

**Llano Estacado Underground
Water
Conservation District
Rules**

The rules of the Llano Estacado Underground Water Conservation District are hereby published as of the 28, day of September 1999.

In accordance with Section 59 of Article XVI of the Texas Constitution and Acts of the 72nd Legislature (1991), Ch. 183, H.B. 530 and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

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

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

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DEFINITIONS AND CONCEPTS

- “Abandoned Well” – shall mean a well that has not been used for six consecutive months. A well is considered to be in use in the following cases: (1) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or (2) a non-deteriorated well which has been capped.
- “Acre” – shall mean unit of land measurement equaling 43,560 square feet.
- “Acre-foot” – shall mean the volume of water that will cover an area of one acre to a depth of one foot (approx. 325,829 gallons).
- “Applicant” – shall mean the owner of the land, on which a well(s) or proposed well(s) is/are located, unless the landowner authorizes another person to submit the permit or registration.
- “Aquifer” – shall mean a formation or group of saturated geologic units capable of storing and yielding water in usable quantities.
- “Beneficial Use or Beneficial Purpose” – shall mean Rule 14.3 herein.
- “Board” – shall mean the Board of Directors of the Llano Estacado Underground Water Conservation District.
- “Casing” – shall mean a tubular watertight structure installed in an excavated or drilled hole to maintain the well opening.
- “Commercial Irrigation System” – shall mean any water distribution device, installed above ground or below ground that applies water to the surface or subsurface of the earth and is used to irrigate land intended for commercial use. Water delivery devices used to water lawns and for non-commercial use are not considered commercial irrigation systems.
- “Conservation” – shall mean practices, techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the use of recycled water.
- “Deteriorated Well” – shall mean a well, the condition of which will cause, or is likely to cause, pollution of groundwater in the District.
- “District” – shall mean the Llano Estacado Underground Water Conservation District.
- “District Act” – shall mean Acts of the 72nd Legislature (1991), Ch. 183, H.B. 530 and the nonconflicting provisions of Chapter 36, Water Code.
- “Gallons per minute” (gpm) – shall mean the amount of water in U.S. gallons that a well or well system is capable of delivering or is actually delivering per minute.
- “Groundwater” – shall mean water percolating below the surface of the earth but does not include water produced with oil in the production of oil and gas.
- “Hearing Body” – shall mean the Board, any committee of the Board, or a Hearing Examiner at any hearing held by the District in accordance with Section 16 of the District rules.

“Hearing Examiner” – shall mean a person appointed by the Board to conduct a hearing or other proceeding.

“Lechate Well” – shall mean a well used to remove contamination from soil or groundwater.

“Livestock Watering Well” – shall mean a well of any type, used to provide drinking water for commercial farm and ranch animals ranging in normal concentrations for the species. The definition of livestock water wells does not apply to confined animal operations (i.e. confined swine, beef cattle, dairy cattle, sheep and goats, poultry or any other types of livestock production units and/or feedlots for swine, beef cattle, dairy cattle, sheep and goats, poultry or other types of livestock).

“Monitoring Well” – shall mean an artificial excavation constructed to measure or monitor the quantity or movement of substances below the surface of the ground. The term does not include any monitoring well used in conjunction with the production of oil, gas, or other minerals.

“Open or Uncovered Wells” – shall mean an excavation at least ten feet in depth dug for the purpose of producing groundwater and is not covered or capped as required by the Texas Water Code.

“Owner” – shall mean without limitation any person, partnership, firm corporation, municipal corporation, governmental or proprietary body, association of such persons or agent of such entity that has the right to produce water from the land, where the water well or proposed water well is located, either by contract, lease, easement or any other estate in the land.

“Permitted Well” – shall mean a well capable of producing 25,000 gallons per day or more that was drilled prior to _____ and is registered with the District or was drilled after _____ and was permitted by the District.

“Person” – shall mean any individual, partnership, firm, governmental agency, political subdivision, corporation, or other legal entity.

“Pollution” – shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

“Presiding Officer” – shall mean President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding, or a Hearing Examiner conducting any hearing or other proceeding.

“Registered Well” – shall mean a well registered with the District in accordance with Section 5 of the District Rules. Wells previously “enrolled” with the District shall be considered registered upon enactment of these Rules.

“Rules” – shall mean the rules of the District compiled in this document and as may be supplemented or amended from time to time.

“Texas Open Meeting Law” – shall mean Chapter 551, Government Code.

“Texas Open Records Law” – shall mean Chapter 552, Government Code.

“Texas Rule of Civil Procedure and Texas Rules of Civil Evidence” – shall mean the civil procedure and evidence rules as amended and in effect at the time of the action or proceeding. Except as modified by the rules of the District, the rights, duties, and responsibilities of the presiding

officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those rules.

