

PLUM CREEK CONSERVATION DISTRICT  
RULES

Plum Creek  
Conservation District  
Groundwater Management  
& Protection  
Rules

Adopted

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**PLUM CREEK CONSERVATION DISTRICT  
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**PREAMBLE**

Plum Creek Conservation District is a special law district operating in portions of Caldwell and Hays County, Texas. The District was created in furtherance of Article XVI, Section 59 of the Texas Constitution by special legislative act formerly codified as Article 8280-194, TEX. REV. CIV. STAT. ANN., as amended. Although the District was created as a Water Control and Improvement District, the powers and duties of the District were subsequently expanded to include those of groundwater districts operating pursuant to Chapter 36 of the Texas Water Code. The Rules established herein, and as may be amended from time to time, are adopted by the District in furtherance of its constitutional and statutory duties to protect, preserve, enhance and insure the beneficial resources within its jurisdiction.

# PLUM CREEK CONSERVATION DISTRICT RULES

## Rule 1 - Definitions

- A. Except, as otherwise provided in these Rules, the definitions contained in Chapter 36, Texas Water Code, as amended from time-to-time, shall apply to these Rules.
- B. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

**“Abandoned Well or Deteriorated Well”** means: (a) a well, the condition of which is causing pollution of groundwater in the District; (b) a well which is or is not in use, or which contains no pumping equipment (open or uncovered well); or (c) a well which is not maintained in compliance with applicable law, including the Rules and Regulations of the District, the Texas Water Well Driller’s Act, Texas Commission on Environmental Quality, Texas Railroad Commission or any other state or federal agency or political subdivision having jurisdiction.

**“Acre-foot”** means one acre-foot of groundwater which is equal to 325,851 gallons of water, or the amount of water necessary to cover one surface acre of land with one foot of water.

**“Administratively Complete”** means an application that contains all the information required by Statute and these Rules for the particular type of application presented as determined by the District.

**“Administratively Complete Date”** means the date on the letter from the District to the applicant conveying the information that the District has determined that the application is Administratively Complete. If an application has not been determined to be Administratively Complete by 180 days following its submission the application shall be returned to the applicant for re-filing.

**“Agricultural Use Well”** means a non-exempt well producing not more than 100 acre-feet per year of groundwater for use for on-site agricultural or livestock use purposes which well is permitted with the District pursuant to the provisions in Rule 5 of the District’s Rules. .

**“Allowable decline”** means an amount of water, expressed in acre-feet, approved by the Board pursuant to Rule 21 – Rate of Decline .

**“Aquifer”** means a formation, or group of saturated geologic formations, capable of storing and yielding groundwater in usable quantities.

**“Aquifer Storage and Recovery Project”** or **“ASR Project”** means a well or wells, and any appurtenant facilities, used for the treatment, injection, storage and production of surface water within the boundaries of the District as contemplated by provisions in Chapter 11, Subchapter D of the Texas Water Code.

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**“Aquifer Storage and Recovery Well”** and **“ASR Well”** means a well designated or constructed to be used to inject into storage or recover from storage water from an aquifer within the District as part of an ASR Project.

**“Area of Consideration ”** means the circumference or arc of property in PCCD and in the vicinity of an existing or proposed well or well field where calculations made by the District using standard methods show that there could be a drawdown of the static water level in any aquifer of more than five (5) feet during a period of up to seven (7) days as a result of continuous production at maximum production rates from the well being studied. The “Area of Influence” determination is to be used for notice purposes and is not a determination of actual impacts of production from the proposed well.

**“Authorized Well Site”** means:

1. The location of a proposed well as identified in an application duly filed with the District, until such application is denied, canceled, or expires (a location designated in an application is not a permit to drill at the designated site); or
2. The location of a well as stated on a permit issued by the District; or
3. The location of any well producing fresh, brackish or saline water from the Quaternary, Tertiary, and Cretaceous aquifers, in existence at the time the District Rules were first adopted in December, 2003 other than those wells producing from the Edwards sands, formation or aquifer regulated by either the Barton Springs-Edwards Aquifer Conservation District or the Edwards Underground Water District on January 1, 1989; or
4. The location of a well capable of producing in excess of 25,000 gallons of fresh, brackish or saline water per day in existence either (i) at the time the District Rules were revised and adopted on December 29, 2009, or (ii) at the time the area was annexed into the District, which was producing water from the Quaternary, Tertiary, and Cretaceous aquifers, and is not considered to be an abandoned well or deteriorated well; or
5. The location of a well drilled after the District’s Rules were adopted, or after the area was annexed into the District, which has a properly completed registration and Log of Well on file in the District office and which is not “Abandoned” or “Deteriorated; or
6. The location of any Exempt Well.

**“Beneficial use”** or **“Uses for a Beneficial Purpose”** means the use of an amount of water in a non-wasteful manner contemplated by Section 36.001(a), Texas Water Code.

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**“Board”** means the governing body of the District as prescribed by the District’s enabling legislation.

**“Chemigation”** means a process whereby pesticides, fertilizers or other chemicals, or effluent from animal or human wastes are added to irrigation water applied to land or crops, or both for beneficial purposes, through an irrigation distribution system.

**“Commission”** means the Texas Commission on Environmental Quality, or the “TCEQ,” and any successor agency.

**“Contiguous”** includes separately described tracts of land touching at any point or separately described tracts of land separated from other tracts owned or leased by the Applicant by a road or other transportation rights of way.

**“DFC”** Desired Future Condition means a quantified description, adopted in accordance with Section 36.108, of the desired condition of the groundwater resources in a management area at one or more specified future times

**“District”** means the Plum Creek Conservation District or PCCD, created by special legislative enactment formerly codified as Article 8980-126, TEX. REV. CIV. STAT. ANN. When used in these Rules in connection with actions, the term “District” means actions of the Board of the District and of employees of the District when the employees are acting in accordance with these Rules.

**“District Headquarters”** means the District’s principal place of business located in Caldwell County, Texas at 1101 West San Antonio St., Lockhart, Texas 78644.

**“Domestic Use”** means the use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; for watering of domestic animals; and for non-commercial water recreation including aquatic and wildlife enjoyment. Domestic use does not include water used to support activities for which consideration is given, bartered or received, or for which the product of the activity is bartered or sold.

**“Easy Access”** means access is not obstructed by equipment and the fitting(s) can be removed and replaced with a minimum of tools and/or effort, and without risk of breakage of any attached parts.

**“Electric Log (Geophysical Log)”** means the representation of results of tests made by a wire line measurement of natural gamma radiation and/or of measurements of various forms of resistivity/conductivity from electrodes placed within an open or cased well or and/or other wire line geophysical tools used to determine formation and/or well characteristics.

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“**Executive Manager**” means the person who is employed by and acts as the Executive Manager of the District.

“**Exempt Well**” means a well exempted from permitting by PCCD in Rule 11 of these Rules or exempted from permitting by the provisions of Chapter 36, Texas Water Code.

“**Existing Well**” means a well that was drilled prior to December 31, 2003.

“**Flapper**” means the clapper, closing, or checking device within the body of the check valve.

“**Foreign substance**” means any element or combination of elements in excess of that naturally occurring in the groundwater, including re-used or re-claimed water and tailwater, and may also include instances where open-ditch water is treated when a pump discharge pipe is submerged in the ditch.

“**Fresh, Brackish & Saline Zones**”

<b>Period</b>	<b>Epoch</b>	<b>Group/Formation/Member</b>	<b>Description</b>
Quaternary	Holocene	Alluvium	Sand, silt, clay
	Pleistocene	Leona	Gravel, sand, silt. clay
Tertiary	Eocene/ Paleocene	Weches	Clay, silt, sand
		Queen City	Sand, clay
		Reklaw	Clay, sand, silt
		Carrizo	Sand, clay
		Wilcox	Sand, clay
		Midway	Clay, silt
Cretaceous	Late	Navarro	Clay, silt
		Pecan Gap	Chalk
	Early	Eagle Ford	Clay
		Buda	Limestone
		Del Rio	Clay
		Georgetown	Limestone
		Edwards	Limestone, dolomite
		Glen Rose	Marl, limestone
		Hensell	Sand, silt, clay, dolomite
		Bexar	Clay, silt
		James (Cow Creek)	Limestone
		Pine Island (Hammett)	Clay
		Sligo	Limestone, silt
Hosston	Sand, gravel, silt, clay		

Note: blue indicates primary, secondary and tertiary potential fresh, brackish and saline aquifers.



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“**GPD**” means gallons per day.

“**Groundwater**” means water percolating below the surface of the earth.

“**Groundwater Reservoir**” means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

“**Guidance Document**” means a statement prepared and revised by the District from time to time that is a communication between the District and others detailing the District’s views on interpretations of these Rules. Any Guidance Document will be made available in the offices of the District and on the District’s Web Site and is not a Rule.

“**Historic Use**” means the amount of production of groundwater from a well for beneficial use without waste prior to 2004.

“**Injection well**” means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transit or dispose of water, or any other fluid, into a water bearing subsurface stratum, regulated pursuant to Chapter 27, Texas Water Code subject to the jurisdiction of either the Texas Commission on Environmental Quality and/or the Texas Railroad Commission.

“**Irrigation distribution system**” means a device or combination of devices having a hose, pipe or other conduit that connects directly to any water well through which water or a mixture of water and chemicals is drawn and applied to land. The term does not include any hand held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

“**Lithologic Log**” means a log constructed from cuttings and/or cores describing the sediments and rocks encountered in the borehole.

“**Livestock Use**” means the use of groundwater for the open-range watering of animals, including exotic livestock, game animals or fur-bearing animals on property designated for agricultural use and holding agricultural use or wildlife management status associated with open space land devoted to farm, ranch or wildlife purposes on the basis of its production capacity from the appropriate appraisal district.

“**MAG**” means Modeled Available Groundwater as calculated by the TWDB.

“**Maximum Historic Use**” means the maximum amount of groundwater pumped from a well without waste during any consecutive twelve month period ending prior to December 31, 2003.

