit shall bear a reasonable relationship to the District's certified management plan and shall reasonably protect Existing and Historic Use.

(b) Regardless of the type of beneficial use for the groundwater to be produced, an Operating Permit shall be granted by the District based upon surface acreage owned or controlled by the applicant within the boundaries of the District that is not already recognized in another Operating or Validation Permit and in accordance with the production limitations set forth in Chapter 3 of these Rules.

(c) An application for an Operating Permit shall, in addition to the information required in Section 6.4 of these Rules, include the following:

(1) year in which the well was or will be drilled;

(2) deed and legal description of the land on which the well was or will be drilled;

(3) purpose for which the water produced or withdrawn from the well will be used, including the deed and legal description of any land for which any water produced or withdrawn from the well will be used to irrigate an Agricultural Crops; and

(4) any other information determined necessary by the Board.

(d) The holder of an Operating Permit shall be entitled to produce or withdraw groundwater in accordance with the terms of the permit and these Rules in an amount not to exceed the applicable quantity of groundwater allowed to be produced or withdrawn pursuant to this Section 6.10 and Chapter 3 of these Rules.

(e) No Operating Permit shall be issued until applications for Validation Permits meeting the conditions of Section 6.12 of these Rules have been issued or denied by the District or December 31, 2002, whichever comes first.

6.11 CONSIDERATIONS IN GRANTING OR DENYING AN OPERATING PERMIT

(a) Before granting or denying an Operating Permit, the District shall consider whether:

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

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

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

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

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

6.12 VALIDATION PERMITS FOR EXISTING AND HISTORIC USE OF GROUNDWATER

(a) The Validation Permits issued by the District for Existing and Historic Use shall bear a reasonable relationship to the District's certified management plan and shall reasonably protect Existing and Historic use.

(b) All owners of existing non-exempt Well Systems that were completed and operational prior to the Effective Date of these Rules, and that produced and used groundwater in any year during the Existing and Historic Use Period shall apply to the District for a Validation Permit no later than August 1, 2002.

(c) A Validation Permit is required from the District by December 31, 2002, for all existing non-exempt Well Systems that were drilled and completed prior to the Effective Date of these Rules, and that wish to claim beneficial use of water during the Existing and Historic Use Period.

(d) Failure of an owner of such a Well System to file an application for a Validation Permit by August 1, 2002, shall preclude the owner from making any future claim or application to the District for Existing and Historic Use under these Rules or otherwise and shall preclude the owner's ability to operate the Well System under Chapter 3 of these Rules, unless such owner obtains an Operating Permit and holders of Operating Permits are allocated groundwater production in a given biennium (see Sections 3.4, 3.5 and 3.6 of these Rules).

(e) All owners of existing non-exempt Well Systems located on land brought in to the District by Section 20 of House Bill 3442 of the 78th Regular Session of the Texas Legislature that were completed and operational prior to November ?, 2005 and that produced and used groundwater in any year during the Existing and Historic Use Period shall apply to the District for a Validation Permit no later than May 1, 2006.

(f) A Validation Permit is required from the District by December 31, 2006, for all existing non-exempt Well Systems located on land brought in to the District by Section 20 of House Bill 3442 of the 78th Regular Session of the Texas Legislature and that were drilled and completed prior to November ?, 2005, and that wish to claim beneficial use of water during the Existing and Historic Use Period.

(g) Failure of an owner of such a Well System to file an application for a Validation permit by May 1, 2006, shall preclude the owner from making any future claim or application to the District for Existing and Historic Use under these Rules or otherwise and shall preclude the owner's ability to operate the Well System under Chapter 3 of these Rules, unless such owner obtains an Operating Permit and holders of Operating Permits are allocated groundwater production in a given biennium (see Sections 3.4, 3.5 and 3.6 of these Rules).

(h) the Existing and Historic Use Period for Section 6.12(e) through 6.12(g) shall be January 1, 1992 to November ?, 2005.

(i) All applications for a Validation Permit shall, in addition to the information required in Section 6.4 of these Rules, include the following information:

(1) the year in which each well in the Well System was drilled;

(2) the purpose for which each well in the Well System was drilled and types of subsequent use of the water produced or withdrawn from such Well System;

(3) annual water production history of the Well System for at least one year during the Existing and Historic Use Period;

(4) for irrigation wells, crop type and acreage of crop irrigated by the Well System for at least one year during the Existing and Historic Use Period;

(5) for irrigation wells, deed and legal description of irrigable land previously irrigated by the Well System, including the year irrigated and the deed and legal description for land the Well System is located on, during the Existing and Historic Use Period;

(6) for non-irrigation wells, the deed and legal description for the tract of land on which the Well System is located;

(7) documentation regarding enrollment of each tract of land in the United States Department of Agriculture, Farm Service Agency, Conservation Reserve Program, 7 CFR 1410, for which a Validation Permit is sought pursuant to Section 6.12(l)(3) below; and

(8) any other information determined necessary by the Board.

(j) Validation Permits are a recognition by the District of Existing and Historic Use under this Section and shall entitle their owners to produce or withdraw groundwater in accordance with the production regulations set forth under Chapter 3 of these Rules.

(k) The Board shall not issue Validation Permits for wells or lands for which the Board determines the Well Owner or operator did not beneficially use groundwater during the Existing and Historic Use Period as set forth under this Section 6.12, except as set forth under Section 6.12(l)(3) below.

(l) The Board shall determine Existing and Historic Use of groundwater for the issuance of Validation Permits as follows:

(1) for irrigation purposes, it shall be the acres of Existing and Historic Irrigated Land determined to have been irrigated during the Existing and Historic Use Period under

Section 6.12(o) of these Rules~~,~~ multiplied by the Water Allocation per acre as determined by Section 3.5 of these Rules;

(2) for all other non-exempt uses, it shall be the maximum amount of water beneficially used in any one calendar year during the Existing and Historic Use Period; and

(3) for any land that was ~~legitimately~~ enrolled in the United States Department of Agriculture, Farm Service Agency, Conservation Reserve Program, 7 CFR 1410, during ~~each year in~~ the Existing and Historic Use Period, it shall be the acres of Existing and Historic Irrigated Land determined by the Board under Section 6.12(o) below to have been land that was irrigated for production and enrolled or participating in the Conservation Reserve Program~~.~~ ~~irrigated during at least two of the five calendar years immediately prior the calendar year of the effective date of the contract between the landowner and the United States Department of Agriculture, Commodity Credit Corporation for enrollment of such land in the United States Department of Agriculture, Farm Service Agency, Conservation Reserve Program, 7 CFR 1410~~, multiplied by the Water Allocation per acre as determined by Section 3.5 of these Rules.~~.~~

(m) Existing and Historic Irrigated Land shall be determined by the District as the acres of land classified by the District as irrigable under Section 6.12(n) below and which were irrigated to produce an agricultural crop one or more years during the Existing and Historic Use Period under Section 6.12(o) below, except as provided under Section 6.12(l)(3) above.