“Waste” – shall mean Chapter 36.001(8), Texas Water Code and Section 14 herein.

“Well” – shall mean any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.

“Well Owner or Well Operator” – shall mean the person who owns the land upon which a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.

“Well System” – shall mean a well *or* group of wells tied to the same distribution system.

“Withdraw” – shall mean extracting groundwater by pumping or by another method.

PURPOSE OF RULES: These rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

USE AND EFFECT OF RULES: The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction of the exercise of any discretion, nor be construed to deprive the District or Board of the exercise of any powers, duties, or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

AMENDING OF RULES: The Board may, following notice and hearing, amend these rules or adopt new rules from time to time.

HEADINGS AND CAPTIONS: This section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

CONSTRUCTION: Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

METHODS OF SERVICE UNDER THESE RULES: Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient’s authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient’s last known address, or by telephonic document transfer to the recipient’s current telecopier number. Service by mail is complete upon transfer deposit in a post office or other official depository in the United State Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one or more methods has been attempted and failed, the service is complete upon notice publication in a generally circulated newspaper in Terry County.

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

BOARD

PURPOSE OF BOARD: The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

BOARD STRUCTURE, OFFICERS: The Board consists of the members elected and qualified as required by the District Act. The Board will elect one of its members to serve as President and in each even numbered year at its regular June meeting (if there is not a June meeting, at its next regular meeting) to preside over Board meetings and proceedings; one to serve as Vice-President to preside in the absence of the President; and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.

MEETINGS: The Board will hold a regular meeting once each month and as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least two members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

COMMITTEES: The President may establish committees for formulation of policy recommendations to the Board, and to research and study issues of importance to the district. The president may appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

DISTRICT STAFF

GENERAL MANAGER: The Board may employ a person to manage the District, and title this person General Manager. The General Manager will have no power, duty, or responsibility other than gathering information and performing Water District functions as delegated by the Board. The Board will determine the salary and review the position of General Manager each year during the last quarter of every fiscal year.

STAFFING OF THE DISTRICT: The General Manager, with approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District. The General Manager shall recommend salaries for employees (other than his/her self), but said salaries must be approved by the Board. The General Manager will review the position of each staff member as necessary.

DISTRICT

MINUTES AND RECORDS OF THE DISTRICT: All documents, reports, records, and minutes of the District are available for public inspection and copying/certification following the Texas Open Records Law. Upon written application of any person, the District will furnish copies of its public records. A reasonable copying and certification charge, pursuant to policies established by the District, will be assessed. A list of the charges for copies and certification will be furnished by the District.

DISTRICT MANAGEMENT PLAN: The District Management Plan specifies the acts, procedures, performances and avoidance necessary to prevent waste and the extreme decline of the water table, and forms the basis of the District rules in regards to permitting decisions and other requirements imposed by the Board. The Board will review the plan at least every fifth year. If the Board considers a new plan necessary or desirable, based on evidence presented at hearing, a new plan will be adopted. A plan, once adopted, remains in effect until the adoption of the new plan.

**REGISTRATION OF WELLS –
DETERMINATION OF PERMITTING APPLICABILITY**

REGISTRATION OF WELLS: The Board shall register or caused to be registered all wells within the district. Registrations of all new wells exempted or excluded from permitting requirements shall be sequentially numbered.

It is a violation of these rules for a well owner, well operator, water well driller or water well pump installer to drill or operate any well within the District without a Well Registration form and when applicable an Application for Temporary Water Well Drilling Permit form being filed with the District for the well being drilled or operated.

All wells, except lechate wells, monitoring wells, and de-watering wells, must be registered by the well owner, well operator, or water well driller prior to being drilled. The District staff will review the registration and make a preliminary determination of whether the well meets the exemptions or exclusions provided in Rule 5.2. Providing the preliminary determination is that the well is exempted or excluded from permitting requirements, the registrant may begin drilling immediately upon completing the registration. If it is determined that the well being registered is not excluded or exempted from permitting requirements, the well owner, well operator, or water well driller must apply for a Temporary Water Well Drilling Permit in accordance with procedures described in Section 9 of the District rules.

REGISTERED WELLS EXEMPTED OR EXCLUDED FROM PERMITTING REQUIREMENTS

Permitting requirements do not apply to:

A well drilled or equipped such that it is incapable of producing more than 25,000 gallons of groundwater per day;

A well used to supply the domestic needs of 10 or fewer households if each of the households is for the well owner, a person related to the well owner within the second degree on consanguinity, or an employee of the well owner;

Livestock watering wells as defined in Rule 1.1(t);

A well used to supply water for hydrocarbon production activities associated with any oil or gas well permitted by the Railroad Commission of Texas drilled before 1985;

Jet wells for domestic needs.