“**Mitigation Plan**” means the procedures and actions to address impacts of permitted Tier II wells on permitted or registered groundwater wells located on properties in the Area of Consideration of a permitted well’s operation at maximum capacity. A Mitigation Plan can be

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one adopted by Rule by the District, or approved by the District in connection with an application for a permit for a well.

**“Modeled Available Groundwater”** means the amount of water that the Executive Administrator of the Texas Water Development Board determines may be produced on an annual average basis to achieve a desired future condition.

**“Monitoring well”** means a well designated or constructed to measure, or monitor, either the quality, or quantity or movement, of substances, elements, chemicals or fluids beneath the surface of the ground. The term does not include any monitoring well which is used in conjunction with the production of oil, gas or any other minerals.

**“Owner”** means, and includes, any Person having the right to produce groundwater either by ownership, contract, lease, easement or any other estate in the land or water.

**“On-Site”** means property owned or controlled by a holder of a groundwater production permit or registration even if such property is not contiguous to the property tract where the well producing the permitted or registered water is located.

**“Permitted Well”** means a non-exempt well that has been issued a permit or other authorization by the District.

**“Person”** means any individual, partnership, corporation, organization, government, government subdivision or agency, business trust, estate or any other legal entity or association.

**“Pollution”** means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, 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 the public enjoyment of the water for any lawful or reasonable purpose.

**“Railroad Commission”** means the Texas Railroad Commission.

**“Re-equip”** means to replace any portion of the water producing equipment in a well.

**“Recharge Well”** means a well other than a disposal well, including an **“Aquifer Storage and Recovery Well”** and **“ASR Well”**, used to allow or cause water to flow out of the well into the aquifer either under a gravity head or a head maintained by an injection pump in order to replenish the groundwater.

**“Registered Well”** means an exempt well that has been registered with the District.

**“Rework”** means any alteration of a well whether accomplished by mechanical or chemical means.

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“**Saturated thickness**” means the vertical distance between the water table and the base of the groundwater reservoir.

“**Subsidence**” means the lowering in elevation of the land surface caused by withdrawal of groundwater.

“**TCEQ**” means the Texas Commission on Environmental Quality.

“**Test Hole**” means an excavation into a geological formation that is intended to determine the formation’s characteristics for the purposes of producing groundwater to be put to some lawful purpose.

“**Test Well**” means a Well drilled and completed for the purpose of determining aquifer characteristics through water production during a short period of time. A Test Well can be subsequently permitted as a production well or a monitor well if an appropriate permit is granted following submission of an application.

“**Tier I Well**” means a well that has an annual pumping limit of 300 acre feet or less.

“**Tier II Well**” means any well not a **Tier I** well. “**Transportation Facility**” means any system used for transporting groundwater produced from a well(s) located, or to be located, within the District.

“**TWDB**” means the Texas Water Development Board.

“**Underground Water**” means groundwater.

“**Waste**” means any one, or more, of the following as applied to wells:

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 beneficial purposes;
2. The flowing, or producing, of water from wells completed in a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. The escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater, as used herein, the term “escape” does not include water intentionally transferred from a groundwater reservoir into another groundwater reservoir for beneficial use or groundwater discharging to the surface in natural springs;
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;

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5. Willfully or negligently causing, suffering or allowing groundwater to escape from a well 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 for a non-beneficial purpose, unless the same is authorized by a permit, rule or order issued by the District, or by the Commission under either Chapter 11 or 26 of the Texas Water Code;
6. Groundwater pumped for irrigation that is not contained in tailwater retention ponds and escapes as irrigation tailwater onto land, other than that of the owner of the well(s), unless permission has been granted by the occupant of the land receiving the tailwater, and the same is used for a beneficial purpose;
7. For water produced from an artesian well “waste,” has the meaning assigned by Section 11.205 of the Texas Water Code; or
8. Production of groundwater from a Non-Exempt Existing Well without first obtaining a permit from the District.

**“Water”** means groundwater or underground water.

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**“Water Classes”:**

PCCD Definition Water Classes	Total Dissolved Solids (mg/l)
<b>Fresh</b>	<1,000
<b>Brackish</b>	1,000-10,000
<b>Very Saline</b>	10,001-35,000
<b>Sea Water</b>	35,000
<b>Brine</b>	> 35,000

USGS: Davis & De Wiest (1996). Subsurface saline water has been found as high as 400,000 mg/l. Most subsurface brine ranges between 50,000 and 200,000 mg/l.

**“Water Well”** means any artificial excavation constructed for the purpose of exploring for, monitoring, recharging, storing or producing, groundwater other than: (1) test or blast holes in quarries or mines, (ii) any well(s) or excavation(s) for the purpose of exploring for, or producing oil, gas or any other minerals, unless the hole(s) is used to produce groundwater, or (iii) any injection well regulated by the Railroad Commission or TCEQ. The term “Water Well” includes Test Holes as described in Rule 3 of these Rules.

**“Well”** includes any “Water Well” described or defined in these Rules.

**“Well Field”** means any permitted well or group of wells whether permitted or exempt under the control of one owner and existing within 5,000 feet of another permitted well.

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**Rule 2 - Waste or Pollution**

- A Groundwater shall not be produced, or used, within the District in such a manner, or under such conditions, as to constitute waste. Groundwater shall not be produced from an abandoned or deteriorated well or from any permitted or registered well or unpermitted exempt well at greater rates or in greater quantities than authorized.
- B Any person producing, or using groundwater, shall use every possible precaution to avoid and prevent waste.
- C Within thirty (30) days following written notification from Plum Creek Conservation District, the owner of a well(s) identified as an abandoned or deteriorated well must initiate action to ensure that the abandoned or deteriorated well is plugged, covered, or reworked in accordance with the requirements of the District and any applicable statewide law, agency or political subdivision having jurisdiction including, but not limited to the Texas Water Well Driller's Act, Chapters 35 and 36, Texas Water Code, the TCEQ, and Railroad Commission. Final plugging, covering or re-working shall be accomplished within ninety (90) days of the well owner receiving notice.
- D. Groundwater produced from a Non-Exempt Existing Well that is not permitted by the District is Waste unless the well qualifies as an Exempt Well in accord with Rule 11 of these Rules.

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**Rule 3 - Test Holes**

- A A test hole can be used to determine some subsurface characteristics for use with other types of well applications. A test hole is not a well and, unless converted into a well, cannot be used to produce water for any purpose except that of characterizing the subsurface formation and water contained in those formations.
- B A person wishing to explore for groundwater by using test holes must file with the District an application for authority to drill a test hole prior to commencement of drilling a test hole for a well. The application for authority to drill a test hole shall be accompanied by payment of the prescribed fee(s), and include all of the following additional information:
1. A legal description of the tract upon which the test hole is proposed to be drilled;
  2. The proposed date for commencing drilling of the test hole;
  3. The exact location of the test hole, including longitude and latitude coordinates, the name of the current landowner as listed on the tax roll with the volume and page data from the Caldwell or Hays County Deed Records, and the approximate distance and location in fact to the nearest public road, property line or other landmark; and the survey in which the land is located.
  4. If the person proposing to obtain permission for the test hole is not the owner of the Property on which the drilling activity is to take place, the person seeking authority for the test hole must furnish some written document evidencing authority to be on the property for the purposes of exploring for groundwater through test holes;
  5. The name and address of the driller or contractor;
  6. The date the test hole(s) is to be drilled;
  7. An acknowledgement that the person(s) responsible for drilling of the test hole will provide drilling logs and/or plugging reports to the District upon completion of the test hole operation;
  8. An acknowledgment that the test hole will either be properly plugged or, if the test hole will be converted to a water well, that the test hole will be capped with a covering capable of sustaining a weight of at least 400 pounds until the test hole is converted into an exempt well or permitted as a water well; and
  9. An acknowledgment that the owner will make appropriate applications to the District pursuant to Rule 4 if the test hole(s) is not plugged.

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- C Any other information deemed necessary by the District.
- D If the test hole is not completed as an exempt well or no application is received by the District to convert the Test Hole into a permitted well within one (1) year after permission is granted for the test hole, the test hole must be plugged; provided, however, that the District may grant authority to further extend the period during which the test hole may remain unplugged.
- E Authority to drill Test Holes may be granted by the District's Executive Manager if the Manager determines that all required information has been submitted and that the fees have been paid. Any extension of time for a Test Hole to remain unplugged must be submitted to and approved by the District's Board.
- F. Notice associated with Applications to drill test holes is described in Rule 27.
- G. Drilling activities pursuant to the authority granted for a Test Hole must commence within one hundred twenty (120) days following the issuance of authority to drill a Test Hole.
- H. If the person to whom Test Hole authority is issued fails to plug the Test Hole as required, the District may act to plug the Test Hole and seek to recover its costs from the Applicant.



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**Rule 4 - Well Applications & Registrations**

- A All wells, including exempt wells, must be registered with or permitted by the District in order for the District to consider the effects of other permit applications on the well. Failure to register a well with the District or to obtain a permit for a well will result in the well not being considered when the decision to permit wells are made. If the District becomes aware of an existing Exempt Well it may invite the owner to submit a registration for the well. However, until a registration request is received from the owner the District will not consider the Exempt well to be registered.
- B All applications for new well permits are subject to spacing requirements, if any, relative to any approved well permit(s) or existing registered well(s) if the new well application request is to produce from the same formation as the existing registered, or permitted, well. Existing Wells are not subject to spacing limits; provided however, that any permit renewals or amendment requests to increase the well size, amount of production or rate of production, of an Existing Well shall be subject to the District's spacing and production requirements then in effect.
- C. All exempt Existing Wells, including exempt wells used in connection with oil and gas operations, shall be registered with the District. If a person desires to drill a new exempt well, including a new well being drilled or to be used in connection with oil and gas operations, they must register such new well prior to the commencement of drilling.
- D. All wells, whether exempt, registered or permitted, shall be equipped and maintained in accordance with all applicable state laws and these Rules as to drilling, installation of casing, completion, and pipe and fittings to prevent (i) 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, and (ii) waste.
- E. Forms for permit applications and registrations approved by Board Resolution will be made available by the District.
- F. Each registration and/or permit application filed with the District shall be accompanied by the applicable prescribed fee(s).
- G. All applications shall be sworn to by the applicant.
- H. Unless the drilling and/or operation of a well is exempt, either by law or by these Rules, no person shall (i) operate a well, (ii) begin to drill a well, (iii) perforate or screen an existing well, or (iv) increase the size of an existing well or a pump therein, without first applying to the District for, and receiving a permit.
- I. Owners of Existing Wells that do not qualify as Exempt Wells must apply to the District for a permit to continue operating the Well. An application for each such well must be

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filed with the District within one (1) year after the date these Rules are adopted. An Existing Exempt Well for which a registration application has been filed may continue to be operated in a non-wasteful manner.

