

**HEADWATERS
GROUNDWATER
CONSERVATION
DISTRICT**

DISTRICT RULES

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Amended November 9, 2011

Current Officers

Gordon Morgan, President, Pct 2

Mary Ellen Summerlin, Vice President, Director, At Large

Diane McMahon, Secretary Treasurer, Pct 3

John R. Elliott, Director, Pct 4

Jack Pratt, Director, Pct 1

Preamble

The purpose of this District is to provide for the conservation, preservation, protection, recharging and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions within the defined boundary of the District. To carry out this purpose, these rules and regulations are passed, adopted and will be enforced to: (1) minimize, as far as practicable, depletion of the groundwater reservoirs and aquifers; (2) prevent waste of groundwater, pollution of groundwater or harmful alteration of the character of the groundwater; (3) promote conservation to extend the longevity of groundwater resources; and (4) manage the groundwater effectively based upon factors unique to the aquifers within the Headwaters Groundwater Conservation District.

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Rule 1. Definitions: Terms and Acronyms

Words used in these Rules shall have their commonly understood meanings.

However, the words hereinafter defined shall have the following meaning:

- A. **"Abandoned Well"** shall mean a well that has not been used for six consecutive months. A well is considered to be in use in the following cases:
 - 1. A non-deteriorated well which contains the casing, pump, and pump column in good condition; or
 - 2. A non-deteriorated well which has been capped
- B. **"Agent"** shall mean any individual or entity that has provided the District with a power of attorney to act on behalf of an owner.
- C. **"Aggregate Wells"** shall mean a well system comprised of two or more Permitted wells that are owned and operated by the same person or entity.
- D. **"Aggregate Withdrawal"** shall mean the amount of groundwater withdrawn from two or more wells in a water system that is permitted under a single permit for a total pumpage volume of all wells in the aggregate.
- E. **"Agricultural Use"** shall mean any use or activity involving agriculture, including irrigation
- F. **"Alluvial Well"** shall mean a well drilled within the Holocene-Pleistocene alluvial flood plains, and as more fully described under Rule 5.
- G. **"Alter"** shall mean any increase in well production capacity.
- H. **"Annular Space"** shall mean the space between the casing and the borehole wall.
- I. **"ASR Well"** shall mean an aquifer storage and recovery well used to store surface water.
- J. **"Applicant"** shall mean the owner of the land on which the well(s) or proposed well(s) are located.
- K. **"Application"** shall mean an administratively complete application to drill, construct, equip, complete, alter or transfer a well, including the payment of any required fee.
- L. **"Aquifer"** shall mean a formation or group of saturated geologic formations capable of storing and yielding fresh water in usable quantities.

- M. **“Authorization”** shall mean approval issued by the District to drill, construct, equip, complete, or alter a well.
- N. **“Beneficial Purpose”*** shall mean use for:
1. Agriculture, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
 2. Exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
 3. Any other purpose that is useful to the user.

*Texas Water Code Chapter 36.001 (9) (A)

- O. **“District Board”** shall mean the District Board of Directors of the District.
- P. **“Borehole”** shall mean an artificial excavation of earth drilled to a depth sufficient to penetrate an aquifer.
- Q. **“CCN”** shall mean a “Certificate of Convenience and Necessity”, a permit issued by the TCEQ which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area. Chapter 291(10) utility regulations.
- R. **“Commingle”** shall mean to blend the Edwards Group of the Edwards-Trinity (plateau) aquifer with the Trinity Aquifer, or to blend the Middle Trinity Aquifers with the Lower Trinity Aquifers in the same borehole.
- S. **“Conjunctive Use Permit”** shall mean a permit that requires the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.
- T. **“Days”** shall mean, for the purposes of these rules unless otherwise stated, calendar days, NOT excepting holidays and weekends unless the period ends on one. In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.
- U. **“Deteriorated Well”** shall mean a well or borehole, the condition of which are causing or is likely to cause, pollution of groundwater.
- V. **“District”** shall mean Headwaters Groundwater Conservation District.