DEPOSITS FOR PERMITS

DEPOSITS: Each registration or permit application to drill a new well must be accompanied by a \$100 deposit, which will be accepted, receipted and deposited by District staff.

RETURN OF DEPOSITS: The deposit tendered for each registration or permit application to drill a new well will be returned if:

in the case of a drilled and completed new well:

the original registration or permit is returned to the District office within 90 days after the registration

or permit was issued (within 150 days if a 60-day extension was applied for and granted on the original registration or permit), and
the completed State of Texas Water Well Report for the well shown on the registration or permit is received at the District office, and
upon inspection by District staff, the well is found to be in the proper location, completed and equipped according to appropriate State and District rules, or
in the case of an abandoned location:
the original registration or permit is returned to the District office within 90 days after the registration or permit was issued (within 150 days if a 60-day extension was applied for and granted on the original registration or permit) and
upon inspection by District staff, the proper abandonment of the well site is confirmed, or
in the case of the well not having been drilled:
the original registration or permit is returned to the District office within 90 days after the registration or permit was issued (within 150 days if a 60-day extension was applied for and granted on the original registration or permit) and
upon inspection by District staff, no well was found to have been drilled.

PRODUCTION LIMITATIONS

MAXIMUM ALLOWABLE PRODUCTION:

A well or well system may only be permitted to be drilled and/or equipped for the production of a cumulative total of 5 gallons per minute per contiguous acre owned.
In no event may a well or well system be operated such that the total annual production exceeds 4 acre-feet of water per contiguous acre owned.
In the event an existing well or well system is located on property where a permit to drill a new well has been applied for, said cumulative gallonage per acre owned or operated shall be computed by District personnel of the existing well or well system. The District shall note on the application the maximum rate at which the new well can be operated if all existing wells are operated at the reported rate. At the discretion of District personnel, the actual rate of water produced will be calculated using a flow meter to measure the gallons per minute the well or well system is producing during normal operations.
In applying this rule in relation to small acreage plots, the Board shall hear the party seeking relief and have the power to make exceptions to this rule. The party seeking exception must show clear, convincing evidence to support the granting of the exception and shall show the use of approved conservation methods to be used if exception granted. Such exceptions become invalid if the permitted use is discontinued. The Board may hold a hearing before granting an exception in accordance with Section 16 of the District rules.

WELL SPACING REQUIREMENTS

SPACING OF WELLS FROM PROPERTY LINES:

(a) A well drilled subsequent to the date of enactment of this rule shall be drilled in a location and may produce no more than shown in the following categories:

<u>Distance</u> <u>From Property Line (Feet)</u>	<u>Maximum Rate</u> <u>of Production (gpm)</u>
300-374	265
375-449	390
450-599	560
600-659	1,000
>660	>1,000

In the interest of protecting life, and/or for the purpose of preventing waste, and/or preventing confiscation of property, the Board reserves the right to enter special orders to increase or decrease the distances provided by this rule.

SPACING OF WELLS FROM EXISTING WELLS ON ONE’S OWN PROPERTY:

A well drilled subsequent to the date of enactment of this rule shall be drilled in a location and may produce no more than shown in the following categories:

<u>Minimum Distance</u> <u>From Existing Well on One’s</u> <u>Own Property (feet)</u>	<u>Maximum Rate</u> <u>of Production (gpm)</u>
300	125
600	265
750	390
900	560
1,200	1,000
>1,320	>1,000

In the interest of protecting life, and/or for the purpose of preventing waste, and/or preventing confiscation of property, the Board reserves the right to enter special orders to increase or decrease the distances provided by this rule.

EXCEPTIONS TO SPACING REQUIREMENTS:

In order to protect vested property rights, or to prevent waste, the Board may grant exception to spacing Rules 8.1 and/or 8.2. This rule shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board.

If an exception to spacing rules is desired, application therefor shall be submitted by the applicant in writing to the Board at the District office on forms provided by the District. The application shall:

- (1) Be accompanied by a \$100 non-refundable processing fee, applicable filing fees, and
- (2) Be accompanied by a plat or sketch drawn to a scale of one (1) inch equaling one thousand six hundred (1,600) feet and shall accurately show:
 the proposed well location or the applicant must provide a signed agreement that the well drilled under the authority of the permit will be

EXCEPTION TO SPACING REQUIREMENTS(Continued)

located such that it is not in conflict with non-excepted District spacing rules, and the location of all existing wells within the designated distances described in Rules 8.1 and/or 8.2

on all affected properties, and
the land owner(s) name(s) and address(es), and
Show, by clear and convincing evidence, why a new well should be allowed to be drilled closer than
the spacing required in Rules 8.1 and/or 8.2, and
State the maximum rate of pumpage (gallons per minute) being requested, and
State the use of the water to be pumped from the proposed well location, and
Be signed and sworn to by the applicant.