- J. All applications for permits and registrations filed with the District shall include all of the following information:
1. Name and mailing address of the applicant/registrant and, if different, the owner of land on which the well is or will be located;
  2. If the applicant/registrant is other than the owner of the property, documentation establishing the applicable authority to construct and/or operate on the property described in the application for the proposed use;
  3. The location of the Existing Well or the location where a new well, test well or test hole is to be drilled, including longitude and latitude coordinates; the name of the current landowner as listed on the tax rolls with the Volume and Page data from the Caldwell or Hays County Deed Records; the approximate distance and location in feet to the nearest public road, property line or other landmark; and the survey in which the land is located;
  4. A statement of the nature and purpose of the existing/proposed action and the amount of water to be used for each purpose. Multiple uses of the same quantity of water may be requested, provided that the total cumulative volume used annually does not exceed the amount authorized by any permit or exemption issued by the District or authorized by these Rules. Groundwater produced from any exempt well(s) may only be used for domestic and livestock purposes; [Rule 11]
  5. The proposed rate at which water is or will be withdrawn from a new well, or the actual production rate for an Existing Well;
  6. The name and address of the driller or contractor;
  7. The date proposed drilling operations are to commence for a new well(s), or the date on which the well(s) was completed for an Existing Well;
  8. A statement of the location of all permitted or registered wells within the Area of Consideration of the proposed well(s) location, together with the names and addresses of the owners of the Property on which such wells are located based upon the most current tax rolls, and the district well number associated with each such well identified;
  9. An acknowledgment by the applicant/registrant that required information will be furnished to the District by the applicant/registrant upon completion of the well(s) and prior to production of water therefrom;

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10. A water conservation and drought contingency plan, or a declaration that the applicant/registrant will comply with the District's Groundwater Management Plan, including any water conservation and drought contingency plans;
11. A list of landowners as listed on the tax rolls of Caldwell or Hays County, as applicable of all tracts of land not owned by the applicant within the area of Consideration of the proposed well;
12. A water well closure plan, or a declaration that the applicant/registrant will comply with well plugging guidelines and report closure to the TCEQ and the District;
13. A representation that the well(s) was, or will be, drilled, equipped and completed in accordance with District Rules;
14. Acknowledgment that the well(s) will be properly plugged in accordance with District Rules;
15. A mitigation plan for a **Tier II** well;
16. A mitigation plan for a **Tier I** well when required by the Executive Manager pursuant to Rule 4 and 20 or a statement that the applicant will comply with any mitigation plan promulgated by the District;
17. Well testing requirements for wells to be used for public drinking water supply purposes and subject to requirements of provisions contained in 30 TAC 290 governing Public Drinking Water Systems shall include interval-time drawdown data and calculations of producing formation characteristics shall include transmissivity, hydraulic conductivity, and storage coefficients; and
18. Well testing requirements for Tier II wells not used for public drinking water supply purposes shall include information allowing the District to verify its calculations of the Area of Consideration of the well.
19. Any other additional information deemed necessary by the District and authorized by Chapter 36, Texas Water Code.

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**Rule 5 – Non-exempt Agricultural Use Well**

- A. An owner of land seeking to use groundwater for agricultural or livestock use purposes on-site may apply for a permit of one well for use of no more than a total of 100 acre feet per year at production rates no greater than those allowed for Tier I wells producing the same quantity as the well to be registered under the terms of this Rule in lieu of making an application for a Tier I permit for such a well.
- B. Only one(1) Non-Exempt Agricultural Use Well permit per landowner, per contiguous tract of land may be granted.
- C.
- D. The water produced from a non-exempt agricultural well under this Rule must be used for agricultural or livestock use on-site for the non-exempt agricultural Well permit to remain valid.
- E. An application for a non-exempt Agricultural Use well permit under this Rule is not a contested case.
- F. All of the requirements in the District’s Groundwater Management and Protection Rules are applicable to wells permitted under Rule 5 in accordance with the provisions of each of the Rules.
- G. A non-exempt Agricultural Use Well under this Rule is a “Permitted Well” that is authorized by, and limited to, water production under the specific terms of this Rule.

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**Rule 6 – Test Well Permit Applications**

- A. An Application for a Test Well Permit may include all of the information required in 4.J of these Rules.
- B. An application for a Test Well Permit can be issued by the Executive Manager of the District or may be referred by the Executive Manager to the Board for consideration and action.
- C. Drilling activities pursuant to a Test Well Permit must commence within one hundred twenty (120) days following the issuance of the Test Well Permit. The Executive Manager or Board may extend the initial period of a Test Well Permit for one additional one hundred twenty (120) day period.
- D. A Test Well permit is issued for a term of two (2) years conditioned upon drilling activity commencing within one hundred twenty (120) days. The term of a Test Well Permit is extended for a period of five (5) years from the first date it was issued if an application to convert the Test Well into a Monitor Well or a Production Well is received within the term of the Test Well Permit and drilling activity commenced within one hundred twenty (120) days of the date the Test Well Permit was issued.
- E. A Test Well must be plugged or completed as an exempt well within one hundred twenty (120) days after the expiration of the Test Well Permit for the Test Well. If the Applicant fails to complete the test well as an exempt well or properly plug it as required, the District may act to plug the Well and recover its costs from the Applicant.

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**Rule 7 – Production Well Permit Applications**

- A. An application for a “Water Well Production Permit” for a new non-Exempt well or for a Test Well that is to be converted into a monitor well or into a non-Exempt Production Well must include all of the following additional information:
1. Copies of any either (i) other applications for permits previously submitted to, and/or (ii) permits issued by the District for the subject well;
  2. All information required in 4.J of these Rules to the extent such information has not been previously supplied;
  3. The drilling, lithologic or geophysical log(s)(in Tiff format if available) prepared during the drilling of the subject well;
  4. Identification of the aquifer(s) from which water will be produced and the screening or perforation interval(s);
  5. The proposed use of the well(s);
  6. The total number of gallons per minute the pump(s) is capable of producing;
  7. The rate at which the well(s) is going to be produced in gallons per minute;
  8. The volume of water to be produced annually;
  9. The number of contiguous acres owned or leased for water production by the applicant/registrant from which groundwater is to be produced as recorded in the Caldwell or Hays County Deed Records;
  10. The number of acres owned or leased for water production by the applicant in the Area of Consideration ; and
  11. Additional information that may be required by the Board, and authorized by Chapter 36, Texas Water Code.
- B. To obtain a Water Well Production Permit for an Existing Well based upon its Historic use the following additional information shall be provided to the District on forms provided by the District:
1. All information required in 4.J of these Rules if it has not been previously supplied;
  2. If available; a technical description of the well(s) that are producing water for transportation including, but not limited to, all of the following:

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- (a) a copy of the driller's lithologic and geophysical log(s) for each well anticipated to contribute groundwater to the transportation facilities;
  - (b) a completion record showing the depth of the well(s), the casing diameter, type and setting, and the perforated interval(s);
  - (c) the size of the pump(s) used to produce groundwater to be transported; and the date the well(s) was drilled;
- 3. The purposes of use for which water has historically been produced;
  - 4. The highest volume of water produced during any consecutive twelve (12) month period, including documentary evidence corroborating such production and use;
  - 5. If known, monthly production during a period of twenty-four (24) consecutive months or for the number of months less than 24 during which the well has operated;
  - 6. The number of contiguous acres owned or leased for water production from which the groundwater has been produced from the Existing Well;
  - 7. The number of acres owned or leased for water production by the applicant in the Area of Consideration ; and
  - 8. Additional information that may be required by the Board, and authorized by Chapter 36, Texas Water Code.
- C. If any information listed is not available, a statement by the applicant that the information could not be located. If the listed information could not be located, the Executive Manager may determine that the application is not Administratively Complete and return it to the applicant or present the application to the Board for action. The Board may either deny such an application without a hearing or set such an application for a hearing.