(n) The following measures shall be used by the District to determine if land within the District's boundaries is irrigable:

(1) the land is classified by the United States Department of Agriculture Farm Services Agency as "cropland" that is land that is capable of being farmed with normal farming equipment and any other requirements of the Farm Services Agency;

(2) the land is classified by the United States Department of Agriculture Natural Resources Conservation Services as "Additional Farmland of Statewide Importance" according to the procedures of Part 657.5 Identification of Important Farmlands (7 CFR 657); or

(3) any other method or methods determined by the Board to reasonably determine if land is irrigable.

(o) One or more of the following measures shall be used by the District to determine if land classified by the District as irrigable has been irrigated to produce an agricultural crop during the Existing and Historic User Period:

(1) crop production reports from a governmental agency and are determined by the District to contain sufficient information to identify:

(A) the geographic location of the land on which the agricultural crop was produced;

(B) that an agricultural crop was produced on such land;

(C) that such land was irrigated to produce the agricultural crop; and

(D) the year or years that the agricultural crop was produced.

(2) aerial photographs or imagery that were produced by or obtained from an agency of the United States or the State of Texas and are determined by the District to be:

(A) of sufficient quality to accurately determine the geographic location of the irrigated field;

(B) properly documented as to source and date when the photograph was taken; and

(C) of sufficient quality that the irrigated land shown in the photograph can be correlated by the District to a legal description of the land and the Hudspeth Appraisal District property identification number associated with such land.

(3) reports from the Hudspeth Appraisal District, Hudpseth County, Texas indicating that the irrigated land was appraised as irrigated cropland, and the information for such cropland as listed in Section 6.12(o)(3)(A) or in 6.12(o)(3)(B) below:

(A) crop production reports from any reasonable source and are determined by the District to contain sufficient information to identify:

(i) the geographic location of the land on which the agricultural crop was produced;

(ii) that an agricultural crop was produced on such land;

(iii) that such land was irrigated to produce the agricultural crop; and

(iv) the year or years that the agricultural crop was produced.

(B) aerial photographs or imagery that were produced by or obtained from any source and are determined by the District to be:

(i) of sufficient quality to accurately determine the geographic location of the irrigated field;

(ii) properly documented as to source and date when the photograph was taken; and

(iii) of sufficient quality that the irrigated land shown in the photograph can be correlated by the District to a legal description of the land and the Hudspeth Appraisal District property identification number associated with such land.

(4) any other method or methods determined by the Board to reasonably determine if irrigable land has been irrigated.

6.13 PERMIT TO TRANSFER GROUNDWATER OUT OF THE DISTRICT

(a) A Transfer Permit is required from the District to transfer any groundwater produced or withdrawn from a Well System within the District for use outside the District's boundaries. If a Transfer Permit or amendment thereto is required, the District may also consider the provisions of this Section 6.13 in determining whether to grant or deny the Transfer Permit or an amendment to a Transfer Permit.

(b) The District may impose a reasonable fee for processing an application under this Section. An application filed to comply with this Section shall be considered and processed under the same procedures as other applications for other permits and shall be combined with applications filed to obtain a permit for in-District water use from the same applicant, if any.

(c) The application for a Transfer Permit shall identify which Validation Permit(s) or Operating Permit(s) issued by the District the applicant wishes the District to included in the Transfer Permit and for which the maximum quantity of water available for transfer outside of the boundaries of the District shall be determined according to Section 6.13(d) below.

(d) The District shall not deny a permit under this Section based on the fact that the applicant seeks to transfer groundwater outside of the boundaries of the District but shall restrict a Transfer Permit, pursuant to Section 3.7 of these Rules, by limiting the annual production of groundwater for transport outside of the boundaries of the District to the quantity of water allocated under Section 3.7 of these Rules.

(e) In addition to conditions provided by Section 6.4 of these Rules, the Transfer Permit shall specify:

(1) the amount of water that may be transferred out of the District; and

(2) the period for which the water may be transferred.

(f) The period specified by subsection (e)(2) above shall be:

(1) three (3) years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or

(2) thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit; or

(3) such longer period, consistent with the Management Plan, as the Board within its discretion may determine on application and for good cause shown by the applicant.

(g) The three (3) year period specified under Subsection (f)(1) shall automatically be extended to thirty (30) years if construction of a conveyance system is begun before the expiration of such three (3) year period.

(h) For the purposes of this Section, construction of a conveyance system has been initiated when the permittee has completed construction of at least 10% of the portion of the conveyance facilities located within the District that will be used to convey the maximum annual quantity of groundwater permitted for transfer outside of the boundaries of the District.

(i) Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the Well Owner a Transfer Permit.

(j) The District shall not issue a Transfer Permit, unless the Transfer Permit applicant has obtained an underlying Validation Permit, Operating Permit, or amendment thereto that authorizes the Transfer Permit applicant to produce or withdraw the quantity of groundwater allowed under Section 3.7 of these Rules to be transferred outside of the boundaries of the District.

(k) An application for a Transfer Permit may be submitted and considered concurrently with an application for a Validation Permit, an Operating Permit, or amendment thereto.

6.14 DRILLING OR ALTERING WELL WITHOUT PERMIT

(a) No person may drill a new Exempt Well without first registering such well within the District.

(b) No person may drill a new Non-exempt Well without first obtaining a Drilling Permit from the District.

(c) No person may alter the size of a an existing Exempt Well such that it would cause the well to lose exempt status without first obtaining an Operating Permit from the District.

(d) No person may make withdrawals from a Non-exempt Well without first obtaining a Validation Permit or Operating Permit from the District.

(e) A violation occurs on the first day the drilling, alteration, or operation begins in the absence of the required permit and continues each day thereafter until the appropriate permit or permits are approved.

(f) Except as provided by Subsection (g) below, no person may alter the size of an existing Non-exempt Well without first obtaining a permit amendment from the District.

(g) A Well Owner may rework, re-equip, re-drill or replace an existing permitted or registered well by the filing of an application to amend such permit or registration, and providing such information as may be required by the General Manager, without notice and hearing under the following conditions:

(1) The replacement well must be drilled within 50 feet of the original permitted location;

(2) The replacement well shall not be located any closer to any other permitted well or authorized well site than the well being replaced, unless the new location complies with the minimum spacing requirements set out in Chapter 3 of these Rules;

(3) The replacement well or pump shall not be changed to a larger size or capacity so as to substantially increase the rate of production authorized in such permit; and

(4) If a replacement well is drilled, the Well Owner ceases production from the existing permitted or registered well and begins pursuit of compliance with the well closure requirements of the District for the existing permitted or registered well.

7 EXEMPTIONS, EXCEPTION, AND LIMITATIONS TO PERMITTING

(a) The District may not require a permit for:

(1) a well on a tract of land larger than 10 acres if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day and if the water produced or to be produced from the well is used or to be used for domestic purposes or to provide water for livestock or poultry;

(2) the drilling of a well to supply water solely for a drilling rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas if:

(A) the person holding the permit is responsible for the water well; and

(B) the water well is located:

(i) on the lease on which the drilling rig is located;

(ii) within the boundaries of the field in which the drilling rig is located; or

(iii) in close proximity to the drilling rig; or

(3) the drilling of a well or to restrict the production of a well if the water produced or to be produced is necessary or will be necessary for mining purposes permitted by the Railroad Commission of Texas under Chapter 134, Natural Resources Code

(b) The District may require an Exempted Well to obtain a Operating Permit and comply with these Rules if:

(1) a well exempted under Section 7(a)(2) above is no longer used to supply water for a drilling rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas; or

(2) withdrawals from an exempted well are:

(A) no longer necessary for mining purposes permitted by the Railroad Commission of Texas under Chapter 134, of the Texas Natural Resources Code; or

(B) greater than the amount necessary for mining purposes permitted by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(c) A person holding a permit issued by the Railroad Commission of Texas Under Chapter 134, of the Texas Natural Resource Code, that authorizers the drilling of a well shall report quarterly to the District the total amount of water withdrawn from the well, the quantity of water necessary for mining purposes, and the quantity of water withdrawn for other purposes.