An exception may be granted by the Board after notice and hearing in accordance with Section 16 of these rules.

The Board may grant an exception to spacing request without notice and hearing provided that:

- (1) The application, information and fee required in Rule 8.3(b) is submitted, and
- (2) The affected adjoining landowner(s) or their legal representative(s) appear in person at the district office and execute a waiver in writing on forms provided by the District. If a person is seeking an exception to the spacing requirements in Rule 8.2, landowners affected shall be considered all landowners within ½ mile in all directions of the property on which the proposed well is to be located.

Information to be included on the waiver form shall include:

- that the affected landowner(s) does not/do not object to the Board's granting of such exception, and
- the maximum rate of pumpage (gallons per minute) the affected landowner(s) is/are agreeing may be pumped, and
- the proposed location of the excepted well site to which the affected landowner(s) is/are agreeing to, and

The waiver is signed and sworn to by the affected landowner(s).

If an exception to Rule 8.1 is sought for a tract of land that, due to the location of property lines, it is physically impossible to locate a well site that would not be in conflict with Rule 8.1 and there is no permitted well or permissible well location on the tract for which the exception is being sought, \$200 of the fee required in Rule 8.3(b)(1) shall be refunded to the applicant upon meeting the requirements of Rule 6.2.

Waivers granting exceptions under this rule are valid for the same time period the accompanying Application for Temporary Water Well Permit is valid.

PERMITTING PROCEDURES

ISSUANCE OF TEMPORARY WATER WELL PERMITS

The Board shall issue or cause to be issued sequentially numbered temporary water well permits for the purposes of drilling a water well determined to require said permit in accordance with Section 5 of the District rules.

An Application for Temporary Water Well Permit (permit) shall be considered filed when properly filled out on District forms, signed, tendered and accompanied by the required deposit at the District office.

The signatures of three Directors of the District on a permit shall constitute a recommendation that the permit be issued. The refusal of three or more Directors to sign the application shall constitute a recommendation for rejection of the application.

If three or more Directors recommend the issuance of the permit, and if there be no contest thereon, and the applicant is in compliance with all District rules on all properties within the District's jurisdiction, the application may be issued and the applicant may proceed at his own risk to drill the permitted well.

The application shall not be officially granted until the same shall have been passed upon and granted by the Board during its regular course of business.

If before the Board officially grants a permitted well location, a contest shall arise over the application, or if another owner shall within such time file an application for a well permit within less than a minimum spacing distance for such well, then the Board may conduct a hearing in accordance with Section 16 of these rules, upon due notice to both parties, to hear and determine the contest or to determine which of the applications should, in its judgment, be granted. In the event of a contest, or such conflicting application, the drilling of a well shall not be commenced until the matter is passed upon by the Board. A contest shall be deemed filed when written notification is filed with the Board at its office and the General Manager or other authorized personnel shall receive the same. Thereafter, both applicants, or the applicant and the contestant, or contestant, after due notice, shall be entitled to a hearing before the Board. At such hearing, all parties may introduce pertinent evidence as to why the particular application should be granted or

denied, including evidence as to the protection of property rights, and other pertinent matters, which evidence shall be taken in consideration by the Board. The Board shall also take into consideration which of the applicants duly filed his application first.

If any application is not favorably recommended by three of the Directors, the applicant shall have the right to appeal to the Board. Such appeal must be filed in writing with the General Manager of the District or delivered by registered mail given fifteen (15) business days from the time that the third Director declined to sign the application. If no such appeal is filed, the application shall be deemed to have been abandoned by the applicant. Upon receipt of such appeal the Board shall conduct a hearing in accordance with Section 16 of these Rules.

ELEMENTS OF AN APPLICATION FOR TEMPORARY WATER WELL PERMIT

An applicant must qualify himself in one of the following ways:

(1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent. The agent shall present satisfactory evidence of his authority to represent the applicant.

If the application is by partnership, the applicant shall be designated by its legal firm name and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.

In the case of a corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution or other authorization to make the application may be required by the officer of agent receiving the application.

In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.

Information required on the application is as follows:

The name and address of the owner of the land upon which the application is made.

The proposed location of the well to be drilled as provided in the application including Block and Section and:

the number of feet to each of two non-parallel property lines and the number of feet to existing wells on the property, or

the location of all existing wells measured in feet from the nearest two non-parallel property lines, and a signed agreement that the well drilled under the authority of the permit will be located such that it is not in conflict with District Rules 8.1 and 8.2.

Verification of total contiguous acreage of land owned by landowner on which the well is to be drilled, and

Signed affidavit that all farms owned or operated by applicant and/or landowner are in compliance with District rules

The application must be signed and sworn to.