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**Rule 8 – Transportation Permit Applications**

- A. An application to obtain a “Transportation Permit” for water produced from a well or from a group of wells in a Well Field must include all of the information described in 4.J of these Rules as well as the following information to the extent it has not been furnished in any other application:
1. The name and address of the owner(s) and/or operator(s) of the transportation facility;
  2. The legal description of the location of the well(s), including the longitude and latitude coordinates, from which groundwater to be transported is to be produced;
  3. A map reflecting the location of the well(s) and the transportation facilities;
  4. The name(s) and address(es) of the owner(s) of the land(s) upon which the well(s) from which water is to be produced and transported is located including the names and addresses of water rights owners if there has been a severance or lease of water production rights on the lands where the well or well field is located;
  5. The permit number(s) of the well(s) used to produce water to be transported;
  6. A technical description of the well(s) that are producing water for transportation including, but not limited to all of the following:
    - (a) a copy of the driller’s log, lithologic and geophysical log(s) (in Tiff format if available) for each well anticipated to contribute groundwater to the transportation facilities;
    - (b) a completion record showing the depth of the well(s), the casing diameter, type and setting, and the perforated or screened interval(s);
    - (c) the size of the pump(s) used to produce groundwater to be transported; and the date the well(s) was drilled;
  7. The proposed use of groundwater transported;
  8. The volume of groundwater transported, if any, during the previous calendar year;
  9. A description of the facilities used to transport groundwater;
  10. The names and addresses of the property owner(s) within the “Area of Consideration” from which water to be transported is to be produced, and the location of any well(s) on those properties;



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11. The time schedule for construction and/or operation of any new transportation facilities;
12. A copy of the construction and operation plans, including but not limited to, all of the following:
  - (a) A description of the existing or proposed well(s) and production facilities, including depth of the well(s) the casing diameter, type and setting, the perforated or screened interval(s), and the size of pump(s);
  - (b) A technical description of the facilities to be used for transportation of water;
  - (c) Information showing the effect, if any, of the proposed transportation on the quantity and quality of water available within the District;
13. A discussion about any other water sources, including treated effluent, brackish water and grey water, that could be substituted for the fresh groundwater and possible sources of such water sources including quantity and quality;
14. Credible scientific evidence that the proposed operation will not cause pollution, waste, or subsidence;
15. A Mitigation Plan, to the extent there is no such plan associated with the wells producing water for the transportation facility; and
16. Additional information that may be required by the District, and authorized by Chapter 36, Texas Water Code.

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**Rule 9 – Recharge Permit Applications**

- A. An application for a “Recharge Well Permit,” for any well, whether an Existing Well or a new well, shall include any permit number assigned to that well by the District and all of the following additional information:
1. The name and address of the water right owner(s) of the land upon which the recharge facility will be located;
  2. The legal description, including longitude and latitude coordinates, of the exact proposed location of the recharge facility;
  3. Copies of all permit(s) for any well(s) intended to be used for recharge;
  4. The time schedule for construction and/or operation of the recharge facility;
  5. The names and addresses of the property owner(s) within the Area of Consideration of the proposed recharge facility location, and the location of any permitted or registered well(s) on those properties;
  6. A copy of construction and operation plans for the recharge project including, but not limited to, all of the following information:
    - (a) A technical description of the facilities to be used for recharge;
    - (b) The source of the water to be recharged;
    - (c) The quality of water to be recharged;
    - (d) The volume of water to be recharged;
    - (e) The rate at which the water will be recharged;
    - (f) The formation into which water will be recharged;
    - (g) Technical analysis of the applicant’s ability to recover the recharged water for beneficial purposes, less reasonably predictable losses, including beneficial use by third parties; and
    - (h) A technical analysis of the source and recharge estimates;
  7. Credible scientific evidence showing that the proposed operation will not:
    - (a) Endanger the structural characteristics of the formation receiving the recharged water;

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- (b) Cause waste; and
  - (c) Cause pollution; and
- 8. Any additional information that reasonably may be required by the District.
- B. To the extent any information required by this Rule previously has been provided to the District, the applicant can satisfy said requirements of this Rule by reference to the prior filing, and attaching a copy thereof to the current application.

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**Rule 10 – Miscellaneous Applications**

- A. Applications for permits for non-Exempt Wells or operations affecting groundwater resources in the District not described in any other Rule must include the information described in Rule 4, if the information has not been previously provided to the District. If the information has been provided, an application made under this provision may reference the information by owner and date or by another reference clearly identifying where the information can be located.

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**Rule 11 – Exempt Wells**

- A. Wells exempt from permitting under Section 36.117 of the Texas Water Code are exempt from permitting by the District. However all such wells are subject to the other applicable terms of these Rules, including notices, reporting and completion requirements that apply to the appropriate type of well that is exempted from permitting. The owner or driller of any Exempt well is required to file with the District the well log required by Section 1901.251 of the Texas Occupations code and, if available, the well's geophysical log.
- B. Domestic Use Wells
1. A well used solely for domestic use is exempt from the need to obtain a production permit from the District as long as all the requirements of paragraph 11.B of these Rules are met.
  2. Any domestic use well producing water from any formation in the District must be drilled, completed and equipped so that it is incapable of producing, more than 25,000 gallons of groundwater per day.
  3. A well producing water for domestic use purposes is not exempt from the requirements of the District if the well is used to supply water to a subdivision of land for which a plat approval is required by Chapter 232 of the Texas Local Government Code. If a well is used to supply water for domestic use to a subdivision of land requiring plat approval pursuant to the provisions of Chapter 232 of the Texas Local Government Code at the time the well is drilled or at some later time, all of the permitting requirements applicable to the well based on its production capacity apply to the well.
  4. The driller of a domestic use well that is exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.
  5. The owner or operator of a domestic well exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.
  6. Any domestic well exempt from permitting under the provisions Section 10.B of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's rules requiring the installation of casing, pipe and fittings to prevent the escape of groundwater from a groundwater

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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.

7. Any alteration of the well to increase its capacity to produce water, or to change the use of water begin produced from domestic use to any other non-exempt use, requires the submission of an appropriate application for the well. Use of the exempt well for the new use or for the greater production may continue until the District has made a decision on the application for a permit for the well or for one year after the change in use or alteration occurs, whichever is the shorter period.
8. Water transported outside the District that is produced for domestic purposes from an exempt well located within the District is subject to export fees imposed by the District.
9. The District may not restrict production from a well that is exempt from the need to obtain a permit because it is a domestic use well drilled, completed and equipped so that it is incapable of producing more than 25,000 gallons per day of groundwater.

C. Livestock and Poultry Use Water Wells

1. A well used to provide water for livestock or poultry use on a tract of land larger than ten (10) acres is exempt from the need to obtain a drilling or operating permit from the District for the production of water from the well as long as all the requirements of Section 11.C of these Rules are met.
2. Exempt livestock and poultry use water wells are subject to the District's spacing rules. [need to establish]
3. Any Exempt well producing water from any formation in the District for livestock and poultry use on a tract of land larger than ten (10) acres must be drilled, completed and equipped so that it is incapable of producing more that 25,000 gallons of groundwater per day.
4. The driller of well that is exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code because the produced groundwater is being used for livestock and poultry use on a tract of land larger than ten (10) acres is required to file the drilling log of and a completion report for the well with the District.
5. The owner or operator of a livestock and poultry use well that is exempt from permitting under the provisions of this paragraph of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered

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with the District will not be considered in evaluating applications submitted to the District.

6. Any well that is producing groundwater and is exempt from permitting under the provisions of paragraph 10.C of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's rules requiring the 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.
7. Any alteration of a well exempt from permitting by operation of the provisions of this paragraph of these Rules to increase its capacity to produce water, or to change the use of water begin produced from livestock or poultry use on a tract of land larger than ten (10) acres to any other non-exempt use, requires the submission of an appropriate application for the well. Operation of the exempt well to produce groundwater for the non-exempt use or for the greater production may continue until the District has made a decision on the application for a permit for the well or for one year after the change in use or alteration occurs, whichever is the shorter period.
8. The amount of water transported outside the District that is produced from an exempt livestock and poultry use well located within the District is subject to export fees imposed by the District.
9. Multiple livestock and poultry Exempt use wells in a well field will be considered together for the purpose of determining production capacity for reporting requirements and for determination of spacing of wells in such well field.

**D. Wells used in Oil and Gas Production**

1. No permit is required by the District for a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission drilling permit is responsible for drilling and operating the water well and the water well is located on the same lease or within the same field associated with drilling operations of the oil or gas drilling rig.
2. If a well exempt from permitting under the provisions of Section 11.D of these Rules begins to provide water for any purpose other than drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas then the well producing the groundwater is no longer exempt from the other requirements of the District and of these Rules. Production of groundwater from the exempt well for the new use is prohibited until the District has made a

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decision on the application for a permit for the well for the new use of water produced from the well.

3. The District will not deny an application for a production permit for a groundwater well solely because the water produced will be used for hydrocarbon production activities if the application meets all applicable District Rules for the appropriate Tier of well for which the application is submitted.
  4. The owner or operator of a well that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.
  5. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's Rules requiring the 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.
  6. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must comply with the spacing requirements of the District's Rules.
  7. The driller of well that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.
  8. The amount of water transported outside the District that is produced from a well located within the District that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code is subject to export fees imposed by the District.
- E. Water Wells used in Surface Coal Mining
1. Drilling of or production from a water well completed in any formation within the District that is authorized under a permit issued by the Railroad Commission of Texas under the terms of Chapter 134 of the Texas Natural Resources Code is exempt from any permitting requirements of the District to the extent the withdrawals of groundwater from the well so exempted are required for mining



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activities regardless of any subsequent use of the water. Use of water for mining activities includes dewatering activities associated with surface coal mining.

2. Production of quantities of water from a water well completed in any formation within the District that is no longer necessary for mining activities as specified in the permit for such activities issued by the Railroad Commission of Texas, or in quantities that are greater than the amount necessary for activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134 of the Texas Natural Resources Code are not exempt from all appropriate permitting requirements of the District. If the operator desires to produce more water from the well than quantities authorized, or if the operator seeks to continue to produce water from the well that is no longer necessary for mining activities, both the well and the production of water from the well are subject to the Rules of the District.
3. Water wells exempt from permitting by the District under the terms of Section 11 E of these Rules need not comply with the spacing requirements of the District's Rules.
4. The owner or operator of a well that is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.
5. The driller of well that is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.
6. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's Rules requiring the 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.
7. The amount of water transported outside the District that is produced from a well located within the District that is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code is subject to export fees imposed by the District.
8. The entity holding the permit issued by the Railroad Commission of Texas under Chapter 134 of the Texas Natural Resources Code that authorized the drilling of a

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water well inside the District's Boundaries shall report to the District before the close of the succeeding calendar month:

- a. The total amount of water withdrawn during the month;
  - b. The quantity of water necessary for mining activities; and
  - c. The quantity of water withdrawn for other purposes.
- F. Nothing in these Rules other than registration requirements applies to production of groundwater from wells to be used for oil and gas production as described in Rule 11.D of these Rules, nor to injection wells drilled for oil, gas, sulphur, uranium, or brine production, or for core tests associated with, or for injection of gas, saltwater, or other fluids, in wells that are authorized under permits issued by the Railroad Commission of Texas or the Texas Commission on Environmental Quality, as appropriate. However, the District is to be notified of the locations of such injection wells at the time application for a permit for drilling such a well is made to the appropriate State agency.