- W. **"Domestic Use"** shall mean the use of water only for personal household use, including water for use inside the home, for irrigation of lawns, family garden/orchard, for watering domestic animals, and filling swimming pools.
- X. **"Evidence of Historic or Existing Use" As defined in Water Code Chapter 36.001 (29)** "shall mean evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use."
- Y. **"Exception Permit"** shall mean a permit that states the total gallons per year that may be produced in excess of the Standard Production amount granted the well owner by the District Board of Directors for historical use, emergency use, extraordinary circumstances, or as provided in these Rules or District policy.
- Z. **"Exempt Well"** shall mean a well that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons (or 17.36 gallons per minute) of groundwater a day and which is used:
1. Solely and exclusively for domestic use as defined herein or for providing water for livestock or poultry on a tract of land larger than 10 acres; or
 2. Solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and that the well is located on the same lease or field associated with the drilling rig; or
 3. The drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.
- AA. **"Groundwater"** shall mean water percolating below the surface of the earth.
- BB. **"Historic Use Period"** shall ordinarily mean the recorded gallons pumped during the five years immediately preceding the date of the application for permit or renewal. At the discretion of the General Manager other historic evidence may be considered when the record for the previous five years is incomplete or other

extraordinary circumstances exist.

- CC. **“Metered Use”** shall mean groundwater usage measured by a calibrated, commercial meter installed on a permitted well.
- DD. **“Monitoring Device”** shall mean an approved meter installed on a permitted well.
- EE. **“Monitoring Well”** shall mean an artificial excavation constructed to measure or monitor the quality and/or quantity or movement of substances, elements, chemicals, or fluids, beneath the surface of the ground.
- FF. **“Owner”** shall mean and include any person or other entity, public or private, which has the fee simple title to the land upon which the well is to be drilled or already exists.
- GG. **“Permit Matter”** shall mean any permit presented to the District Board in which an applicant seeks authorization or a permit to drill, alter or produce from a well.
- HH. **“Permitted Well”** shall mean all wells not classified as exempt under Z above.
 - II. **“Person”** shall include a corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- JJ. **“Pollution”** shall mean the alteration of any water that renders the water harmful, detrimental, or injurious to humans, animals and vegetation.
- KK. **“Public Water Supply System”** shall mean a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described in 30 TAC 290 Subchapter D under the definition of “Drinking Water”. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. “Public Water Supply System” includes, as stated in 30 TAC 290 Subchapter D, the definition of “Community Water System”, “Non-community Water System”, “Non-transient Non-community Water System”, and “Transient Non-community Water System”.
- LL. **“Pump Test”** shall mean a test involving the withdrawal at a constant discharge rate of measured quantities of water from a well and the measurement of resulting changes in water level in the aquifer both during and after the period of discharge for the purpose of determining the characteristics of the aquifer.

- MM. **“Service Need”** as used herein shall have the same meaning as defined by Chapter 36.116.C of the Texas Water Code.
- NN. **“Standard Production Permit”** shall mean a permit that states the total gallons per year that may be pumped for the permit acreage listed on the permit for a certain number of years.
- OO. **“State Well Log”** shall mean a detailed description by the driller of activities involved in the drilling of a water well, lithologic description, borehole size and depth, cementing and grouting information, and static water level and yield as required by the State.
- PP. **“Surface Water”** shall mean all water naturally open to the atmosphere (rivers, reservoirs, ponds, streams, impoundments, seas, estuaries, etc).
- QQ. **“Test Well”** shall mean an artificial excavation created from drilling, boring or coring for the purpose of securing geological, hydrological or other information which may be obtained by penetrating the earth.
- RR. **“Waste”** as used herein shall have the same meaning as defined by Chapter 36 of the Texas Water Code as now or hereafter amended.

Waste means any one or more of the following:

1. Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. 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 order issued by the commission under Water Code Chapter 26;

6. Groundwater pumped for irrigation that escapes as irrigation tail water onto land other than that of the owner of the well unless the occupant of the land receiving the discharge has granted permission.

SS. **“Well”** shall mean water well, injection well, ASR well, dewatering well, test well, or monitoring well.

Acronyms

“ASR” Aquifer Storage and Recovery Well

“CCN” Certificate of Convenience and Necessity

“GPS” Global Positioning System

“OSSF” On Site Sewage Facility

“TAC” Texas Administrative Code

“TCEQ” Texas Commission on Environmental Quality

“TDLR” Texas Department of Licensing and Regulation

“TDS” Total Dissolved Solids

Rule 2. Waste

Water shall not be produced or used within the District in such a manner or under such conditions as to constitute waste as defined by Chapter 36 of the Water Code.