TIME DURING WHICH PERMIT SHALL REMAIN VALID

Any permit granted hereunder shall be valid if the work permitted shall have been completed within two (2) months from the filing date of the application. It shall thereafter be void. Provided, however, that the Board, for good cause, may extend the life of such permit for an additional two (2) months if an application for such extension shall have been made known to the District during the first two (2) month period. Provided further, that when it is made known to the Board that a proposed project will take more time to complete, the Board, upon receiving the written application may grant or cause to be granted such time as is reasonably necessary to complete such project.

PROOF OF REGISTRATION OR PERMIT REQUIRED

Any person actively engaged in the drilling of a well must have in their possession, while at the drilling site:

PROOF OF REGISTRATION OR PERMIT REQUIRED (Continued)

The completed original Water Well Registration or approved Application for Temporary Water Well Permit or, the official number of the appropriate completed Water Well Registration or approved Application for Temporary Water Well Permit.

Any person actively engaged in the drilling of a well must provide proof of 9.4(a)(1) or 9.4(a)(2) if requested by any District director, employee or other legally authorized agent who presents his official credentials.

RECORDS OF DRILLING ACTIVITIES

DRILLING LOGS

Accurate records shall be kept and reports thereof made to the District of all wells drilled. No person shall produce water from any well, except that necessary for drilling and testing, until the District has been furnished with a completed driller's log (Form TNRCC-0199 State of Texas Well Report or its successors).

WELL LOCATION AND COMPLETION/PLUGGING

RESPONSIBILITY

After a Water Well Registration or Application for Temporary Water Well Permit has been issued, the well, if drilled, must be drilled within 30 feet of the location specified on the registration or permit, not closer to property lines or existing wells that would cause the well location to be in violation of Rules 8.1 and/or 8.2, and not elsewhere.

- (a) If a permit was issued under the provisions of Rule 9.2(b)(2)(B), Rule 11.1(a) does not apply except that the person to whom the permit was issued shall clearly mark the location of the well on the permit issued for that site and provide accurate measurements, in feet, to the two closest non-parallel property lines and to existing wells on the property.

COMPLETION/PLUGGING OF WELLS

All water wells drilled within the District shall be completed or plugged in accordance with the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers (Appendix A).

A violation of the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers shall be considered a violation of District Rules and disposition of such violations shall be in accordance with Section 17 of the District rules.

REWORKING, REDRILLING OR REPLACING A PERMITTED WELL

PROCEDURES FOR REWORKING A PERMITTED WELL

A permitted well may be reworked without a permit in a manner that will not change the permitted well's category as described in Section 8 of these rules.

A permit must be applied for if a party wishes to rework a well in such a way that will change the permitted well's category as described in Section 8 of these rules.

PROCEDURES FOR REDRILLING A PERMITTED WELL

A permit must be applied for if a party wishes to redrill a permitted well by any method.

The well being redrilled must conform to the well categories as described in Section 8 of these rules.

QUALIFICATIONS/PROCEDURES FOR REPLACING A PERMITTED WELL

Qualifications:

- (1) In order to qualify as a replaceable well;
 - (A) the well must have been permitted by the District after March 9, 1993, or
 - (B) the well must have been registered with the District prior to December 31, 1999.

(b) Procedures:

- (1) To be considered as such, the replacement well must be:
 - drilled within 75 feet of the well being replaced, and
 - be no nearer to adjoining property lines within the spacing limitations in Rule 8.1 of these rules, and may not produce more water (gallons per minute) than the well it is replacing.
- (2) A well drilled after March 9, 1993, that during the well's productive time period, may be replaced if, due to catastrophic circumstances, the well is rendered nonproduceable. In such cases, the maximum rate of production for the replacement well will be restricted to 265 gallons per minute if the replacement well is closer to the property line or existing water wells than allowed in Section 8 of these rules. If however, the applicant can show clear and convincing evidence that the well being replaced had a sustained production capacity greater than 265 gallons per minute at the time production ceased, the Board may allow the applicant to produce the replacement well at a rate greater than 265 gallons per minute.
- (3) In all cases, the well being replaced must be plugged in accordance with Rule 11.2 of these rules.
- (4) The Board may:
 - issue or cause to be issued Temporary Water Well Permits under the provisions of this section without further notice, or
 - require a public hearing to be held in accordance with Section 16 prior to approving the issuance of a Temporary Water Well Permit under this section.

REGISTRATION OF COMMERCIAL IRRIGATION SYSTEMS

REGISTRATION REQUIRED/UPDATING

All commercial irrigation systems as defined in Rule 1(j) must be registered with the District.

Registration of commercial irrigation systems shall be updated annually by the owner or operator of the system.

PROCEDURE FOR REGISTERING COMMERCIAL IRRIGATION SYSTEMS

Registration of commercial irrigation systems shall be made on forms provided by the District.