(d) The District shall require water wells exempted under this Chapter 7 to be registered in accordance these Rules. All Exempt Wells shall be equipped and maintained so as to conform to the District's Rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir. A driller of an Exempt Well shall file the well's drilling log with the District.

(e) A well to supply water for a subdivision of land for which a plat approval is required under Chapter 232, of the Texas Local Government Code, is not exempted under this Chapter 7.

(f) An exemption under this Section does not affect the District's authority to impose fees under Texas Water Code Section 36.122 or Texas Water Code Chapter 36 Subchapter G.

(g) Groundwater withdrawn from a well exempt from permitting or regulation under this Section and subsequently transported outside the boundaries of the District shall be subject to any applicable production and transfer fees.

(h) This Chapter 7 applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This Chapter 7 does not apply to production or injection wells drilled for oil, gas, sulfur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

8 DISTRICT FEES

8.1 ADMINISTRATIVE FEES

The Board shall by resolution set reasonable fees for the administrative acts of the District (administrative fees) and in accordance with this Chapter 8 and Section 12.14 of these Rules, including but not limited to, the cost of reviewing and processing permits, hearings for permits, and such administrative fees shall not unreasonably exceed the cost to the District for such administrative acts.

8.2 TRANSFER FEE

(a) The District shall impose a reasonable fee or surcharge for a Transfer Fee by using one of the following methods:

(1) an annual fee negotiated between the District and the owner of the Transport Permit; or

(2) an annual rate negotiated between the District and the owner of the Transport Permit that does not to exceed 0.01~~.~~25 dollars ~~cents~~ per thousand gallons of the maximum annual amount of groundwater permitted for transfer outside of the District; or

(3) an annual rate not to exceed the equivalent of the District's tax rate per hundred dollars of valuation for each thousand gallons of groundwater transferred outside of the District or 0.02~~.50~~ dollars ~~cents~~ per thousand gallons of water transferred outside of the District, if the District assesses a tax rate of less than 0.025 dollars ~~2.50 cents~~ per hundred dollars of valuation.

8.3 FEES FOR SERVICE PROVIDED OUTSIDE OF THE DISTRICT

The District shall set and collect fees for all services provided outside the boundaries of the District. The fees may not unreasonably exceed the cost to the District of providing the services outside the District.

8.4 PERMIT HEARING FEE

As an additional fee for administrative acts of the District, after an application for a Validation, Operational, or Transfer permit has been determined to be administratively complete by the Board, the applicant for such permit shall deposit with the District an amount determined by the Board to cover the cost associated with an uncontested or contested hearing regarding the permit. This amount of the deposit shall be sufficient to pay for the cost for public notices, legal fees, expert fees, hearing facility rental fees, and other expenses. The remaining deposit balance, if any, is refundable following approval of the permit. The applicant may be required by the Board to deposit with the District additional funds if the amount of the original deposit is expended prior to the Board's action on the permit.

9 WASTE AND BENEFICIAL USE

9.1 WASTE DEFINED

Waste has the meaning as defined in Section 1.1 herein.

9.2 WASTE PREVENTION

(a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined herein.

(b) No person shall commit waste as that term is defined in herein.

9.3 USE FOR A BENEFICIAL PURPOSE

Groundwater produced in the District shall be used for a Beneficial Purpose.

10HEARINGS

10.1 TYPES OF HEARINGS

(a) The District conducts two general types of hearings:

(1) Permit hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; and

(2) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing before the Board may be referred by the Board for hearing before a Hearing Examiner.

(b) Permit Hearings.

(1) Permit Applications, Amendments and Revocations. The District will hold hearings on water well Validation Permits, Drilling Permits, Operating Permits, Transfer Permits or amendments and permit revocations or suspensions. Hearings involving permit matters may be scheduled before a Hearing Examiner.

(2) Hearings on motions for rehearing. Motions for rehearing will be heard by the Board pursuant to Section 10.8(b) of these Rules.

(c) Rule-Making and Management Plan Hearings.

(1) District management plan: At its discretion, when authorized by law, after giving notice, the Board shall hold a hearing to adopt or revise the management plan.

(2) Other matters: A public hearing may be held on any matter within the jurisdiction of the duties and responsibilities of the Board, if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the Board.

(3) Not later than the 20th day before the date of a rulemaking hearing, the general manager or board shall:

(A) post notice in a place readily accessible to the public at the District Office;

(B) provide notice to the county clerk of Hudspeth County;

(C) publish notice in one or more newspapers of general circulation in the Hudspeth County;

(D) provide notice by mail, facsimile, or electronic mail to any person who has properly requested notice; and

(E) make available a copy of all proposed rules at a place accessible to the public during normal business hours and, if the District has a website, post an electronic copy on a generally accessible Internet site.

(4) The notice shall include the following information:

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

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

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

(5) The Presiding Officer shall conduct a rulemaking hearing in the manner the Presiding Officer determines to be most appropriate to obtain information and comments relating to the proposed rule as conveniently and expeditiously as possible. Comments may be submitted orally at the hearing or in writing. The presiding officer may hold the record open for a specified period after the conclusion of the hearing to receive additional written comments.

(6) The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

(7) A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of

the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

10.2 NOTICE AND SCHEDULING OF HEARINGS

(a) Notices of all hearings of the District shall be prepared by the General Manager. For all administratively complete applications, except Drilling Permits and Well Registrations, the notice will be provided to the applicant, who has the responsibility for giving the notice. At a minimum, the notice shall 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 date the application was filed and the number assigned to it;

(4) the time and date when and place where the hearing will be held;

(5) the proposed location of the well;

(6) a brief summary of the information included in the application;

(7) a summary of the action on the application recommend by the General Manager, District staff, or the District's consultants; and

(8) any other information requested by the Board.

(b) The applicant shall give the notification to adjacent property owners and landowners as shown in the records of the Hudspeth Appraisal District, Hudspeth County, Texas as of the date the application is filed and, in addition, to all existing registered and permitted Well Owners within one-half mile of the proposed well as shown in the records of the District on the day the application is filed not less than 10 days before the hearing and provide the District with proof of service. The applicant shall also publish the notice once in a newspaper in general circulation in Hudspeth County, Texas not be less than 10 calendar days before the date set for the hearing. A publisher's affidavit and tear sheet of the notice shall be provided to the District. Proof of service and the publisher's affidavit and tear sheet of the notice shall be filed with the District prior to the commencement of the hearing. In considering whether notice has been given, the Board may evaluate the good faith effort of the applicant to give the notice.