Rule 3. Administrative Fees

The District Board shall set the amount of fees and initiate refund policies from time to time. Administrative or other fees required by the District shall accompany applications.

Rule 4. Authorization to Drill or Alter a Well

- A. No person shall hereafter begin to drill a well, including those associated with oil and gas activities regulated by the Railroad Commission of Texas, without having first submitted to the District a completed application and received an authorization to drill.
- B. No individual/private wells, either Exempt or Permitted, may be drilled in a subdivision that is served by a Public Water Supply System.
- C. Before granting or denying an authorization, the District shall consider the requirements of Chapter 36, Texas Water Code, and specifically Section 36.1132.
- D. The owner or her/his agent of any operational well existing prior to the adoption of these rules that is capable of producing more than 25,000 gallons of groundwater per day, shall apply to the District for a permit.
- E. Any owner desiring to alter a well to increase its production shall submit to the District a completed application and receive authorization.
- F. Any person submitting an application for an owner as such owner's agent shall submit written evidence of authority on a form acceptable to the District.
- G. Within 60 days after the District receives an administratively complete application, the District shall either: authorize the application, deny the application, or set the specific date for District Board action on the application.
- H. The District shall not issue an authorization that does not comply with all city, county, state or federal regulations.

- I. Any authorization granted hereunder shall remain valid if the work authorized shall have been completed within one-hundred-eighty (180) days from the date the authorization is issued. The District, for good cause, may extend the life of such authorization, if requested, up to an additional one-hundred-eighty (180) days and may grant such time as is reasonably necessary to complete such project.

4.1 Exempt Wells

If the application is for a well exempt from permitting, the General Manager may authorize drilling and operation of the well upon receipt of an administratively complete application.

4.2 Permitted Wells

If the application is for a well requiring a permit, the General Manager shall either issue the permit or present the permit for District Board approval as provided in these Rules and the District Permitting Policy.

Rule 5. Alluvial Wells

- A. Wells proposed to be "Alluvial" must receive authorization to drill from the District.
- B. Alluvial wells drilled within 150 feet from an active stream where the surface water from the stream is charging the well are regulated as part of the underflow of the stream itself. Wells of this type identified by the South Texas Watermaster are not subject to District jurisdiction.
- C. Alluvial wells that are greater than 150 feet away from an active stream and being recharged by rainfall and/or adjacent spring flow are considered ground water wells subject to the construction, completion and pumping limits set forth by the District.
- D. In the event of a contested case over the jurisdiction of groundwater versus underflow, the District may require the minimum of three piezometer wells be installed in the underflow area and a minimum of three piezometer wells be installed in the groundwater area to delineate the jurisdiction of groundwater versus underflow based upon gradient directions.

Rule 6. Well Spacing

The authorization for drilling a well in any subdivision, whether served by a Public Water Supply System or not, shall not conflict with Kerr County Subdivision Rules and/or Water Availability Requirements and/or District Rules. Any Kerr County Subdivision Rules or Regulations or Water Availability Requirements shall be the minimum requirements for well spacing for any subdivision outside a municipal boundary.

6.1 Exempt Wells

Shall be a minimum of 75 feet away from the property line. If the minimum setback is not possible for physical reasons, any exception to this rule requires a "Property Line Separation Request" signed by the owner of the adjoining property and the approval of the District Board of Directors. All wells must meet a minimum separation distance as specified in Texas Administrative Code (TAC) 285 relating to On Site Sewage Facility statutes.

6.2 Permitted Wells

Permit Well Spacing Effective 8/09/2006

Shall be a minimum distance from property lines as defined in the following table.

Projected Pumping Capability of Proposed Well in Gallons per Minute	Minimum Distance From Property Line or CCN Boundary
17.36 gpm - 60 gpm	150 feet
61 gpm - 125 gpm	300 feet
126 gpm - 250 gpm	750 feet
251 gpm - 500 gpm	1200 feet
501 gpm - 1500 gpm	1500 feet

- A. Applicants desiring to drill permitted wells closer than the minimum distance required shall submit a water availability study satisfactory to the District proving the aquifer is

strong enough to prevent unacceptable draw down of adjacent landowners.