Information required on the registration form shall include but shall not be limited to:

- Owner's name and address
- Location of the commercial irrigation system (Block, Section, quarter, or other legal description)
- Type of commercial irrigation system
- Delivery rate (gallons per minute) of commercial irrigation system
- Number of acres being irrigated
- The date of the registration

WASTE, WASTE PREVENTION, AND BENEFICIAL USE/PURPOSE

WASTE MEANS ANY ONE OR MORE OF THE FOLLOWING:

- Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- Escape of groundwater from a groundwater reservoir to any other reservoir that does not contain groundwater.
- Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater, other deleterious matter admitted from another stratum or from the surface of the ground.
- Willfully or negligently causing, suffering, or permitting groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well.
- Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well, unless permission has been granted by the occupant of the land receiving the discharge.
- Groundwater pumped for industrial use or application in excess of that quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification as being the maximum amount of water necessary to efficiently meet the demands for the particular use or application to which the groundwater is being made.
- Groundwater used for heating or cooling that is allowed to drain on the land surface as tailwater and not re-circulated back to the aquifer.

WASTE PREVENTION:

- (a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 14.1 hereof.
 - (b) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata from the surface of the ground.
- No person shall commit waste as that term is defined in Rule 1.1(gg).

CATAGORIES OF BENEFICIAL USE OR BENEFICIAL PURPOSE:

agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
any other purpose that is useful and beneficial to the user.

REGISTRATION OF PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS

REGISTRATION OF WATER WELL DRILLERS

It is a violation of District rules for any person to be actively engaged in the commercial drilling of a well in the District without first having been registered with the District.

Only persons who are licensed water well drillers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially drill water wells within the District.

Registration with the District shall be on forms provided by the District and be in accordance with and contain information called for on the form.

REGISTRATION OF WATER WELL PUMP INSTALLERS

It is a violation of District rules for any person to be actively engaged in the commercial installation of a water well pump in the District without first having been registered with the District.

Only persons who are licensed water well pump installers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially install water well pumps within the District.

(a) Registration shall be on forms provided by the District and shall be in accordance with the information called for on the form.

HEARINGS

TYPES OF HEARINGS: The District conducts two general types of hearings: hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; and rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing shall be heard before a Hearing Body as defined in Rule 1.1(q).

Permit Hearings

Permit Applications, Amendments and Revocations: The District will hold hearings on well drilling permits and permit revocations or suspensions. Hearings involving permit matters may be scheduled before a Hearings Examiner.

Hearings on Motions for Rehearing: Motions for rehearing will be heard by the Board pursuant to Rule 16.8(b).

Rule-making Hearings

District Management Plan: At its discretion, the Board may hold a hearing to consider adoption of a new District Management Plan.

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

NOTICE AND SCHEDULING OF RULEMAKING HEARINGS: The General Manager, as instructed by the Board, is responsible for giving notice of all hearings in the following manner:

Notice will be given to each person that request copies of hearing notices pursuant to the procedures set forth in subsection (b), and any other person the Board of Directors deems appropriate. The date of delivery or mailing of notice may not be less than ten (10) calendar days before the date set for the hearing.

Notice of hearing must be published at least once in a newspaper of general circulation within the District.

The date of publication may not be less than ten (10) calendar days before the date set for the hearing.

A copy of the notice will be posted at the county courthouse in the place where notices are usually posted.

The date of posting may not be less than ten (10) calendar days before the date of the hearing.

Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request, in writing, addressed to the Llano Estacado Underground Water Conservation District. The request will identify with as much specificity as possible the hearing or hearings of which written notice is requested. The request remains valid for a period of one (1) year from the date of the request, after which time a new request must be submitted. Failure to provide written notice under this section does not invalidate any action taken by the Board.

Hearings may be scheduled during the District's regular business hours, Monday through Friday of each week except district holidays. All permit hearings will be held at the District office. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

GENERAL PROCEDURES:

Authority of Presiding Officer: The presiding officer may conduct the hearing or other proceedings in the manner the presiding officer deems most appropriate for that particular proceeding. The presiding officer has the authority to:

set hearing dates, other than the initial hearing date for permit matters set by the General Manager in accordance with Rule 16.2(c);

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

establish the jurisdiction of the District concerning the subject matter under consideration;

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

designate and align parties and establish the order or presentation of evidence;

administer oaths to all persons presenting testimony;

examine witnesses;

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

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

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

conduct public hearings in an orderly manner in accordance with these rules;

recess any hearing from time to time and place to place;

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

and

exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities

of the presiding officer.