(c) The District shall provide notice to each person who requests in writing copies of hearing notices pursuant to the procedures set forth in this rule, and any other person the Board of directors deems appropriate. The date of mailing of notice may not be less than 5 calendar days before the date set for the hearing.

(d) Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. Failure to provide written notice under this subsection does not invalidate any action taken by the Board.

(e) All permit hearings will be held at the District office, unless the Board directs otherwise. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting, unless an emergency meeting becomes necessary, which shall be publicized and held as required by law. The District may schedule as many applications for consideration at one hearing as deemed desirable. Hearings may be continued from time to time and date to date without additional mailed or published notice.

10.3 GENERAL PROCEDURES

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

(1) set hearing dates, other than the initial hearing date for permit matters in accordance with Section 10.2 of these Rules;

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

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

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

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

(6) administer oaths to all persons presenting testimony;

(7) examine witnesses;

(8) issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;

(9) require the taking of depositions and compel other forms of discovery under these Rules;

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

(11) conduct public hearings in an orderly manner in accordance with these Rules;

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

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

(14) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.

(b) Hearing Registration Forms. Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.

(c) Appearance; Representative Capacity. Any interested person may appear in person or may be represented by counsel, engineer, or other representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of the partnership. A duly authorized officer or agent of a public or private corporation, limited liability company, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

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

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

(f) Reporting. Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the Presiding Officer, may be recorded by a certified shorthand reporter. The District does not prepare transcripts for the public of hearings or other proceedings recorded on audio cassette tape on District equipment, but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or

other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Section 10.5(b) of these Rules. In all District matters, if a proceeding is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.

(g) Continuance. The Presiding Officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District office) for the hearing 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 within a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Section 10.2(b) of these Rules, and any other person the Presiding Officer deems appropriate, but it is not necessary to post at the Hudspeth County courthouse or publish a newspaper notice of the new setting.

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

(i) Computing Time. In computing any period of time specified by these Rules, by a Presiding Officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

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

(k) Broadening the Issues. No person will be allowed to appear in any hearing or other proceeding that in the opinion of the Presiding Officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

(l) Conduct and Decorum. Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding

that interferes with the orderly conduct of District business. If in the judgment of the Presiding Officer, a person is acting in violation of this provision, the Presiding Officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the Presiding Officer may exclude that person from the proceeding for such time and under such conditions as the Presiding Officer deems necessary.

10.4 UNCONTESTED PERMIT HEARINGS PROCEDURES

(a) Proposed Action on Permit Application. The District's General Manager or District staff or the District's consultants shall prepare a written recommendation in response to each permit application except for well registrations and Drilling Permit applications. If the General Manager or District's staff or District's consultants recommend full or partial granting of a permit application, this recommendation shall include a draft permit.

(b) Written Notice of Intent to Contest. Any person who intends to contest a proposed action on a permit application must provide written notice of that intent to the District office and the applicant at least five calendar days prior to the date of the hearing. If the General Manager intends to contest a permit application, the General Manager must provide the applicant written notice of that intent at least five calendar days prior to the date of the hearing. If no notice of intent to contest is received five calendar days prior to the hearing, the Board of Directors shall consider the application and the General Manager's recommendations as an uncontested matter.

(c) Informal Hearings. Permit hearings may be conducted informally when, in the judgment of the Hearing Body, the conduct of a proceeding under informal procedures will save time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.

(d) Agreement of Parties. If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgment of the Hearing Body, settles the facts or issues in controversy, the proceeding will be considered an uncontested case. The Hearing Body will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.

(e) Decision to Proceed as Uncontested or Contested Case. If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy or if any party contests a staff recommendation the Hearing Body will declare the case to be contested and convene a prehearing conference as set forth in Section 10.5(a) of these Rules. The Hearing Body may also recommend issuance of a temporary permit for a period not to exceed 4 months, with any special provisions the Hearing Body deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the Hearing Body will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

(f) Scheduling of Proposed Action. Upon the Board receiving the written recommendations provided for in Section 10.4 (a) above, the Board shall schedule a hearing on the application.

10.5 CONTESTED PERMIT HEARINGS PROCEDURES

(a) Prehearing Conference. A prehearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.

(1) Matters Considered: Matters which may be considered at a prehearing conference include, but are not limited to, (A) the designation of parties; (B) the formulation and simplification of issues; (C) the necessity or desirability of amending applications or other pleadings; (D) the possibility of making admissions or stipulations; (E) the scheduling of discovery; (F) the identification of and specification of the number of witnesses; (G) the filing and exchange of prepared testimony and exhibits; and (H) the procedure at the hearing.

(2) Notice: A prehearing conference may be held at a date, time, and place stated in a separate notice given in accordance with Section 10.2 of these Rules, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the Presiding Officer.

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

(b) Assessing Reporting and Transcription Costs. Upon the timely request of any party, or at the discretion of the Hearing Body, the Hearing Body may make a recommendation to the Board regarding the assessment of reporting and transcription costs to one or more of the parties. If the Board is the Hearing Body, a hearing report with recommendations need not be filed. The Hearing Examiner must consider the following factors in assessing reporting and transcription costs:

(1) the party who requested the transcript;

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

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

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

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

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

(c) In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearing Body must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Body's report to the Board.

(d) Designation of Parties. Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Body determines. The General Manager and any person specifically named in a matter are automatically designated parties. In order to be designated as a party a persons must have complied with Section 10.4(b) of these Rules and must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. To be designated as a party, the person must be an affected person as defined in Section 1.1 of these Rules. After parties are designated, no other person may be admitted as a party unless, in the judgment of the Hearing Body, there exists good cause and the hearing will not be unreasonably delayed.

(e) Rights of Designated Parties. Subject to the direction and orders of the Hearing Body, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.

(f) Persons Not Designated Parties. At the discretion of the Hearing Body, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the Hearing Body as evidence.

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

(h) Disabled Parties and Witnesses. Persons who have special requests concerning their need for reasonable accommodation, as defined by the Americans With Disabilities Act, 42 U.S.C. 12111(9), during a Board meeting or a hearing, shall make advance arrangements with the General Manager of the District. Reasonable accommodation shall be made unless undue hardship, as defined in 42 U.S.C. 12111(10), would befall the District.

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

(j) Discovery. Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Body. Unless specifically modified by these Rules or by order of the Hearing Body, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information by agreement.

(k) Discovery Sanctions. If the Hearing Body finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Body may:

(1) suspend processing of the application for a permit if the applicant is the offending party;

(2) disallow any further discovery of any kind or a particular kind by the offending party;

(3) rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;

(4) limit the offending party's participation in the proceeding;

(5) disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and/or

(6) recommend to the Board that the hearing be dismissed with or without prejudice.

(l) Compelling Testimony, Swearing Witnesses and Subpoena Power. The Hearing Body may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Body will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Body may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

(m) Evidence. Except as modified by these Rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

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

clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.

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

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

(q) Introduction and Copies of Exhibits. Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Body and to each of the parties, unless the Hearing Body rules otherwise.

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

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

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

(u) Oral Argument. At the discretion of the Hearing Body, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Body may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board, if the Board is not the Hearing Body.