- B. Notice by Applicant. The application for a proposed exception to spacing requirements will be considered in a regular HGCD District Board meeting. The Applicant will be required to notify any affected landowner by both regular mail and certified mail, return receipt requested, with at least 20 days notice posted prior to the meeting. In addition, the District may elect to issue additional notices.

Rule 7. Permitting

7.1 Production Cap for Permitted Wells

- A. Wells requiring permits shall be subject to a production cap as specified by the current permitting policy established by the District Board.
- B. The production cap shall be reviewed in the month of January and may be adjusted at any time by the District Board based on the best available scientific information.
- C. The production cap shall be stated as the maximum amount of groundwater that may be produced, stated in gallons per year, as allowed by the current Permitting Policy.
- D. Exceptions to the production cap will be allowed only by District Board action.
- E. ASR wells production in excess of the total amount stored is subject to permit limitations.
- F. The District may designate areas within the District where the production cap may differ from those applying to the balance of the District.
- G. Production caps apply only to new or renewing permits. A production permit is valid for up to five years.

7.2 Permits For Wells

- A. The District may issue the following permits: Standard Production Permits, Exception Permits, and Conjunctive Use Permits. All permits will be issued on forms promulgated by the District and signed by a District representative. Each permit is granted in accordance with the provisions of the District Management Plan, Texas Water Code, and the rules, policies, procedures and orders of the District. Acceptance of a permit constitutes an acknowledgment and agreement that the

permittee will comply with the Texas Water Code, the District Act, the District rules, orders of the District Board, and all the terms, provisions, conditions, requirements and restrictions embodied in the permit.

- B. The District Board, before granting or denying a production permit, shall consider the requirements of Texas Water Code Ch.36.113.
- C. A permit may be modified, amended, revoked or suspended pursuant to the District Rules, the Texas Water Code Chapter 36, or state law.
- D. Permit decisions by District Board action in a regular scheduled District Board meeting are determined to be administrative decisions. A person having an interest in the permit who wishes to appeal action of the District Board may request a hearing as described in Rule 11.

7.3 Standard Production Permits

- A. A standard production permit will be required if the General Manager determines from the information submitted in the application that the applicant may intend to drill, equip, complete, alter or produce water from a permitted well.
- B. When the District receives an administratively complete application for a permitted water well, or application for a permit renewal or amendment, the General Manager will authorize the permit, if a standard permit, or will place the application on the agenda of the next regular District Board meeting for consideration and possible action.

7.4 Exception Permits

- A. The District Board may authorize and issue exception permits to production or spacing requirements for permitted wells as provided in these Rules or the Water Code.
- B. The District Board may consider exception permits based on:
 - 1. Historical use, or
 - 2. Emergency, or
 - 3. Extraordinary circumstances, or
 - 4. As provided in these Rules or District policy.

- C. The District Board may appoint a committee of Exceptions to review and advise the District Board on exception requests.

7.5 Conjunctive Use Permits

The District Board shall require conjunctive use permits for Applicants of permitted wells who will use both surface water and groundwater. A conjunctive use permit may include requirements for prioritized use of surface water or other requirements unique to the circumstances.

7.6 Requirements for Permits

- A. Immediate written notice must be given to the District in the event a well is either polluted or causing pollution of the aquifer.
- B. The well site, after reasonable efforts to contact the owner/agent have been made, must be accessible to the District representative for inspection. Agreement by the permittee to cooperate fully in any reasonable inspection of the well and well site by District representatives shall be included in each application.
- C. The application pursuant to which a permit has been issued is incorporated in the permit, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of the permit. In the event of conflict between the provisions of this permit and contents of the application, the provisions of a permit shall control.
- D. A violation of a permit's terms, conditions, requirements, or special provisions, is punishable by civil penalties as provided by the District Rules.
- E. The HGCD District Board of Directors may add "Special Provisions" to a permit to meet special or unique circumstances.
- F. Permits are granted for a maximum five (5) year period and are subject to renewal at the end of the initial term. Application for renewal will be subject to production caps applicable at the time.
- G. A Permit is valid until modification of any information submitted for the Application and Permit, or expiration of the Permit.

- H. Any dividing subdividing or other change in the total acreage attested as the location of the well on the application for a permit shall automatically nullify the Permit.