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**Rule 12 – Well Requirements**

- A. The following requirements shall apply to all new wells permitted by the District, whether permitted for testing purposes, for production, or for operation:
1. Both lithologic and geophysical logs shall be run for all Tier II wells & for other permitted wells when requested by the District;
  2. Geophysical logs shall be provided to the District in Tiff format if available;
  3. Monitor well(s) shall be drilled at distance to be determined by the District related to operations associated with the particular application being considered;
  4. All Tier II production wells shall be equipped with an open ended one and one-quarter inch (1.25”) or District approved PVC access port strapped to the drop pipe to provide measurement with an e-line and/or a transducer; and
  5. Totalizing flow meters for **Tier II**wells; for all other wells permitted by the District either totalizing flow meters, correlated Kw hours for each well or some other acceptable measurement means shall be installed.

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**Rule 13 - Application for Drilling Permits**

- A. There is no separate application for a drilling permit required by the District. All drilling operations are to be conducted either pursuant to Exemptions for wells considered Exempt under Rule 11 or pursuant to appropriate registration or permits issued by the District after consideration of an application for the particular type of registration or permit requested. Although no drilling permits are required for exempt or registered wells, the provisions on information reporting and all applicable requirements in Rule 11 of these Rules apply and the District is to be given notice of and required information about the locations, depths, drilling and completion of such wells.

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**Rule 14 - Issuance of Permits**

- A. The District shall provide notice of applications in accord with the provisions of Rule 27 of these Rules.
- B. Before granting or denying any permit, the District will consider whether:
1. The application contains all the information required to be submitted to the District pursuant to these Rules;
  2. The application is in conformance with any applicable spacing requirements established by the District or, if any deviation from those requirements is requested, whether there are measured data supporting the request for deviation in accord with the provisions of Rule 20.D of these Rules;
  3. The proposed use of groundwater unreasonably affects existing groundwater or surface water resources;
  4. The proposed use will allow the District to manage total groundwater production on a long term basis to achieve desired future conditions when considering:
    - (a) the modeled available groundwater determined by the Executive Administrator;
    - (b) the Executive Administrator's estimate of the current and projected amount of groundwater being produced under exemptions granted under Rule 11 of these Rules and Section 36.117 of the Texas Water Code;
    - (c) the amount of groundwater authorized under permits previously issued by the District;
    - (d) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and (e) yearly precipitation and production patterns.
  5. The proposed use of groundwater is a beneficial use consistent with District's Approved Groundwater Management Plan;
  6. The applicant has agreed to avoid waste and achieve water conservation;
  7. The proposed use of the groundwater will result in subsidence;
  8. 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;

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9. If the application is for the renewal of a permit, whether the requirements of the Existing permit and of the District's Rules have been followed and the pattern and extent of use of the existing permit;
  10. Applications for renewals of permits will be considered under the same terms, conditions, and requirements as those in use when the permit was originally issued to the extent such requirements are still authorized under State law and well operations have not compromised or adversely impacted any other registered exempt well or permitted well or any non-exempt agricultural use well registered with the District under Rule 5 of these Rules.
  11. The Board may consider information related to the applicant's efforts to address landowner concerns in the Area of Influence of any proposed well or for renewals of permits of existing wells.
  12. Nothing in this provision shall prevent the Board from imposing any new requirements associated with permit renewals in response to information brought to the Board's attention during the process of consideration of the renewal application.
  13. The Board may consider actual production patterns and volumes associated with wells using water for similar purposes or from the well for which renewal is requested or both in connection with any renewal application.
  14. Applications for Tier I wells that receive no comments within 20 days after notice is issued may be issued by the Executive Manager or brought before the Board for consideration.
- C. For Transportation Permits, the Board shall also consider:
1. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
  2. The availability of feasible and practicable alternative supplies to the applicant;
  3. The amount and purposes of use in the proposed receiving area for which water is needed;
  4. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
  5. The approved State Water Plan, regional water plan and Certified District Groundwater Management Plan.

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**Rule 15 - Time During Which a Permit Shall Remain Valid**

- A. Any drilling work required by any permit must be commenced within one hundred twenty (120) days from the date the permit is granted. Thereafter, the permit shall be valid for the term stated in the permit issued. The Executive Manager may extend a permit for a Test Hole or Test Well for an additional one hundred twenty (120) day period.
- B. An applicant for any type of permit may request as part of an application, or in a separate written request, that the Board grant a longer period of time for commencement of required drilling activity under the permit if a proposed drilling project will take more time to complete and the Board may grant such time as is reasonably necessary to complete such project.
- C. Agricultural use non-exempt well permits remain valid as long as there are no changes in well location, design, pumping capacity, owned land area or location, or water use, fees are paid currently, and there is no violation of applicable District Rules by the holder of the Registration.
- D.
- 1) All Well Production Permits shall remain valid for a term of five (5) years except for those permits covered by the provisions of Section 36.122 of the Texas Water Code. Permits for Well Production Permits for wells covered by the provision of Section 36.122 of the Texas Water Code shall be valid for either five (5) years or for a longer term as specified by the language in that section.
  - 2) After the initial permit period all permits shall be renewed by the Board for Five (5) year terms provided that:
    - a. the well has been drilled;
    - b. the well has been used at least once during the five year period prior to the permits' expiration for the production of water without waste;
    - c. the well has been operated in accordance with the representations in the application that was submitted and used for the basis of permit issuance and in accordance with the permit's terms, the District's Rules and all applicable statutes; and
    - d. all fees or other assessments levied by the District, if any, have been paid.
  - 3) If renewal of a Production Permit is filed with the District at least one month before the expiration date of the existing permit, then the existing permit will remain in full force and effect and will not expire until Board action on the renewal application is final.
  - 4) Well Production Permits issued by the District are not vested property rights but licenses subject to the continuing jurisdiction of the District. Regardless of the stated term and conditions in the Well Production Permit, Well Production Permit provisions

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are subject to modification including modification mandating reductions in production rates and quantities on a permanent or temporary basis if the District determines that such modification is necessary in order to conserve water or to react to weather conditions, pumping within or outside the boundaries of the District that has impacted the supply or quality of water in the aquifer from which the permitted production is taking place, or if the continued pumping at rates or at the quantities permitted would cause the groundwater in the District to be at levels that would violate the Desired Future Conditions applicable to the permitted water well.

- E. A Well Production Permit is transferable upon application to the District in the event of a change of ownership. Unless the Permit is modified in response to an appropriate application, the transferred Permit is for the remainder of the term and subject to all other terms and conditions of the transferred Permit. Acceptance of the Permit by the person to whom it is issued or transferred constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of the Permit and of these rules.
- F. Acceptance of a permit(s) constitutes an acknowledgment and agreement that the permittee shall comply with all the terms and conditions embodied in the permit, including any subsequent pro rata reductions thereof, the Rules of the District, and Chapter 36 of the Texas Water Code, all as the same may be amended from time-to-time.

Non-production from a permitted well during its permit life shall cause the permit to expire at the end of the term of the permit unless the Board finds valid reasons for the lack of production when considering an application to renew the permit.



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**Rule 16 - Location of Well**

- A. After the application for a well permit has been granted for a new well or a replacement well the well must be within thirty (30) feet of and no closer to a property boundary than the location specified in the permit or registration. If the well is commenced or drilled at a different location, absent an amendment to the permit or registration, the drilling or subsequent operation of such well may be enjoined by the Board pursuant to Chapter 36.102 Texas Water Code and these Rules.

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**Rule 17 - Deposits and Administrative Fees**

- A. Each well registration, application for authority to drill a test hole, a test well, and/or application for a permit shall be accompanied by the required deposit and/or any applicable fee(s) specified in a Resolution adopted by the Board. Copies of the current District fee schedule are to be available at the District's offices and by mail. Said deposit and/or administrative fees shall be paid by cash or certified check only, made payable to the "Plum Creek Conservation District."
- B. The Board may change the amount of any deposits and fees established by Board Resolution, and may modify its refund policies for deposits from time to time by Resolution upon giving proper public notice as required for actions taken to amend Board Rules.
- C. Each year, and at least once in conjunction with the development of its annual audit, the Board shall review and adopt any changes to these fees, or establish any new fees, by Resolution.
- D. Unless a permit allows some other schedule the District's Transportation Fee is payable monthly within thirty (30) days after the end of each calendar month and shall be calculated on the basis of one-twelfth (1/12) of the quantity of water permitted for annual transport.
- E. The District will recover the actual costs incurred by the District in conducting any contested hearing conducted in accord with the provisions in Rule 31.
- F. The District will recover from Applicants the actual costs incurred by the District for notice required by Rule 27.B.

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**Rule 18 - Reporting & Record Keeping Requirements**

- A. Both water well drillers and applicants shall keep complete records concerning the drilling, equipping and completion of all wells drilled or reworked and such records shall be furnished to the District. Such records shall include an accurate Driller's log, any electric log that has been made and such additional data concerning the description and completion of the well, its pumping capacity and its equipment as may be required by the Board. Such records shall be filed with the District, on forms furnished by this District or on forms used for reporting such information to appropriate regulatory agencies, within thirty (30) days after completion of the well or activity requiring such reports. The requirements of this rule are in addition to any other applicable state or local law or regulation.
- B. No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary for the testing and equipping of such well and equipment, unless or until the District has been furnished the information required by the Board on the form furnished by the District.
- C. On or before January 31st of each year, all **Tier I** and **Non-Exempt Agricultural Use** well owners shall file a report with the District stating the total amount of water produced during the prior calendar year. Such reports shall show production by month if such record keeping is required by the Permit for the well.
- D. **Tier II** well owners shall file monthly reports with the District of pumped water volume for each permitted well within thirty (30) days after the end of each calendar month.