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

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

Alignment of Parties; Number of Representatives Heard: Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any

- particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.
- Appearance by Applicant or Movant:** The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding of the presiding officer deems it necessary in order to fully develop the record.
- Reporting:** Hearings and other proceedings will be recorded on audiocassette tape or, at the discretion of the presiding officer, may be recorded by a certified shorthand reporter. The District does not prepare transcriptions for the public of hearings or other proceedings recorded on audiocassette tape on District equipment, but will arrange for a party at interest to have access to the recording. Subject to availability of space, any party at interest may, at its own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with rule 16.5 (b). If a proceeding other than a permit hearing is recorded by a certified shorthand reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filled with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.
- (a) **Continuance:** The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding must be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 16.2(b), and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouse(s) or publish a newspaper notice of the new setting.
 - (b) **Filing of Documents; Time Limit:** Applications, motions, exception, communications, requests, briefs or other papers and documents required to be filed under these Rules or by law must be received in hand at the District's Office within the time limit, if any, set by these Rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.
 - (c) **Computing Time:** In computing any period of time specified by these Rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next business day.
 - (d) **Affidavit:** Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly require by statute.
 - (e) **Broadening the Issues:** No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.
 - (f) **Conduct and Decorum:** Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and will exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

UNCONTESTED PERMIT HEARINGS PROCEDURES:

Written Notice of Intent to Contest: Any person who intends to contest a permit application must provide written notice of that intent to the District office located at 802 Tahoka Road, Brownfield, TX 79316 at least (5) calendar days prior to the date of the hearing. If the Board of Directors intend to contest a permit application, the District must provide the applicant written notice of that intent at least five (5) calendar days prior to the date of the hearing. If not notice of intent to contest is received five (5) calendar days prior to the hearing, the General Manager, as instructed by the Board, will cancel the hearing and the Directors will consider the permit at the next regular Board meeting.

Informal Hearings: Permit hearings may be conducted informally when, in the judgment of the presiding officer, the conduct of a proceeding under informal procedures will result in a savings of time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.

Agreement of Parties: If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgement of the presiding officer, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the presiding officer will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by

the parties at the hearing.

Decision to Proceed as Uncontested or Contested Case: If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy or if any party contests a staff recommendation, and the presiding officer determines these issues will require extensive discovery proceedings, the presiding officer will declare the case to be contested and convene a prehearing conference as set forth in Rule 16.5. Any case not declared a contested case under this provision is an uncontested case and the presiding officer will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

CONTESTED PERMIT HEARINGS PROCEDURES:

Prehearing Conference: A prehearing conference may be held to consider any matter that may expedite the hearing or otherwise facilitate the hearing process.

Matters Considered: Matters that may be considered at a prehearing conference include, but are not limited to, (1) designation of parties; (2) formulation and simplification of issues; (3) necessity or desirability of amending applications or other pleadings; (4) possibility of making admissions or stipulations; (5) scheduling discovery; (6) identification of and specification of the number of witnesses; (7) filing and exchange of prepared testimony and exhibits; and (8) procedure at the hearing.

Notice: A prehearing conference may be held at a date, time, and place stated in a separate notice given in accordance with Rule 16.2, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the presiding officer.

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

Assessing Reporting and Transcription Costs: Under the timely request of any party, or at the discretion of the presiding officer, the presiding officer may assess reporting and transcription costs to one or more of the parties. The presiding officer must consider the following factors in assessing the reporting and transcription costs:

- the party who requested the transcript;
- the financial ability of the party to pay the costs;
- the extent to which the party participated in the hearing;
- the relative benefits to the various parties of having a transcript;
- the budgetary constraints of a governmental entity participating in the proceeding;
- any other factor that is relevant to a just and reasonable assessment of costs.

In any proceeding where the assessment of reporting or transcription costs is an issue, the presiding officer will provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs will be included in the presiding officer's report to the Board.

Designation of Parties: Parties to a hearing may be designated on the first day of hearing or at such other time as the presiding officer determines. The General Manager and any person specifically named in a matter are automatically designated parties. Persons other than the General Manager or a person specifically named must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the presiding officer, there exists good cause and the hearing will not be unreasonably delayed.

- (a) Rights of Designated Parties: Subject to the direction and orders of the presiding officer, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.
- (b) Persons Not Designated Parties: At the discretion of the presiding officer, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the presiding officer as evidence.
- (c) Furnishing Copies of Pleadings: After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.
- (d) Interpreters for Deaf parties and Witnesses: If a party or subpoenaed witness in a contested case is deaf, the District will provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.
- (e) Agreements to be in Writing: No agreement between parties or their representative affecting any pending matter will be considered by the presiding officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered of record.
- (f) Discovery: Discovery will be conducted upon such terms and conditions, and at such times and places, as

directed by the presiding officer. Unless specifically modified by these rules or by order of the presiding officer, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the presiding officer.

- (g) Discovery Sanctions: If the presiding officer finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the presiding officer may:
- suspend processing of the application for a permit if the applicant is the offending party;
 - disallow any further discovery of any kind or a particular kind by the offending party;
 - rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;
 - limit the offending party's participation in the proceeding;
 - disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and
 - recommend to the Board that the hearing be dismissed with or without prejudice.