7.7 Reporting

- A. Owners of all wells registered with the District that are not exempt under Chapter 36.117 (b) (1) may be required to report groundwater withdrawals using reasonable and appropriate reporting methods.
- B. Owners of all permitted wells shall file with the District annual reports describing the amount of water produced and used for the permitted purpose. Such report shall be filed on the appropriate form or forms provided by the District within fifteen (15) days after December 31 following the commencement of production and annually thereafter.
- C. The permittee must keep records of the amount of groundwater produced and the purpose of the production. Such records shall be available for inspection by District representatives.
- D. In the event that reports show over-production, the Permittee will be required to comply with the District policy for overproduction.

7.8 Monitoring Devices

All permitted wells shall be equipped with production monitoring devices approved by the District, and shall be made available for District inspection at any time during normal business hours.

7.9 Transferring ownership of Permitted Wells

- A. An application to amend a permit to change the name of the permittee must be made within 90 days of the change in ownership on a form promulgated by the District.
- B. The terms of the original permit shall continue in full force and effect until the permit's renewal date.
- C. No transfer shall be effective until the owner of the well requesting the transfer has completed a Transfer of Well Permit form.

Rule 8. Well Construction

8.1 Administrative Rules

- A. The driller or pump installer shall inform the owner that an “Application to Drill or Alter a Well” is required by the District. No drilling, construction, completion, equipping or alteration of a well shall proceed unless District authorized.
- B. Complete records shall be kept, and reports concerning the drilling, equipping and completion of all wells drilled or altered shall be provided to the District. Such records shall include an accurate copy of the State of Texas Well Report, the Driller and Pump Installer’s Certified Statement of Completion and any additional data or reports concerning the drilling, equipping and completion of the well.
- C. These records shall be filed with the District within sixty (60) days after completing construction of the well, and within sixty (60) days of equipping the well.
- D. No person may begin to drill, construct, complete, equip or alter a well in Kerr County unless he/she has filed a Headwaters Groundwater Conservation District License Certification form with the District. Each driller, or driller trainee, who desires to drill wells in the District, and each pump installer who desires to install pumps on wells drilled in the District, shall be licensed in accordance with TDLR 76.200 and shall on request provide to the District a true and correct copy of that person’s current license.
- E. All wells shall be drilled, completed, equipped and altered in accordance with the standards and requirements of the District and any Federal or State Agency having jurisdiction over such actions. After the authorization to drill a well has been issued, the actual location of the drilling may vary from the GPS location indicated on the application within ten yards, but shall maintain all property line and well spacing distances required by District rules. The well must meet TAC 285 relating to OSSF statutes and TDLR technical requirements 76.1000 - Locations and Standards of Completion for Wells.

8.2 Notifications

- A. The driller shall notify the District prior to the date drilling is to commence.

- B. The driller shall notify the District prior to cementing.
- C. The pump installer shall notify the District prior to installation and testing of pump.

8.3 Construction Standards

- A. Casing shall have a minimum inside diameter of four and one-half (4.5) inches.
- B. The diameter of the borehole shall be a minimum of three (3) inches larger than the outside diameter of the casing to the depth at which the casing is sealed.
- C. The annular space between the casing and the wall of the borehole shall be cemented with a positive displacement technique or tremie method to the land surface. Bentonite grout using tremie method with a two (2) foot cement cap may be used in lieu of cementing. This annular space shall be sealed with a solid column from a depth of not less than:
 - 1. Twenty (20) feet below the land surface to the land surface for wells completed only in the Edwards aquifer, or
 - 2. The top of the producing layer to the land surface for all other wells, or
 - 3. When karst formations or similar voids are encountered resulting in lost circulation or drilling pressure, the annular space shall be grouted from the top of the zone of completion to the lowest void and from the land surface to twenty feet below the land surface.
- D. Wells drilled in Kerr County in the Trinity Aquifer shall not allow commingling of the Edwards Aquifer with the Trinity Aquifer.
- E. Wells drilled in Kerr County in the Trinity Aquifer shall not allow commingling of the Middle Trinity Aquifer with the Lower Trinity Aquifer.
- F. Rig supply water wells used in association with oil and gas activities regulated by the Railroad Commission of Texas shall be drilled and completed either in the Lower or Middle Trinity aquifer. Commingling of aquifers shall be prevented.
- G. To prevent pollutants from entering the wellbore, all wells shall be completed with a watertight sanitary seal.
- H. Except in the case of a mud-drilled well, the driller shall measure and report the depth and amount of total dissolved solids, in milligrams per liter or parts per million, encountered at each water bearing stratum.