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**Rule 19 - Water Well Driller/Pump Installer Licenses**

- A. Pursuant to Chapters 32 and 33, Texas Water Code, unless otherwise authorized by law, no person shall drill, complete, equip or rework any well or borehole without having a current Texas Water Well Driller's license and/or Texas Pump Installer's license.
- B. Any person who drills, completes, equips or reworks a well shall comply with the Rules and Regulations of the District, and any state or federal agencies or political subdivisions having jurisdiction, including but not limited to the Texas Water Well Driller's Board, the Texas Railroad Commission, and the Commission on Environmental Quality, all of which are incorporated herein by reference for all purposes.
- C. Any person who drills, completes, equips, or reworks a well shall file with the District the information required by these Rules within thirty (30) days after the completion of the work.
- D. Any person who drills or performs any work on any well in the District who is required to file reports of such activity and fails to provide it is in violation of these Rules and subject to any enforcement or penalties allowed by law.

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**Rule 20 - Classification, Spacing and Production Provisions**

- A. To reduce drawdown of the water table and/or the reduction in artesian pressure, to control subsidence, and to prevent waste, the District is enacting well spacing and/or production limits in these Rules.
- B. **Tier I** rules apply to permitted or non-exempt agricultural use wells producing not more than 300 acre feet per year of water not used for municipal purposes. **Tier II** rules apply to permits for wells producing more than 300 acre feet per year of water and to non-agricultural use or to municipal use wells of any producing quantity. As of the effective date of these Rules, the following spacing and production requirements are established:
- C. Non-exempt agricultural use wells are subject to the setback and spacing requirements and limits on production based upon tract size (permit limits feet/acre/year) for Tier I wells shown in the chart for Tier I permits.
- D. **Applications for Tier I, Tier II and Non-Exempt Agricultural Use water well production permits may use the Brackish-Saline Table in lieu of using the Tier I & II tables, if the well's TDS level is shown to be equal or above a 1000 MG/L**
- E. **Before the Brackish-Saline Table can be used, an applicant will be required to furnish the District with results of their TDS water quality test from a NELAP accredited lab.**
- F. **The Brackish- Saline Table cannot be used if there are any registered or permitted wells within the Area of Consideration that are completed in the same aquifer and have a TDS level of less than what has been determined by the District.**

[SEE FOLLOWING PAGE FOR CHARTS OF  
**TIER I PERMITS** and **TIER II PERMITS**]

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**TIER I PERMITS**

**Tier I** Table as shown below applies only to permitted wells producing 300 acre feet per year or less for other than municipal use:

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Alluvium	50'	100 gpm	½ ac ft/ac/year	450'
Leona	50'	50 gpm	½ ac ft/ac/year	450'
Wilcox	50'	100 gpm	½ ac ft/ac/year	100'
		200 gpm	½ ac ft/ac/year	200'
Carrizo	50'	100 gpm	½ ac ft/ac/year	100'
		200 gpm	½ ac ft/ac/year	200'
Reklaw	50'	50 gpm	½ ac ft/ac/year	450'
Queen City	50'	50 gpm	½ ac ft/ac/year	450'

**TIER II PERMITS**

**Tier II** Table as shown below applies to wells that are intended to have a capacity of more than 300 acre-feet per year, or wells that are considered to be **Tier II** wells because of proposed use for municipal purposes:

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Alluvium	300'	100 gpm	½ ac ft/ac/year	600'
Leona	100'	50 gpm	½ ac ft/ac/year	200'
Wilcox	300'	Dependent upon drawdown test results, well field design and proposed operations	½ ac ft/ac/year	Dependent upon drawdown test results well field design and proposed operations

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Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Carrizo	500'	Dependent upon drawdown test results, well field design and proposed operations	½ ac ft/ac/year	Dependent upon drawdown test results, well field design and proposed operations
Reklaw	100'	50 gpm	½ ac ft/ac/year	450'
Queen City	100'	100 gpm	½ ac ft/ac/year	450'

**Brackish – Saline Table**

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Any Aquifer within the PCCD	Dependent upon drawdown test results, well field design and proposed operations	Dependent upon drawdown test results, well field design and proposed operations	Dependent upon drawdown test results, well field design and proposed operations	Dependent upon drawdown test results, well field design and proposed operations

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- D. The limitations in the **Tier I**, **Tier II** and **Brackish-Saline** Tables may be modified based upon credible scientific evidence by amendment of these Rules and all permits issued by the District shall be subject to ratable reductions and/or increases in production authorizations based upon those modifications.
- E. The Board may allow deviation from the limits for production rates, annual production limits or spacing requirements for **Tier I**, **Tier II** wells upon application based on data developed by measurements in and data produced from test wells, production wells and observation wells demonstrating production capacity and impacts for the well or wells on land within the area of Consideration of the proposed well or wells.
- F. All wells will be classified according to the guidelines set forth in either **Tier I**, **Tier II** or Brackish Tables.
- G. It shall be considered to be a fraud upon both the District and the adjacent landowners, and or owners of water rights, for any person willfully giving erroneous information on a well permit application. If any applicant willfully produces a well at a higher rate than authorized in a Permit, such action may be enjoined by the Board.
- H. Water wells drilled after December 31, 2003, to supply water for hydrocarbon production must meet the spacing requirements of the District in effect from time-to-time unless no space is available within 300 feet of the production well or the central injection station.
- I. No commingling of aquifers shall occur for any completion.
- J. Water availability testing is required for **Tier II** well permitting.
- K. Permit limits are dependent upon formal well testing for **Tier II** well permits.
- L. **Brackish and Saline Groundwater management zone** is established from the Edwards "*Bad Water Line*" (=> 1000 TDS) down gradient to the southern extremities of the PCCD District for the application of special provisions for the Brackish and Saline aquifers.
- M. Two types of permits shall be issued for requests for **Tier II** wells:
1. **Permit Test Hole or Test Wells** shall be drilled and completed and tested utilizing the requirements as stated above in Rule 4 and Rule 19 herein. The test well period shall be in effect for a period of 6 months to 12 months or as stated in the Test Well permit, dependent upon the circumstances; and
  2. **Production Permits** shall be issued upon the completion, logging and analysis to the satisfaction of the PCCD and limits will then be set by the PCCD upon Board approval.



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- N. **MAGs:** Once the MAGs have been set any application for a Permit that would cause water to be produced in excess of MAG limits will be considered and may be granted by the Board for limited duration and may contain special conditions addressing MAG impacts of the Permit.

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**Rule 21 - Rate of Decline**

- A. The District may restrict production from any permitted or exempt well(s) or well field of permitted or exempt wells within the District that depletes the groundwater at a rate greater than an amount determined by the Board based upon credible scientific information to be an allowable decline in any given aquifer(s) subject to the District's jurisdiction.
- B. The Board shall determine if there has been a decline in groundwater levels based on information gathered by the District, the Texas Water Development Board, the TCEQ, the Railroad Commission, other state or local agencies or political subdivisions, and by groundwater levels in the District gathered by District personnel and authorized representatives.
- C. Annually the Board shall review the credible scientific data, and related information, available to it on groundwater levels within the District. If the Board determines that an area(s) exceeded the allowable decline amount for the District, the Board may delineate as a proposed study area(s) any portion of the District that the Board deems in danger of overproduction.
- D. If the Board determines that based upon the available credible scientific evidence an area(s) has an unacceptable rate of decline, it shall notify well owners and permit holders of record in the affected area(s) in writing.
- E. The Board shall hold a public hearing to receive comment concerning the intent of the Board to limit production in the affected area(s). After the public hearing the Board shall take action within thirty (30) days, if necessary, to initiate adoption of Rules limiting production in the designated area or areas.
- F. The Board shall continue to collect and review credible scientific data, and related information, or more, each succeeding year after the Board has delineated such area(s), and shall take one of the following actions with respect to any Rules adopted under Rule 20 E:
  - 1. Proposed to continue to monitor the area(s);
  - 2. Determine that any production limitation should be ended or adjusted;
  - 3. Determine that the area(s) should not be under Rules and that any ongoing monitoring shall be terminated;
  - 4. Propose an expansion of the area(s) under Rules to include an additional area or areas adjacent to the original area(s), in which case the Board is required to follow the provisions of Section E;

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5. Amend the Rules to incorporate the new data; and
6. Take other action determined to be appropriate by the Board.

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**Rule 22 - Reworking or Replacing a Well**

- A. No person shall rework, redrill, or re-equip a well in such a manner that would increase the rate or volume of production from such well above the amount then authorized by permit or so as to raise its pumping capacity to more than 25,000 gpd if it is an exempt domestic well without first having made an application to the District, and having been granted a permit, or a permit amendment by the Board to do so when the well is not exempt.
  
- B. No person shall replace a well without a permit from the Board.
  - 1. A replacement well permit shall be granted by the Board without an opportunity for a contested case hearing if the replacement well is to be drilled within one hundred fifty (150) feet of the old well; provided, however, that such replacement well shall comply with the District's applicable spacing requirements, as those in use when the permit was originally issued to the extent such requirements are still authorized under State law and well operations have not compromised or adversely impacted any other registered exempt well or permitted well or any non-exempt agricultural use well permit with the District under Rule 5 of these Rules.
  - 2. If the replacement well does not come within the provisions of Rule 22.B.1, the replacement well shall be considered to be a new well for which application for permitting must be made and if a permit for the well is required, the application is subject to consideration in a contested case hearing.
  
- C. Within thirty (30) days following completion of a replacement well, the well replaced by the new well shall be:
  - 1. Plugged and abandoned; or
  - 2. Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water per day. Or
  - 3. Turned into a Monitoring Well
  
- D.
  - 1. The size or actual pumping capacity of any well in the District shall not be modified so as to increase the rate of production of the well above the maximum pumping capacity for which the well was permitted without a permit amendment.
  - 2. Any such permit amendment may be granted only after written notice and action as required for new well applications.