10.6 CONCLUSION OF THE HEARING; REPORT

(a) Closing the Record; Final Report. At the conclusion of the presentation of evidence and any oral argument, the Hearing Body may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearing Body. After the record is closed, the Hearing Body will prepare a report to the Board, if the Board is

not the Hearing Body. The report must include a summary of the evidence, together with the Hearing Body's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Body's report, a copy must be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties must be by certified mail.

(b) Exceptions to the Hearing Body's Report; Reopening the Record. Prior to Board action, any party in a contested case may file written exceptions to the Hearing Body's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Body may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Body for further proceedings.

(c) Time for Board Action on Certain Permit Matters. In the case of hearings involving new permit applications, original applications for existing wells, or applications for permit renewals or amendments, the Hearing Body's report should be submitted, and the Board shall act, within ~~35~~ 60 calendar days after the close of the hearing record.

10.7 RULE-MAKING AND MANAGEMENT PLAN HEARINGS PROCEDURES

(a) General Procedures. The Presiding Officer will conduct the rule-making hearing in the manner the Presiding Officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The Presiding Officer may follow the guidelines of *Robert's Rules of Order, The Modern Edition, 1989, by Berkley Books.*

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

(c) Oral presentations. Any person desiring to speak on the subject of the hearing must so indicate on the registration form provided at the hearing. The Presiding Officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the Presiding Officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

(d) Conclusion of the hearing; closing the record; Hearing Body's report. At the conclusion of the testimony, and after the receipt of all documents, the Presiding Officer may either close the record, or keep it open to allow the submission of additional information. If the

Presiding Officer is a Hearing Examiner or chairman of a committee, the Presiding Officer must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Body's recommendations for action. Upon completion and issuance of the Hearing Body's report, a copy must be submitted to the Board. Any interested person who so requests in writing to the District will be notified when the report is completed, and furnished a copy of the report.

(e) Exceptions to the Hearing Body's report; reopening the record. Any interested person may make exceptions to the Hearing Body's report, and the Board may reopen the record, in the manner prescribed in Section 10.6(b) of these Rules.

10.8 FINAL DECISION; APPEAL

(a) Board action. After the record is closed and the matter is submitted to the Board, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.

(b) Requests for rehearing. Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the date of the Board's decision. Such a rehearing request must be filed at the District office in writing and 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 may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or 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 date of the rehearing will be within ~~45~~ 35 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

11 INVESTIGATIONS AND ENFORCEMENT

11.1 RIGHT TO ENTER LAND

(a) Any employee, professional consultants, agents, or director of the District is entitled to enter any public or private property within the boundaries of the District at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality or quantity of groundwater or in regard to the compliance with any rule, regulation, permit, or other order of the District. Such persons acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit identification upon request.

(b) Inhibiting or prohibiting any employee, professional consultants, agents, or director of the District to access any public or private property, pursuant to Section 11.1(a) above, constitutes a violation of these Rules and subjects the person who is inhibiting or prohibiting such access to the penalties set forth Section 11.3 of these Rules.

11.2 CONDUCT OF INVESTIGATION

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, lessee, operator, or person in charge of the well.

11.3 RULE ENFORCEMENT

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

(b) The Board by rule may set reasonable civil penalties for breach of any rule of the District not to exceed $10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.

(c) A penalty under this Section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in Hudspeth County, Texas.

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

11.4 SEALING OF WELLS

(a) A well may be sealed when:

(1) no application has been made for a permit to drill a new water well which is not excluded or exempt; or

(2) no application has been made for an Operating Permit to withdraw groundwater from an existing well that is not excluded or exempt from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or

(3) the Board has denied, canceled or revoked a Drilling Permit or an Operating Permit.

(b) The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

(c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these Rules and subjects the person performing that action, as well as any Well Owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

11.5 OPEN OR UNCOVERED WELLS

(a) The District may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

(b) As used in this Section, "open or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this Section.

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this Section in accordance with District Rules, any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely.

(d) Reasonable expenses incurred by the District in closing or capping a well constitute a lien on the land on which the well is located.

(e) The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

(1) the existence of the well;

(2) the legal description of the property on which the well is located;

(3) the approximate location of the well on the property;

(4) the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;

(5) the closing of the well by the District, or by an authorized agent, representative, or employee of the District; and

(6) the expense incurred by the District in closing the well.

(f) Nothing in this Section affects the enforcement of Subchapter A, Chapter 756, Texas Health and Safety Code.

11.6 PENALTIES

(a) Pursuant to Section 11.3(b) above, the Board of Director may assess penalty of $200 per violation against any District Permit holder, well owner, well operator , or lessee of land on which a well is located the following penalties for each day the well owner, well operator, or lessee violates a District's Rule:

(b) Notwithstanding Section 11.6(a)'s penality amount,

(1) if the penalty is being assessed for groundwater that escapes as irrigation tailwater onto land other than that of the well owner or well operator from which such groundwater was pumped unless permission has been granted by the occupant of the land receiving the discharge, the penalty shall be $50 per violation;

(2) for each day after the 10th day after the District has given notice to the well owner, well operator, or lessee that he or she has failed to cover an open or uncovered well, the penalty shall be $250 per violation;

(3) for each day after the 10th day after the District has given notice to District Permit holder for failure to provide the District any required report or information as set forth in Section 5.5 or elsewhere in these Rules, the penalty shall be $50 per violation.

(c) For purposes of this Section 11.6, for each day in which the violation occurs shall be considered a separate violation.

(d) The penalties authorized in Section 11.6(a) and 11.6(b) are in addition to other remedies.

12DISTRICT FINANCES AND REVENUES

12.1 EXPENDITURES

(a) The District's money may be disbursed only by check, draft, order, or other instrument.

(b) Disbursements shall be signed by at least two directors, except the Board may by resolution allow certain employees of the District, or a combination of employees and directors, to sign disbursements on behalf of the Board.

(c) The Board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the District.

12.2 FISCAL YEAR

(a) The District shall be operated on the basis of a fiscal year established by the Board.

(b) The fiscal year may not be changed during a period in which revenue bonds of the District are outstanding or more than once in a 24-month period.

12.3 ANNUAL AUDIT

(a) Annually, the Board shall have an audit made of the financial condition of the District.

(b) The annual audit and other District records must be open to inspection during regular business hours at the principal office of the District.

12.4 ANNUAL BUDGET

(a) The Board shall prepare and approve an annual budget.

(b) The budget shall contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the District;

(2) the amount of cash on hand to the credit of each fund of the District;

(3) the amount of money received by the District from all sources during the previous year;

(4) the amount of money available to the District from all sources during the ensuing year;

(5) the amount of the balances expected at the end of the year in which the budget is being prepared;

(6) the estimated amount of revenues and balances available to cover the proposal budget; and

(7) the estimated tax rate or fee revenues that will be required.

(c) The annual budget may be amended on the Board's approval.

12.5 DEPOSITORY

(a) The Board shall name one or more banks to serve as depository for the District funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the District, shall be deposited as received with the depository bank and shall remain on deposit. This subsection does not limit the power of the Board to place a portion of the District's funds on time deposit or to purchase certificates of deposit.

(c) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the Public Funds Collateral Act, Chapter 2257, Texas Government Code.

12.6 INVESTMENTS

(a) Funds of the District may be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Texas Government Code.