- I. Upon request by the District, samples of the formation cuttings shall be collected in a mesh prior to the cutting samples hitting the ground and laid out in an undisturbed orderly fashion for observation by District representatives. The samples shall be chronologically ordered in a minimum of ten (10) foot increments.
- J. All wells must be completed to avoid the commingling of undesirable water with desirable drinking water based upon TDS measurements while drilling with air rigs.
- K. The monument pin provided by the District must be placed in the cement within close proximity to the wellhead and must be clearly visible and legible.
- L. An exception concerning these construction standards may be requested of and granted by the General Manager of the District with subsequent notice to the District Board.

8.4 Water Quality Analysis

For newly completed wells, a standard water quality analysis report is required by the District and shall be filed with the District by the owner within sixty days after pump installation.

8.5 Public Water Supply Wells (amended November 9, 2010)

- A. All permitted wells that are to be used as a public water supply well may be required at the District's expense to provide some or all of the following logs and aquifer test: a lithologic log, a gamma log, a resistivity log, and a pump test with determination of aquifer parameters or approved equivalent test performed during drilling. Results of these logging and pump test requirements shall be the property of the District. All logging and pump tests with determination of aquifer parameters shall be conducted or supervised by a registered professional engineer or geoscientist licensed selected by the District.
- B. Well logs:
 - 1. All logs required by this section shall be gathered in an open hole before any casing is inserted into the well if possible.
 - 2. For Lithologic Log – samples shall be taken at 10-foot intervals, screened and washed, placed in well-marked containers.

3. Gamma Log
4. Resistivity Log

C. Pump Test Requirements:

1. The discharge duration shall be a minimum of eight (8) hours with the maximum not to exceed thirty-six (36) hours.
2. Any variation from TCEQ pump test duration requirements, as specified under TCEQ TAC 290, shall be coordinated with TCEQ and the District.
3. Testing shall continue long enough to observe a straight-line trend on a plot of water level versus the logarithm of time pumped.
4. If the pumping rates remain constant for a period of at least four (4) hours and a straight-line trend is observed on a plot of water level versus the logarithm of time pumped before the thirty-six (36) hour limit has been reached, the District's portion of the test may be terminated.
5. The frequency of water level measurements during the pump test shall be such that adequate definition of the time-draw down curve is made available.
6. Water-level recovery data shall be obtained to verify the accuracy of the data obtained during the pumping portion of the test.
7. Recovery measurements shall be initiated immediately at the conclusion of the pumping portion of the pump test and shall be recorded with the same frequency as those taken during the pumping portion of the pump test.
8. Pump testing required by this section shall be performed before any acidization or other flow-capacity enhancement procedures are applied to the test well.

D. Draw down and Recovery Data

The time-draw down and time-recovery data obtained during the pump test shall determine aquifer parameters utilizing the non-equilibrium equations developed by Theis or Cooper-Jacob, or acceptable modifications thereof. The following aquifer parameters shall be determined:

1. Rate of average yield and draw down
2. Specific capacity

3. Transmissivity
4. Storage coefficient, when an observation well is available
5. Hydraulic conductivity

Rule 9. Capping and Plugging of Wells

- A. Every owner or operator of any land within the District, upon which is located any open or uncovered well is, and shall be, required to close or cap the same permanently or temporarily as set forth below and in accordance with Chapter 36, Texas Water Code and subsequent changes thereto.
1. The owner or lessee of land on which an open or uncovered well is located shall keep the well permanently closed or capped with a covering capable of sustaining weight of at least four-hundred (400) pounds, except when the well is in actual use.
 2. If the Owner or lessee fails or refuses to close or cap the well in compliance with this Rule within ten (10) days after being requested to do so in writing by an officer, agent, or employee of the District, any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely.
 3. Reasonable expenses incurred by the District in closing or capping a well constitutes a lien on the land on which the well is located.
 4. Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.
- B. Deteriorated wells shall be plugged in accordance with the standards established by the TDLR rules.
1. No such well may be used for disposal of trash, garbage, sewage, wastewater or other foreign material. It is the responsibility of the owner to see that such a well is plugged to prevent pollution of the groundwater and to prevent injury to persons.
 2. Any person who plugs a well in the District shall, within sixty (60) days after plugging is complete, shall submit a copy of the plugging report to the District.