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**Rule 23 - Protection of Groundwater Quality - Required Equipment on Wells**

- A. When a pump is installed, or repaired on wells having a chemical injection, chemigation or foreign substance unit in the water delivery system, an in-line, automatic quick-closing check valve capable of preventing pollution or harmful alteration of the groundwater shall be installed.
- B. Any open, or uncovered, well(s) shall be required to be closed or capped, either permanently or temporarily, in accordance with Chapter 36, Texas Water Code, as set forth below:
1. The District may require the owner or lessee of land on which an open or uncovered well is located to cap the well permanently closed or capped with a covering capable or sustain a weight of at least 400 pounds, except when the well is in actual use;
  2. As used in this section, "open or uncovered well" means an artificial excavation that is dug or drilled for the purpose of exploring for or producing water from the underground water reservoir and is not capped or covered as required;
  3. If the owner or lessee fails or refuses to close or cap the well in compliance with this Rule within 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;
  4. Reasonable expenses incurred by the District in closing or capping a well constitute a lien on the land on which the well is located;
  5. The lien is perfected by filing an affidavit, executed by any person conversant with the facts, in the deed records of the county where the well is located, stating the following:
    - (a) The existence of the well;
    - (b) The legal description of the property on which the well is located;
    - (c) The approximate location of the well on the property;
    - (d) The failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
    - (e) The closing of the well by the District, or by an authorized agent, representative, or employee of the District; and
    - (f) The expense incurred by the District in closing the well.

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- C. Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

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**Rule 24 - Transportation of Groundwater From the District**

- A. An application for a permit to transport water produced from wells in the District must be made in accord with Rule 8 of these Rules, and a permit must be obtained before water produced from wells within the District can be transported outside the boundaries of the District for delivery to wholesale or retail customers outside of the District.
- B. Notice of an application for a permit to transport water produced within the District for delivery to wholesale or retail water customers outside the District is described in Rule 28.
- C. No permit is required to transport groundwater produced from wells permitted by the District to locations outside of the District for the purpose of treatment or temporary storage if the ultimate beneficial use of the water occurs within the District.
- D. As a result of an application, the Board may enact special conditions in any permit authorizing transport of water produced within the District for use outside the District to exempt a permittee from total or partial payment of out-of-District transport fees if the water produced in the District is produced by an entity having its primary water supply in the District, having at least seventy-five percent (75%) of its retail CCN customers inside the District, and the water produced in the District is delivered to retail customers of the applicant within the applicant's CCN.

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**Rule 25 - Recharge Wells and Facilities,  
Including Aquifer Storage and Recovery Wells and Projects**

- A. Applications shall be made to, and permits must be obtained from, the District before installing and/or operating a recharge well and/or facility within the District, including an aquifer storage and recovery well or project within the District injecting water into or removing stored water from an aquifer regulated by the District in the location of the ASR project. Such applications shall be on forms provided by the District and contain the information prescribed by these Rules for well permits and recharge wells.



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**Rule 26 - Right to Inspect and Test Wells**

- A. 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 conducting inspections authorized by Chapter 36, Texas Water Code, as the same may be amended from time-to-time.
  
- B. If any District officer, employee, agent or representative is refused the right to enter lands under this authority, the District may invoke the remedies authorized by law, including Section 36.102 of the Texas Water Code.

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**Rule 27 – Notice Requirements**

- A. Applications for Test Holes and Test Wells
1. No general notice is required prior to issuance of permits authorizing a Test Hole or a Test Well; and
  2. Should the Executive Manager or other appropriate staff refer an application for a permit to drill a Test Hole or install a Test Well to the Board, notice of proposed Board action on the application shall be given as for Board meetings with the agenda item listed separately.
- B. All Applications other than for Non-exempt Agricultural Use Wells , Test Holes and Test Wells
1. At the time that an application has been determined to be Administratively Complete, the District shall mail notice of that fact to the Applicant. The notice that the Application has been determined to be Administratively Complete shall include the date of initial Board consideration of the application;
  2. Not less than Fifteen (15) days before the date set for Board’s initial consideration of an application or a registration for an agricultural use non-exempt well, notice shall be mailed by first-class mail, postage prepaid, to the applicant and to those landowners listed as located in the “Area of Consideration” on the application form submitted by the applicant;
  3. Not less than fifteen (15) days in advance of the date set for Board’s initial consideration of an application for issuance of a permit for any well or project requiring issuance of a permit pursuant to these Rules, notice of the proposed action shall be:
    - (a) Posted on the District’s Web Site;
    - (b) Given by electronic mail, regular mail, or by FAX to any person who has requested receipt of notice for the current calendar year;
    - (c) Provided to the County Clerk of each County in which the District’s territory is located;
    - (d) Posted at the District’s Office in a readily accessible place;
    - (e) For Tier II wells, published in at least two local newspapers that are published in the County where the well is to be located;
    - (f) Mailed to owners of property located in the Area of Consideration

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Or

If the well is located within the boundaries of a municipality, posted at the city hall or designated location.

Or

Mailed to adjacent landowners

4. The notice shall contain the following:
  - (a) The name and address of the applicant;
  - (b) The date the application was filed;
  - (c) The time and place of the hearing;
  - (d) The location or address of any proposed well or wells;
  - (e) An explanation of the proposed permit or amendment, including the amount of requested groundwater, rate of proposed groundwater production, the proposed purpose or purposes for which the groundwater production is to be used, the location of the proposed use and, when appropriate, any proposed change in use that is being requested;
  - (f) For any Transportation Permit, a description of the Transportation Facility, including its proposed route and location of the point or points of delivery or use outside the District's boundaries; and
  - (g) A brief summary of the information in the application.
5. The published notice required in Rule 27.B.3(e) may be in the legal notices section.

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**Rule 28 – Permit Consideration**

- A. When granting or denying any permit application the Board shall consider the items listed in Rules 14, Rule 20, and whether appropriate notice has been issued as required by Rule 27.
- B. For transportation permits, in addition to the matters listed above, the Board will consider the items listed in Rule 14.C:
- C. For recharge wells and facilities, including Aquifer storage and recovery wells and Projects, the Board shall consider the following:
  - 1. The items listed in rule 14.B;
  - 2. Whether operations of the recharge well or facility will result in waste;
  - 3. Whether operations of the recharge well or facility will result in pollution;
  - 4. Whether operations of the recharge well or facility will result in significant subsidence; and
  - 5. Whether the recharge well or facility will endanger the structural characteristics of the formation.

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**Rule 29 – Permit Conditions**

- A. For all permits the Board shall list the:
1. Name and address of the person to whom the permit is issued;
  2. The location of the well or facilities permitted;
  3. The date the permit or registration is to expire if activities authorized by the permit or registration are not commenced;
  4. The purpose for which the water is to be used;
  5. A statement that the water withdrawn is to be put to beneficial use at all times;
  6. The location of the use of the water;
  7. A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the Commission;
  8. Any conditions and restrictions on water withdrawal;
  9. Any conservation oriented methods of drilling and operation imposed by the District;
  10. Any drought contingency plan requirements of the District;
  11. Statements that the permit is subject to the District's rules as those may be amended from time to time; and
  12. Other terms and conditions authorized by the Texas Water Code.
- B. For transportation permits, in addition to the matters listed above, the Board may provide:
1. The name and address of the person to whom the permit is issued;
  2. The location of the pipeline facility;
  3. The date the permit is to expire if no Transportation Facility is constructed;
  4. A statement of the purpose for which the Transportation Facility will be used;
  6. A requirement that the water transported under the permit will be put to a beneficial use at all times;
  7. The location of the use of the water from the Transportation Facility;

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8. Conditions and restrictions, if any, placed on the rate and amount of water transported;
  9. Any conservation oriented methods of constructing and operating the transportation facility;
  10. A drought contingency plan approved by the District;
  11. The amount of water that may be transferred out of the District;
  12. The period for which the water may be transferred;
  13. All Transportation Facilities shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel. The operator of a Transportation Facility shall be required to keep records and make quarterly reports to the District as to the operation of the transportation facility, including the volume of water transported during the preceding quarter;
  14. All Transportation Facilities shall reimburse the District for expenses incurred for administration in connection with this facility as outlined in Chapter 36, Texas Water Code; and
  15. This Rule does not apply to groundwater produced from wells located outside of the District.
- C. For recharge wells and facility permits, including Aquifer storage, in addition to items listed in Rule 29.A, the Board may require:
1. The operator of a recharge well or facility shall be required to keep records and make reports to the District as to the operation of the recharge well or facility. Reports to the District shall be made on a quarterly basis, beginning at the time a permit is issued to operate. Such reports shall include, but are not limited to, the following:
    - (a) Volumes of water recharged through the recharge well or facility;
    - (b) The source of the water recharged through the recharge well or facility; and
    - (c) The quality of the water recharged through the recharge well or facility.
  2. Additional information as may be specifically required by a permit to operate a recharge well or facility.

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3. The owner of a recharge well or facility shall assume, and shall be charged with, strict liability for the prevention of pollution and waste from such well or facility, as well as, damage to the recharged formation by reason of the operations of said well or facility.