(b) The Board, by resolution, may provide that an authorized representative of the District may invest and reinvest the funds of the District and provide for money to be withdrawn from the appropriate accounts of the District for investments on such terms as the Board considers advisable.

12.7 INVESTMENT OFFICER

(a) Notwithstanding Section 2256.005(f), Texas Government Code, the Board may contract with a person to act as investment officer of the District.

(b) The investment officer of the District shall:

(1) not later than the first anniversary of the date the officer takes office or assumes the officer's duties, attend a training session of at least six hours of instruction relating to investment responsibilities under Chapter 2256, Texas Government Code; and

(2) attend at least four hours of additional investment training within each two-year period after the first year.

(c) Training under this Section must be from an independent source approved by:

(1) the Board; or

(2) a designated investment committee advising the investment officer.

(d) Training under this Section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256, Texas Government Code.

(e) During January of each year, each individual, association, business, organization, governmental entity, or other person that provides training under this Section shall report to the comptroller a list of the Districts for which the person provided required training under this Section during the previous calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

12.8 REPAYMENT OF ORGANIZATIONAL EXPENSES

(a) The District may pay all costs and expenses necessarily incurred in the creation and organization of the District, including legal fees and other incidental expenses, and may reimburse any person for money advanced for these purposes.

(b) Payments may be made from money obtained from the sale of bonds first issued by the District or out of maintenance taxes or other revenues of the District.

12.9 GRANTS

The District may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the Board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the Board considers appropriate.

12.10 LEVY OF TAXES

(a) The Board may annually levy taxes to pay the bonds issued by the District that are payable in whole or in part by taxes.

(b) The Board may annually levy taxes to pay the maintenance and operating expenses of the District at a rate not to exceed 50 cents on each $100 of assessed valuation.

(c) The Board may not levy a tax to pay the maintenance and operating expenses of the District under this Section until the tax is approved by a majority of the electors voting at an election in the District held for that purpose. The District may:

(1) hold an election for approval of the tax at the same time and in conjunction with an election to authorize bonds, following the procedures applicable to a bond election; or

(2) hold a separate election for approval of the tax in accordance with Subsection (d) below.

(d) An order calling a separate election for approval of a tax under this Section must be issued at least 15 days before the date of the election, and the election notice must be published at least twice in a newspaper of general circulation in Hudspeth County, Texas. The first publication of the notice must be at least 14 days before the date of the election.

12.11 BOARD AUTHORITY TO LEVY TAXES

(a) If territory is added to or annexed by the District, the Board shall levy taxes in the new territory for the entire year in which the territory is added or annexed.

(b) The Board shall levy taxes on all property in the District subject to District taxation.

12.12 TAX RATE

In setting the tax rate, the Board shall take into consideration the income of the District from sources other than taxation. On determination of the amount of tax required to be levied, the Board shall make the levy and certify it to the tax assessor-collector.

12.13 TAX APPRAISAL, ASSESSMENT AND COLLECTION

(a) The Texas Tax Code governs the appraisal, assessment, and collection of District taxes.

(b) The Board may provide for the appointment of a tax assessor-collector for the District or may contract for the assessment and collection of taxes as provided by the Texas Tax Code.

12.14 AUTHORITY TO SET FEES

(a) The District may set fees by Board resolution for administrative acts of the District, such as, but not limited to, filing applications for permits, hearings, contested hearings, and inspection of meters. Fees set by the District for administrative acts may not unreasonably exceed the cost to the District of performing the administrative act for which the fee is charged.

(b) The District may assess a Transfer Fee as specified in Section 8.2 of these Rules.

(c) The District may assess other fees as specified in Chapter 8 of these Rules.

12.15 USE OF PERMIT FEES AUTHORIZED BY SPECIAL LAW

The District may use funds obtained from permit fees collected pursuant to the special law governing the District for any purpose consistent with the District's certified water management plan including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

13 MINIMUM STANDARDS OF WELL COMPLETION

(a) The annular space between the borehole and the casing shall be filled from ground level to a minimum depth of fifty (50) feet below the land surface or well head with cement; provided, however, that when a well is to produce from the unconfined portion of a aquifer, then the annular space between the borehole and the casing shall be filled with cement slurry from ground level to the static water level.

(b) All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause pollution of any aquifer or zone.

(c) If a well penetrates any undesirable water zones, the undesirable water shall be sealed off and confined to its zone or origin.

(1) When undesirable water is encountered in a zone overlying fresh water, the well shall be cased from the top of the fresh water zone to the land surface and the annular space between the casing and the wall of the borehole shall be cemented to the land surface.

(2) When undesirable water is encountered in a zone underlying a fresh water zone, the part of the well bore opposite the undesirable water zone shall be filled with cement to a height that will prevent the entrance of the undesirable water into the pumping well.

(d) For all wells, except when a steel sleeve is used, as described in Subsection (c) above, or pitless adapter is used, as described in this Subsection below, a concrete slab or sealing block shall be placed above the cement slurry around the well at the ground surface.

(1) The slab or block shall extend at least two (2) feet from the well in all directions and have a minimum thickness of four (4) inches and should be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

(2) The surface of the slab shall be sloped to drain away from the well.

(3) The top of the casing shall extend a minimum of one (1) foot above the top.

(e) In all wells where steel sleeve is used, the steel sleeve shall be a minimum of three sixteenths (3/16) inches in thickness and eighteen (18) inches in length, and shall extend six (6) inches into the cement. The casing shall extend a minimum of one (1) foot above the original ground surface, and the steel sleeve shall be two (2) inches larger in diameter than the plastic casing being used.

(f) Pitless adapters may be used provided that:

(1) The adapter is welded to the casing or fitted with another suitably effective seal; and

(2) The annular space between the borehole and the casing is filled with cement to a depth not less than fifteen (15) feet below the adapter connection.

(g) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well as provided for these Rules.

EXHIBIT A

Description of District boundaries as copied from Section 20 of House Bill 3442 of the 78th Regular Session of the Texas Legislature ~~from on a document from the Board of Water Engineers of the State of Texas dated the 15th day of August, 1955 and labeled as "Subdivision Number One, of the Underground Water Reservoir in Hudspeth County, Texas.~~

~~1. Beginning at the northeast corner of Section 6, Block 69, Township 1, Hudspeth County, Texas, and being a point in the state line between Texas and New Mexico, for the northeast corner of the Survey;~~

~~2. Thence south with the east boundary line as Section 6, Block 69, Township 1 to the southeast corner of Section 6;~~

~~3. Thence west with the south boundary line of Section 6, Block 69, Township 1, to the southwest corner of Section 6, which point is also the southeast corner of Section 1, Block 70, Township 1, Hudspeth County, Texas;~~

~~4. Thence continuing west with the south boundary line of Section 1, Block 70, Township 1, to the southwest corner of Section 1, this point being also being the northwest corner of Section 12, Block 70, Township 1;~~

~~5. Thence south with the west boundary line of Section l2, and continuing south with the west boundary line of Section 13, 24, 25, 36, and 37, Block 70, Township 1, to the southwest corner of Section 37;~~

~~6. Thence east with the south boundary line of Section 37 to it southeast corner, which point also the northeast corner of Section 48, Block 70, Township 1;~~

~~7. Thence south with the east line of Section 48 to its southeast corner, which point is also the northeast corner of Section 6, Block 69, Township 2, Hudspeth County, Texas;~~