Rule 10. Right to Inspect and Test Wells

- A. After making reasonable efforts to contact the owner/agent, any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times to enter lands upon which a well or wells may be located within the District for the purpose of:
1. Inspecting a well or wells; or
 2. Determining the pumping capacity of said well or wells; or
 3. Reading or interpreting any meter, weir box, or other instrument for the purpose of measuring production of water from said well or wells; or
 4. Collecting samples to be used in regard to groundwater quality programs; or
 5. Testing the pump and the power unit of the well or wells; or
 6. Making any other reasonable and necessary inspections and/or tests that may be required for the formulation of groundwater information or the enforcement of the District Rules.
- B. District employees or agents acting under this authority who enter private property shall cooperate with reasonable rules and regulations concerning safety, internal security, and fire protection and shall notify the owner, occupant or management of their presence and shall exhibit proper credentials.
- C. The operation of any well may be enjoined by the District immediately upon refusal to allow the gathering of information as provided above.

Rule 11. Hearings

The District principally conducts rules hearings; permit hearings, and public interest hearings.

11.1 Scheduling of Hearings

- A. The General Manager may schedule a hearing on permit or permit amendment applications received by the District.
- B. The District Board may schedule rule hearings or public interest hearings.

11.2 Rule Hearings

- A. Rule hearings involve matters of general applicability that implement, interpret or prescribe the law of the State and are proposed for implementation to meet the purposes of the District as defined under Texas Water Code Chapter 36, including:
1. District Rules: The District Board shall hold a hearing for the adoption or amendment of a substantive change to the District Rules to allow for public comment and input.
 2. District Management Plan: The District Board may hold a hearing to consider adoption of a substantive change to the District Management Plan to allow for public comment and input.

11.3 Public Interest Hearings

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

11.4 Permit Hearings

- A. A hearing may be scheduled at the discretion of the General Manager, or on an application by an interested person who wishes to contest any administrative decision made by the General Manager or the District Board.
- B. A person seeking a hearing shall submit such request on forms provided by the District.
- C. A District Board hearing shall be scheduled when the District Board finds that a person requesting a hearing has an interest and, in the hearing request, has raised significant issues related to the application within the jurisdiction of the District, or wishes to appeal administrative action of the District Board.

11.5 Notice of Permit Hearings

The General Manager shall give notice of the hearing as required by applicable law.

11.6 Hearing Registration

The District may require each person who participates in a hearing to submit a hearing registration form stating:

1. The person's name;
2. The person's address; and
3. Whom the person represents if the person present is not the hearing requestor.

11.7 Hearing Procedures

- A. A hearing must be conducted by a quorum of the District Board.
- B. The District Board President shall serve as a presiding officer at the hearing.
- C. If the District Board President is not present, the Directors conducting the hearing may select a person to serve as a presiding officer.
- D. The presiding officer may allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, deposition before the hearing, or other reasonable means.
- E. The District may also promulgate additional procedural rules, which will be provided to persons who have an interest in the hearing.

11.8 Evidence

- A. The presiding officer shall admit evidence that is relevant to an issue at the hearing.
- B. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

11.9 Recording

The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter's notes. On the request of a party to a contested hearing, the presiding officer shall have the hearing transcribed by a

court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed the costs assessed against that party would be paid by another party.

11.10 Continuance

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

11.11 District Board Action

The District Board shall act on a permit or permit amendment application not later than the sixtieth (60th) day after the date the final hearing on the application is concluded.

11.12 Decision: When Final

A decision by the District Board on a permit or permit amendment application is final on the date the District Board renders a written decision. The written decision of the District Board exhausts all administrative procedures.

11.13 Section 36.401, Texas Water Code

Permit hearings shall be conducted in accordance with Section 36.401, et seq., Texas Water Code.