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**Rule 30 – Test Hole, Test Well Applications and Agricultural  
Use Well Determinations:**

- A. A test hole or test well determination and an application for a non-exempt agricultural use well grant of authority by the Executive Manager of the District are not contested cases. Any test well or test hole authority granted is for limited duration and carries with it no rights to produce groundwater in quantities more than needed to conduct the test in accordance with the terms contained in the authority granted pursuant to the application.
- B. Should an applicant disagree with the decisions of the Executive Manager contained in the authority to drill a test hole or drill and complete a test well, or for a non-exempt agricultural use well, the applicant may request a review of the executive manager's determinations contained in the authority by submitting a written request to the Executive Manager within ten (10) days following the date of the letter or other authority granting permission to install a test hole, a test well or a non-exempt agricultural use well . Any letter submitted to the Executive Manager under this provision must identify the test hole or test well or non-exempt agricultural use well that is the subject of the request by reference to a date or description such as an application number, and also state with specificity the particular provisions in the authority issued to which the applicant objects and give a reason for the objection.
- C. If an objection and request for Board review to the Executive Manager's decision to issue authority for a test hole, test well or non-exempt agricultural use well is received, the Executive Manager shall schedule the applicant's objection for consideration by the Board of the District at the next possible Board meeting for which an agenda has not yet been prepared or posted.
- D. At the Board meeting considering the objection, the Board may affirm the Executive Manager's authority, reject the protest by the Applicant, or modify the Executive Manager's determination.
- E. Should the Applicant still desire to contest the final determination granting authority for a test hole or test well or registration, additional protests shall be in accord with the provisions in Rule 31 governing appeals of Board decisions.
- F. Failure of an applicant to file a protest within the 10 day period allowed after the date of the authority granted for a test hole or test well or non-exempt agricultural use well establishes that the applicant accepts the terms and conditions expressed in the Executive Manager's determination and grant of authority.



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**Rule 31 - Contested Applications**

- A. Every application submitted to the District for any type of well drilling or production authority submitted pursuant to these Rules and to Chapter 36 of the Texas Water Code other than for a test hole, a test well or a non-exempt agricultural use well is considered to be a contested application by the Board.
- B. At the time of the initial consideration of a contested application by the Board the Board may conduct the hearing itself or, in appropriate circumstances, refer the application and hearing process to an individual to whom the Board has designated responsibility for conducting the hearing or to the State, or, where appropriate and where agreements have been entered into for hearings or a particular hearing, to the State Office of Administrative Hearings.
- C. At the time of the Board meeting on which the initial application is heard, those having an interest in the application who wish to address the Board on the application shall submit a form conveying information about the person's name, mailing address, telephone number, and, if available, e-mail address or fax number; and the person or group who the person registering represents if the person registering is not appearing in their individual capacities.
- D. The applicant and the staff of the District are always parties to contested hearings.
- E. If an application for a permit for a Tier I or non-exempt agricultural use well receives no comment from any person within twenty days following issuance of notice about the application, the permit for such well may be issued by the Executive Manager or may be brought before the Board for consideration.
- F. If no person registers as protesting the issuance of the application, the Board may proceed to informally conduct a hearing on the application at the time of the Board's meeting and initial consideration of the application. If no formal protests are received, or no registration forms are assigned indicating an individual is opposed to the issuance of the permit requested by the Applicant, the Board may allow those present to submit comments about the application at the conclusion of the presentation of the material supporting the application to the Board but the application is no longer considered contested.
- G. The Board's President, or in the absence of the President a Board Member selected by the Directors who are present, shall preside at hearings.
- H. Should the Board determine that the hearing should be conducted by an individual to whom the Board designates responsibility for conducting the hearing or to SOAH, the individual selected or the SOAH Administrative Law Judge is the presiding officer at the hearing.

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- I. All hearings shall be conducted in accord with the provisions of Section 36.406 of the Texas Water Code, specifically including referral of any contested case matters to alternative dispute resolution in accordance with Chapter 2009 of the Government Code. The presiding officer at the hearing has the authority to determine and designate parties in addition to the Executive Manager and the applicant on any contested application. Any person requesting to be a party to any contested hearing other than the applicant or executive manager must be able to demonstrate that the person has a personal justiciable interest related to a legal right, duty, privilege, power or economic interest that is within the District's regulatory authority and affected by the action of the District in response to the permit or permit amendment application, with such interest being one that is not in common with members of the general public.
- J. At the time the Board has its initial consideration of any contested application, the Executive Manager shall furnish the Board with an affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile or e-mail to those person(s) who have requested notice from the District of hearings on permit or permit amendment applications and that demonstrates compliance with the other notice provisions of these rules.
- K. If an applicant submits multiple applications for authority, and if the applicant requests in writing that the separate applications for drilling, equipping operating, or completing a well or substantially altering the size of a well or well pump, or for separate spacing of water wells for production of groundwater or transferring groundwater out of the District, then the applicant may request that all of the applications related to its project be consolidated and considered under one notice and hearing. The District is not required to use a consolidated hearing or notice to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another. If a consolidated action request is received from an applicant, when the hearing is initiated the Board shall make a determination about proceeding on the consolidated applications or the order in which the applications and Board actions will be made.
- L. If the District contracts with SOAH, the hearing on the applications on the hearings referred to SOAH shall be conducted as provided by subchapters C, D and F of Chapter 2001 of the Gov't Code.
- M. For hearings conducted by the Board or by an individual designated by the Board, the Presiding Officer of the hearing shall:
  - 1. Determine the admissibility of evidence as authorized in Section 36.407 of the Texas Water Code. Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Evidence may be stipulated by agreement of all parties admitted to the hearing;

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2. Provide for making a record of the proceedings and allocating the costs of the record in accord with the provisions of Chapter 36.408 of the Texas Water Code. The record of the proceeding shall include a statement by the presiding officer of the hearing of the date on which the hearing is considered concluded;
  3. Authorize continuances without requiring new notice in accord with the provisions of Section 36.409 of the Texas Water Code; provided, however, that if no announcement is made at the time the continuance is granted of the date, time and place for the next hearing session, then notice to all parties admitted to the hearing must be provided by regular mail at least ten (10) days in advance of the resumption of the next hearing session;
  4. Confine testimony to the subject matter contained in the application or matter under consideration. In the event that any party at a hearing pursues a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or immaterial, the presiding officer may terminate such line of interrogation; and
  5. In any proceeding the presiding officer may limit the number of witnesses appearing to prevent testimony from becoming cumulative.
- N. The presiding officer shall prepare a report of the hearing for consideration by the Board in accord with the provisions and within the time specified in Section 36.410 of the Texas Water Code. The Board shall act on the application not later than the sixtieth (60<sup>th</sup>) day after the final hearing on the application is concluded.
- O. Requests for rehearing or requests for findings of facts and conclusions of law can be submitted by any party to the hearing within the 20<sup>th</sup> day after the date of the Board's decision on the application. The request must contain the information specified, and actions on the requests must be taken within the time limit specified in Section 36.412 of the Texas Water Code. A motion for rehearing may be granted in whole or in part when a motion for rehearing is granted the decision or order or permit is nullified. The Board may reopen the hearing to the extent it deems necessary and, thereafter, the Board shall render a decision as required by these Rules.
- P. A decision on any application or a group of applications if there is a consolidated hearing is final if a request for rehearing is not filed on time or if a request is filed on time and the Board denies the request or the Board renders a written decision after a rehearing.
- Q. Timeliness and the ability to appeal this final decision is subject to the provisions of Section 36.413 of the Texas Water Code.

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**Rule 32 - Changed Conditions**

The Board has continuing jurisdiction and authority to act on any matter related to any permit, registration or other action within the jurisdiction of the Board authorized by law. Upon motion of any person alleging changed conditions, or upon the discovery of new or different conditions or facts after a decision on such matter on the recommendation of the Board's Executive Manager, or on its own Motion the Board may schedule a hearing at a regular Board meeting in response to such a Request. Notice of any such hearing shall be given as provided by Rule 27 for new applications. At the time as the Board considers the request the Board may deny it or, if it grants the request in whole or in part, initiate a hearing on such request. Any such hearing is a contested case and the hearing will be conducted pursuant to these Rules governing hearings on contested cases.

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**Rule 33 - General**

- A. **COMPUTING TIME:** In computing any period of time prescribed or allowed by these Rules, by Order of the Board, or by any applicable statute, the period shall begin on the first day following the day of the act, event, or event of default in question occurs, and shall conclude on the last day of that period, unless the last day falls on a Saturday, Sunday or legal holiday on which the District Office is closed, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday on which the District Office is closed.
1. **TIME LIMIT:** Applications, requests, or other papers or documents required or permitted to be filed with the District under these Rules or by law must be received for filing at the District Office within the time limit, if any, for such filing. The date of receipt and not the date of posting shall be determinative;
  2. **SHOW CAUSE ORDERS AND COMPLAINTS:** The 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(s) 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, revoked or otherwise restricted and or limited, for failure to comply with the Rules or Orders of the Board, or any relevant rule (s), regulation(s) or statute(s) of any local, state or federal governmental body of competent jurisdiction. The matter of evidence and all other procedural matters at any such hearing will be conducted in accordance with these Rules of procedure and practice;
  3. **SAVINGS CLAUSE:** If any section, sentence, paragraph, clause, or part of these Rules 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 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.
  4. The Board shall have the right to revise or restructure, after due public notice, any portion of these Rules it deems necessary.

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**Rule 34 - Enforcement of Rules**

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.

- A. The District may enforce Chapter 36, Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
1. The Board may set reasonable civil penalties for breach of any rule of the District pursuant to which penalty shall not exceed \$10,000.00 per day, per violation and each day of continuing violation constitutes a separate violation.
  2. A penalty under Chapter 36, Texas Water Code, or the District's Rules 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 Caldwell or Hays County.
  3. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, 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.

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**Rule 35 - Effective Date of These Rules**

These Rules are adopted at a duly noticed, public meeting of the Board of Directors of the Plum Creek Conservation District held on June 19, 2012, at the District's Offices in Lockhart, Caldwell County, Texas, to become effective on August 1, 2012. Penalties for violations of the Amended Rules will become effective five (5) days following publication of the second of the two notices required by Sections 51.129 and 51.130 of the Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
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**Plum Creek Conservation District  
Board of Directors**

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James A. Holt, Jr., President

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James O. Lipscomb, Vice President

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Peter Reinecke, Secretary-Treasurer

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Ben Twidwell, Director

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Lucy Knight, Director

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Fred Rothert, Director

Attested by: \_\_\_\_\_  
Johnie Halliburton,  
Executive Manager



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