~~8. Thence continuing south with the west line of Sections 6 and 7, Block 69, Township 2, to the southwest corner if Section 7;~~

~~9. Thence east with the south line of Section 7, and continuing east with the south line of Section 8 to the southeast corner of Section 8, which point is also the northwest corner of Section 16, Block, 69, Township 2, Hudspeth County, Texas;~~

~~10. Thence south with the west boundary line of Section 16 to its southwest corner;~~

~~11. Thence east with the south boundary line of Section 16 to its southeast corner which point is also the northwest corner of Section 22, Block 69, Township 2;~~

~~12. Thence south with the west boundary line of Section 22 to its southwest corner;~~

~~13. Thence east with the south boundary line of Section 22 to its southeast corner, which point is also the northwest corner of Section 26, Block 69, Township 2;~~

~~14. Thence south with the west boundary line of Section 26, and continuing to the southwest corner of Section 35, Block 69, Township 2;~~

~~15. Thence, east with the south boundary line of Section 35 to the southeast corner being also the northwest corner of Section 36, Block 69, Township 2;~~

~~16. Thence south with the east boundary line of Sections 38 and 47, Block 69, Township 2 to its intersection with the north right-of-way of U.S. Highway 62 as in existence on August 12, 1955, and shown on the Texas Highway Department plans for such construction;~~

~~17. Thence with the north right-of-way of U.S. Highway 62, as above described, in its east, southeast, and northeast coarse to its intersection with the Hudspeth-Culberson County Line, being a point in the east Boundary line of Section 6, PS Block 119, Hudspeth County, Texas;~~

~~18. Thence north with the east boundary line of Section 6, PS Block 119, to its northeast corner, which point is also the southeast corner of Section 24, PS Block 120;~~

~~19. Thence continuing north with the east boundary line of Sections 24, 19, and 10 to the northeast corner of Section 10, PS Block 120 which is also the southeast corner of Section 5, PS Block 120;~~

~~20. Thence west with the south boundary line of Section 5, to its southwest corner;~~

~~21. Thence north with the west boundary line of Section 5 to its northwest corner, which point is also the southeast corner of Section 19, PS Block 121;~~

~~22. Thence continuing north with the east boundary line of Section 19,18, and 7 to the northeast corner of Section 7, being also the southeast corner of Section 6, PS Block 121;~~

~~23. Thence west with the south boundary line of Section 6 to its southeast corner;~~

~~24. Thence north with west boundary line of Section 6, PS Block 121, to its northwest corner, which point is also a point in the east boundary line of Section 48, Block 67, Township 1;~~

~~25. Thence north with the east boundary line of section 48, and continuing north with the east boundary line of Sections 37, 36, 24, 13, 12 and. 1, Block 67, Township 1, to northeast corner of Section 1, being also a point in the Texas New Mexico State Line forming the north boundary line of Hudspeth County, Texas;~~

~~26. Thence west with the Texas-New Mexico State Line to the point of beginning containing 294 square miles or 188,160 acres more or less.~~

~~*Note: actual land contained within District boundaries is approximately 204,400 acres.~~

1) BEGINNING at the northwest corner of Section 3, Block A, University, Hudspeth County, Texas, and being a point in the state line between Texas and New Mexico, for the northwest corner of the survey;

2) THENCE south with the west boundary line of Section 3, Block A, University, to its southwest corner;

3) THENCE east with the south boundary line of Section 3, Block A, University, to its southeast corner, which point is also the northeast corner of Section 10, Block A, University;

4) THENCE south with the west boundary line of Section 11, Block A, University, to its southwest corner;

5) THENCE east with the south boundary line of Section 11, Block A, University, and continuing east with the south boundary

line of Section 12, Block A, University, to the southeast corner of Section 12, Block A, University;

6) THENCE south with the east boundary of Section 13, Block A, University, to the southeast corner of Section 13, Block A, University, which point is also the northeast corner of Section 24, Block A, University;

7) THENCE east with the north boundary line of Section 19, Block B, University, and continuing east with the north boundary line of Section 20, Block B, University, to the northeast corner of Section 20, Block B, University;

8) THENCE south with the east boundary line of Section 20, Block B, University, to the southeast corner of Section 20, Block B, University, which point is also the northeast corner of Section 29, Block B; University;

9) THENCE east with the north boundary line of Section 28, Block B, University, to the northeast corner of Section 28, Block B, University, which point is also the southeast corner of Section 21, Block B, University;

10) THENCE south with east boundary line of Section 28, Block B, University, to the southeast corner of Section 28, Block B, University, which point is also the northeast corner of Section 33, Block B, University;

11) THENCE east with the north boundary line of Section 34, Block B, University, and continuing east with the north boundary line of Section 35, Block B, University, to the northeast corner of Section 35, Block B, University;

12) THENCE south with east boundary line of Section 35, Block B, University, to its southeast corner, which point is also the northeast corner of Section 38, Block B, University;

13) THENCE east with the north boundary line of Section 37, Block B, University, and continuing east with the north boundary line of Section 48, Block C, University, to its northeast corner, which point is also the northwest corner of Section 47, Block C, University;

14) THENCE south with the east boundary line of Section 48, Block C, University, to its southeast corner;

15) THENCE east with the north boundary line of Section 50, Block C, University, to its northeast corner;

16) THENCE south with the east boundary line of Section 50, Block C, University, to its southeast corner;

17) THENCE east with the north boundary line of Section 4, Block D, University, and continuing east along the north boundary line of Section 3, Block D, University, to the northeast corner of Section 3;

18) THENCE south with the east boundary line of Section 3, Block D, University, to its southeast corner;

19) THENCE east with the north boundary line of Section 11, Block D, University, and continuing east along the north boundary line of Section 12, Block D, University, to its northeast corner;

20) THENCE south with the east boundary line of Section 12, Block D, University, to its southeast corner;

21) THENCE east with the north boundary line of Section 18, Block 72, Township 2, T & P, to its northeast corner;

22) THENCE south with the east boundary line of Section 18, Block 72, Township 2, T & P, to its southeast corner;

23) THENCE east with the north boundary line of Section 20, Block 72, Township 2, T & P, and continuing east along the north boundary line of Section 21, Block 72, Township 2, T & P, to the northeast corner of Section 21;

24) THENCE south with the east boundary line of Section 21, Block 72, Township 2, T & P, to its southeast corner;

25) THENCE east with the north boundary line of Section 27, Block 72, Township 2, T & P, and continuing east with the north boundary lines of Sections 26 and 25, Block 72, Township 2, T & P, and Section 30, Block 71, Township 2, T & P, to the northeast corner of Section 30;

26) THENCE south with the east boundary line of Section 30, Block 71, Township 2, T & P, to its southeast corner;

27) THENCE east with the north boundary line of Section 32, Block 71, Township 2, T & P, and continuing east with the north boundary line of Section 33, Block 71, Township 2, T & P, to the northeast corner of Section 33;

28) THENCE south with the east boundary line of Section 33, Block 71, Township 2, T & P, to its southeast corner;

29) THENCE east with the north boundary line of Section 39, Block 71, Township 2, T & P, to the northeast corner of Section 39;