Rule 12. Enforcement of Rules

- A. If any operator willfully produces a well at a higher rate than authorized in the well permit application and/or operating permit, such action shall be deemed a violation of District Rules subject to enforcement and penalties as provided in these rules or as allowed by law.
- B. All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36, Texas Water Code and subsequent changes thereto. The District Board may set reasonable civil penalties for breach of any rule of the District, not to exceed \$10,000 per day per violation. Each day of a continuing violation constitutes a separate violation.
- C. The District may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
- D. 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 a court of competent jurisdiction in Kerr County, Texas.
- E. 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 Court shall fix the amount of the attorney's fees.
- F. The District Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating within the District to appear before it and require him to show cause why his operating authority or Permit should not be suspended, canceled or otherwise restricted and limited, for failure to comply with the rules, orders or regulations of the District Board or the relevant statutes of the state.
- G. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these Rules of procedure and practice.

Rule 13. Transfer of Groundwater

- A. A "Permitted Well" owner desiring to transport water from one property to another or out of the District shall file a sworn application to transfer groundwater. Such

application shall contain such information as the District shall require including, but without limitation, the following:

1. The location or locations of the wells from which the water to be transferred will be produced.
2. The owner or owners of the wells from which the water to be transferred will be produced;
3. The geographic area to which the water will be transferred;
4. The purpose or purposes for which the water will be used;
5. The amount and rate of groundwater to be transferred;
6. The anticipated proposed transportation facilities;
7. Any other presently owned sources of water that could be used by the applicant for the stated purpose;
8. Any and all water conservation measures adopted by the applicant;
9. The availability of water in the proposed receiving area;
10. The availability of feasible and practicable alternative supplies to the applicant; and
11. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence or existing groundwater users in the District.
12. Hydrological issues shall be supported by the report or reports of a registered professional engineer or geoscientist licensed to practice in the State of Texas.

B. The District may impose a reasonable fee or surcharge for an export fee using one of the methods described in the Water Code chapter 36.122 (e) (1), (2), and (3).

C. In determining whether or not to issue a permit to transfer water, the District shall consider:

1. The availability of water in the District and the proposed receiving area during the period for which the permit is requested;
2. The report provided in part 13.A above by the applicant;
3. The approved regional water plan and certified district management plan.

D. In addition to the elements of a permit required by the District, any permit to transfer

water out of the District 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;
3. The period shall be at least three years;
4. The amount of any export fees charged by the District.

Rule 14. Transfer of Groundwater Production Rights

14.1 Application to Produce Water

Any “permitted well” owner desiring to utilize the water production rights from property not owned by that person must comply with this Rule.

14.2 Documentation

The applicant must provide the District with satisfactory documentation of the conveyance or transfer of water production rights to the Applicant. The documentation must be recorded in the real property records of Kerr County, and include, at a minimum, an unequivocal transfer and relinquishment of water production rights to the Applicant, including a written waiver of water production rights by the grantor or leaser.

14.3 Distance limitations

Property to be considered for a production rights transfer must lie within 1320 feet of a property line of the Applicant’s property.

14.4 Same Aquifer

Any groundwater production rights transfer permit must be limited to production rights within the same aquifer as the Applicant’s rights.

Rule 15. Drought Management

A. The District hereby adopts the terms and conditions of its Drought Contingency Plan

as the rule by which the District shall manage the use of groundwater during designated periods of drought conditions as defined by the Plan.

- B. The District Board, based on the best available historical and scientific information, shall review drought stages, trigger indices and production restrictions annually in the month of January.
- C. Any person who violates this Rule is subject to prosecution by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction and subject to reasonable civil penalties not to exceed \$5000.00 per day per violation and the District's associated court cost.

Rule 16. Miscellaneous

- A. All applications, notices, or documents required under these Rules shall be filed with the District office at 125 Lehmann Drive, Ste. 102, Kerrville, Texas.
- B. If any section, sentence, paragraph, clause, or part of these rules, and orders should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these rules; and the District Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.
- C. The District Board shall compile its rules and make them available for use and inspection at the District's office and on its website: www.hgcd.org.
- D. A separate document containing the District's policies shall also be available at the District office and website.
- E. The District Board at any regular meeting shall adopt changes to the rules after a public hearing as required by law.

HEADWATERS GROUNDWATER CONSERVATION DISTRICT

Office: 125 Lehmann Dr, Ste 102

Kerrville, Texas 78028

Phone: (830) 896-4110 Fax: (830) 257-3201

E-mail: hgcd@hgcd.org

Website www.hgcd.org