Ex Parte Communications: The presiding officer may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing in order to utilize the special skills and knowledge of the District in evaluating the evidence.

Compelling Testimony; and Swearing Witnesses: The presiding officer may compel any person to testify who is necessary, helpful or appropriate to the hearing. The presiding officer shall administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

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

Written Testimony: When a proceeding will be expedited and the interests of the parties not substantially prejudiced, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.

Requirements for Exhibits: Exhibits of a documentary character must be of a size that will not unduly encumber the files and records of the district. All exhibits must be numbered and, except for maps and drawings, may not exceed 8½ by 11 inches in size.

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

Introduction and Copies of Exhibits: Each exhibit offered shall be tendered for identification and placed in the record. Copies must be furnished to the presiding officer and to each of the parties, unless the presiding officer rules otherwise.

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

Official Notice: The presiding officer may take official notice of facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

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

Oral Argument: At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

CONCLUSION OF THE HEARING; REPORT:

Closing the Record; Final Report: At the conclusion of the presentation of evidence and any oral argument, the presiding officer may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer. After the record is closed, the presiding officer shall prepare a report to the Board. The report will include a summary of the evidence, together with the presiding officer's

findings and conclusions and recommendations for action. Upon completion and issuance of the presiding officer's report, a copy will be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties will be by certified mail.

- Exceptions to the Presiding Officer's Report; Reopening the Record: Prior to Board action any party in a contested case may file written exceptions to the presiding officer's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the presiding officer may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the presiding officer for further proceedings.
- (a) Time for Board Action on Certain Permit Matters: In the case of hearings involving original permit applications, the presiding officer's report should be submitted, and the Board should act, within sixty (60) calendar days after the close of the hearing record.

RULEMAKING HEARINGS PROCEDURES:

General Procedures: The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition; O. Garfield Jones, 1971 revised edition, or as amended.

Submission of Documents: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with Rule 16.2; provided, however, that the presiding officer may grant additional time for the submission of documents.

Oral Presentations: Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer will establish the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

Conclusion of the Hearing; Closing the Record; Presiding Officer's Report: At the conclusion of testimony, and after receipt of all documents, the presiding officer may either close the record or keep it open to allow the submission of additional information. If the presiding officer is a Hearings Examiner, the Hearings Examiner will, after the record is closed, prepare a report to the Board. The report will include a summary of the subject of the hearing and the public comments received, together with the Hearings Examiner's recommendations for action. Upon completion and issuance of the Hearings Examiner's report, a copy will be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

Exceptions to the Hearings Examiner's Report; Reopening the Record: Any interested person may make exceptions to the Hearings Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 16.6(b).

FINAL DECISION; APPEAL:

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

Requests for Rehearing: Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within twenty (20) calendar days of the

FINAL DECISION; APPEAL(cont.)

Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal to State District Court. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within forty-five (45) calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within ninety (90) calendar days of submission will be deemed to be a denial of the request.

INVESTIGATIONS AND ENFORCEMENT

NOTICE AND ACCESS TO PROPERTY: Board Members and District representatives and employees shall be entitled to access to all property within the District to carry out technical and other routine investigations necessary for the implementation of the District Rules. Prior to entering upon the property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the owner, lessee, operator, agent, or employee of owner, lessee, operator, or agent, as determined by information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Members or District representatives or employees who are attempting to conduct an investigation under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in Section 17 of the District rules.

CONDUCT OF INVESTIGATION: Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the property.

RULE ENFORCEMENT-PENALTIES FOR VIOLATIONS:

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules, the Board may institute and conduct a suit in the name of the District for injunctive relief, or to recover civil penalty of not more than five thousand dollars (\$5,000) for each violation and for each day of violation, or for both injunctive relief and civil penalties for enforcement of rules through the provisions of Chapter 36.102 Texas Water Code.

The Board shall, by resolution, adopt a Litigation Policy to implement Rule 17.3(a).

SEALING/CAPPING WELLS:

Sealing of Wells: Following due process, the District may, upon orders from the judge of the courts, seal wells that are prohibited from withdrawing groundwater within the district, to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:

no application has been made for a permit to drill a new water well which is not excluded or exempted; or the Board has denied, cancelled or revoked a drilling permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the

District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

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

Capping Wells: The District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well must remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well must be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata in which case the well must be plugged. The cap must be capable of sustaining a weight of a least four hundred (400) pounds when installed on/in the well.

APPENDIX A

TEXAS DEPARTMENT OF LICENSING AND REGULATION

16 TEXAS ADMINISTRATIVE CODE

CHAPTER 76

WATER WELL DRILLERS AND PUMP INSTALLERS