30) THENCE south with the east boundary line of Section 39, Block 71, Township 2, T & P, to its southeast corner;

31) THENCE east with the north boundary line of Section 47, Block 71, Township 2, T & P, to the northeast corner of Section 47;

32) THENCE south with the east boundary line of Section 47, Block 71, Township 2, T & P, to the southeast corner of Section 47;

33) THENCE east with the south boundary line of Section 48, Block 71, Township 2, T & P, and continuing east with the south boundary line of Section 43, Block 70, Township 2, T & P, to the southeast corner of Section 43;

34) THENCE south with the east boundary lines of Section 7, Block JKL, P.S.L., and Section 6, Block K, University, to the southeast corner of Section 6;

35) THENCE east with the north boundary line of Section 8, Block K, University, and continuing east with the north boundary line of Section 9, Block K, University, to the northeast corner of Section 9;

36) THENCE south with the east boundary line of Section 9, Block K, University, to its southeast corner;

37) THENCE east with the north boundary line of Section 15, Block K, University, to its northeast corner;

38) THENCE south with the east boundary line of Section 15, Block K, University, and continuing south with the east boundary line of Section 22, Block K, University, to the southeast corner of Section 22;

39) THENCE east with the north boundary line of Section 26, Block K, University, to its northeast corner;

40) THENCE south with the east boundary line of Section 26, Block K, University, to its southeast corner;

41) THENCE east with the north boundary line of Section 36, Block K, University, to its northeast corner;

42) THENCE south with the east boundary line of Section 36, Block K, University, to its southeast corner;

43) THENCE east with the north boundary line of Section 42, Block L, University, to its northeast corner;

44) THENCE south with the east boundary line of Section 42, Block L, University, and continuing south with the east boundary line of Section 43, Block L, University, to the southeast corner of Section 43;

45) THENCE east with the north boundary line of Section 5, Block N, University, and continuing east with the north boundary line of Section 4, Block N, University, to the northeast corner of Section 4;

46) THENCE south with the east boundary line of Section 4, Block N, University, to its southeast corner;

47) THENCE east with the north boundary line of Section 22, Block N, University, to its northeast corner;

48) THENCE south with the east boundary line of Section 22, Block N, University, to its southeast corner;

49) THENCE east with the north boundary line of Section 26, Block N, University, and continuing east with the north boundary line of Section 25, Block N, University, to the northeast corner of Section 25;

50) THENCE south with the east boundary line of Section 25, Block N, University, to its southeast corner;

51) THENCE east with the north boundary line of Section 19, Block 68, Township 4, T & P, to its northeast corner;

52) THENCE south with the east boundary line of Section 19, Block 68, Township 4, T & P, to its southeast corner;

53) THENCE east with the north boundary line of Section 29, Block 68, Township 4, T & P, and continuing east with the north boundary line of Section 28, Block 68, Township 4, T & P, to the northeast corner of Section 28;

54) THENCE south with the east boundary line of Section 28, Block 68, Township 4, T & P, to its southeast corner;

55) THENCE east with the south boundary line of Section 27, Block 68, Township 4, T & P, and continuing east with the south boundary lines of Sections 26 and 25, Block 68, Township 4, T & P, to the intersection of the south boundary line of Section 25, Block 68, Township 4, T & P, with the east boundary line of Section 3, Block 30, P.S.L.;

56) THENCE south with the east boundary line of Section 3, Block 30, P.S.L., to its southeast corner;

57) THENCE east with the south boundary line of Section 2, Block 30, P.S.L., and continuing east with the south boundary lines of Section 1, Block 30, P.S.L., and Sections 5, 4, 3, and 2, Block 31, P.S.L., to the southeast corner of Section 2;

58) THENCE north with the east boundary line of Section 2, Block 31, P.S.L., and continuing north with the east boundary lines of Sections 26, 23, 14, 11, 2, Block 67, Township 4, T & P, and Sections 46, 37, 34, 25, 22, 13, 10, 5, Block 67, Township 3, T & P;

59) THENCE continuing north with the east boundary lines of Sections 43, 34, 33, 24, 23, 14, 11, 2, Block 67, Township 2, T & P, and Sections 47, 38, 35, 26, 23, 14, 11, 2, Block 67, Township 1, T & P, to the northeast corner of Section 2, being a point in the Texas-New Mexico State line forming the north boundary line of Hudspeth County, Texas;

60) THENCE west with the Texas-New Mexico State Line to the Point of Beginning.

EXHIBIT B

Description of the Boundaries of the Bone Spring-Victorio Peak Aquifer within Hudspeth County Underground Water Conservation District No. 1

1) Beginning at the northeast corner of Section 6, Block 69, Township 1, Hudspeth County, Texas, and being a point in the state line between Texas and New Mexico, for the northeast corner of the Survey;

2) THENCE south with the east boundary line as Section 6, Block 69, Township 1 to the southeast corner of Section 6;

3) THENCE west with the south boundary line of Section 6, Block 69, Township 1, to the southwest corner of Section 6, which point is also the southeast corner of Section 1, Block 70, Township 1, Hudspeth County, Texas;

4) THENCE continuing west with the south boundary line of Section 1, Block 70, Township 1, to the southwest corner of Section 1, this point being also being the northwest corner of Section 12, Block 70, Township 1;

5) THENCE south with the west boundary line of Section l2, and continuing south with the west boundary line of Section 13, 24, 25, 36, and 37, Block 70, Township 1, to the southwest corner of Section 37;

6) THENCE east with the south boundary line of Section 37 to it southeast corner, which point also the northeast corner of Section 48, Block 70, Township 1;

7) THENCE south with the east line of Section 48 to its southeast corner, which point is also the northeast corner of Section 6, Block 69, Township 2, Hudspeth County, Texas;

8) THENCE continuing south with the west line of Sections 6 and 7, Block 69, Township 2, to the southwest corner if Section 7;

9) THENCE east with the south line of Section 7, and continuing east with the south line of Section 8 to the southeast corner of Section 8, which point is also the northwest corner of Section 16, Block, 69, Township 2, Hudspeth County, Texas;

10) THENCE south with the west boundary line of Section 16 to its southwest corner;

11) THENCE east with the south boundary line of Sections 16, 22, 23 to the northwest corner of Section 24, Block 69, Township 2;

12) THENCE south with the west boundary line of Section 24 to the northwest corner of Section 25, Block 69, Township 2;

13) THENCE east with the north boundary line of Section 25 to the northwest corner of Section 30, Block 68, Township 2;

14) THENCE south with the west boundary line of Section 30 to the southwest corner of Section 30, Block 68, Township 2;

15) THENCE east with the south boundary line of Section 30, 29, 28, 27, and 26 to the southwest corner of Section 25, Block 68, Township 2;

16) THENCE north with the west boundary line of section 25, and continuing north with the west boundary line of Sections 24, 13, 12 and 1, Block 68, Township 2,to the southwest corner of Section 48, Block 68, Township 1;

17) THENCE north with the west boundary line of Section 48, and continuing north with the west boundary line of Sections 37, 36, 25, 24, 13, 12 and. 1, Block 68, Township 1, to a point in the Texas—New Mexico State Line;

18) THENCE west with the Texas-New Mexico State Line to the point of beginning containing 98,385 acres more or less.