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SECTION 1.

DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

Rule 1.1 Definition of Terms

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

- (a) “Acre-foot” means the amount of water necessary to cover one acre of land to the depth of one foot, or 325,851 U.S. gallons of water.
- (b) “Affected person” means, for any application, a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (c) “Agricultural irrigation use” means applying groundwater to soil to produce crops for human food, animal feed, or planting seed or for the production of fibers.
- (d) “Animal Feeding Operation” means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season over any portion of the lot or facility.
- (e) “Aquifer” means a water-bearing geologic formation located in whole or in part within the boundaries of the District.
- (f) “Beneficial use” or “beneficial purpose” means use of groundwater for:
 - 1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;
 - 2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or
 - 3. any other purpose that is useful and beneficial to the user that does not constitute waste.

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- (g) “Board” means the Board of Directors of the District.
- (h) “Completed well” or a well that has been “completed,” means a well, the construction of which has been completed, with sealed off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods.
- (i) “Concentrated animal feeding operation” (“CAFO”) means any animal feeding operation with the number of animals established in the Texas Commission on Environmental Quality (“TCEQ”) Rules, including at least 37,500 chickens (other than laying hens), or that has been designated by the TCEQ Executive Director as a CAFO because it is a significant contributor of pollutants into or adjacent to water in the state.
- (j) “Desired Future Conditions” means a quantitative description, adopted in accordance with Section 36.108, Texas Water Code, of the desired condition of the groundwater resources in a Groundwater Management Area (“GMA”) at one or more specified future times.
- (k) “Deteriorated well” means a well that, because of its condition, will cause or is likely to cause pollution of any water in the District, including groundwater.
- (l) “Dewatering well” means a well used to produce groundwater for the purpose of lowering the water table or potentiometric surface, removing water from a construction site or excavation, mining, or relieving hydrostatic uplift on permanent structures.
- (m) “District” means the Terrell County Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act.
- (n) “District Act” means the Act of _____, codified at SPEC. DIST. LOC. LAWS CODE ANN. ch. 8837 (“the District Act”), as may be amended from time to time.
- (o) “District Office” means the office of the District located in Sanderson, Terrell County, Texas. The location of the District office may be changed from time to time by the Board.
- (p) “Domestic use” means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary

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purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold, use by or for a public water system, irrigation of crops in fields or pastures. Domestic use does not include water used for open-loop residential geothermal heating and cooling systems, but does include water used for closed-loop residential geothermal systems. Domestic use does not include pumping groundwater into a pond or other surface water impoundment unless the impoundment is fully lined with an impervious artificial liner and has a surface area equal to or smaller than one-third of a surface acre (14,520 square feet).

- (q) “Drilling Permit” means a permit for a non-exempt water well to be drilled or constructed, including test wells.
- (r) “Effective date” means _____, 2014, which was the date of adoption of these Rules.
- (s) “Emergency Permit” means a permit issued by the District for emergency purposes, as set forth under Rule _____.
- (t) “Evidence of Historic and Existing Use” means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the admissibility and introduction of evidence of historic or existing use, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (u) “Exempt well” means a new or an existing well that is exempt from permitting under the laws of this State or these Rules and is not required to have an Operating or Grandfathered Use Permit to withdraw water from the aquifer.
- (v) “Existing well” means a well that was in existence or for which drilling commenced on or before December 31, 2014.
- (w) “General Manager” means the person employed by the Board to manage employees and day-to-day operations and affairs of the District and whose title is “General Manager”.

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- (x) “Grandfathered Use Period” means the period from January 1, 2010 through the Effective Date of these Rules, in which water produced from a well or well system was put to beneficial use at any point during the duration of the period.
- (y) “Grandfathered Use Permit” means a permit required by the District for a non-exempt, existing well or well system that produced water during the Grandfathered Use Period and has not been abandoned.
- (z) “Grandfathered Use Verification Period” means the period from the Effective Date of these Rules, to December 31, 2015 by which well owners may seek Grandfathered Use Permit status for a well or well system within the District.
- (aa) “Groundwater” means water percolating below the surface of the earth.
- (bb) “Groundwater reservoir” means a specific subsurface water-bearing stratum.
- (cc) “Groundwater Management Area” means an area designated and delineated by the Texas Water Development Board as suitable for the management of groundwater resources.
- (dd) “Hearing Examiner” means a person appointed in writing by the Board to conduct a hearing or other proceeding and who has the authority granted to a Presiding Officer under these rules, except as that authority may be limited by the Board or pursuant to the appointment.
- (ee) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.
- (ff) “Leachate well” means a well used to remove contamination from soil or groundwater. The term does not include a dewatering well.
- (gg) “Livestock” means, in the singular or plural, grass or plant-eating, single- or cloven-hooved mammals raised in an agricultural setting for subsistence, profit or for its labor, or to make produce such as food or fiber, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this state from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families, but does not mean a mammal defined as a game animal in section 63.001, Parks and Wildlife Code, or as a fur-bearing animal in section 71.001, Parks and Wildlife Code, or any other indigenous mammal regulated by the Texas Department of Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas

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Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.

- (hh) “Livestock use” means the use of groundwater for the open-range watering of livestock.
- (ii) “Management Plan” means the District Management Plan required under Section 36.1071, Texas Water Code, and as further described in these rules.
- (jj) “Management Zone” means one or more of the zones into which the Board may divide the District following the completion of the District Management Plan as set forth under Section __ of these Rules.
- (kk) “Maximum Grandfathered Use” means the largest volume of groundwater produced from an aquifer and beneficially used by an applicant for a Grandfathered Use Permit for an existing well during a calendar year in the Grandfathered Use Period. For applicants seeking a Grandfathered Use Permit for an existing well who did not commence the beneficial use of water from an aquifer until less than one calendar year before the end of the Grandfathered Use Period, the term means the calculated amount of groundwater that the applicant would in all reasonable likelihood have beneficially used during the entire final calendar year of the Grandfathered Use Period for the applied-for purpose, had the applicant commenced the activities that required the groundwater production on the first day of the final calendar year of the Grandfathered Use Period.
- (ll) “Meter” or “flow measurement device” means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transported from a well or well system during a measure of time.
- (mm) “Modeled Available Groundwater” means the amount of water that the Executive Administrator of the Texas Water Development Board determines may be produced on an average annual basis to achieve a Desired Future Condition established for the groundwater resources in the District.
- (nn) “Monitoring well” means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.
- (oo) “New well” means a well for which drilling commenced on or after January 1, 2015.

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- (pp) “Non-exempt well” means an existing or a new well that does not qualify for exempt well status under the laws of this State or these Rules.
- (qq) “Open Meetings Act” means Chapter 551, Texas Government Code, as it may be amended from time to time, also known as the “Texas Open Meetings Act”.
- (rr) “Operating Permit” means a permit required by the District for the following:
- (1) the equipping or completing of a non-exempt water well for production;
 - (2) the operation or production of groundwater from any non-exempt water well for which a Grandfathered Use Permit has not been issued; or
 - (3) the substantial alteration of an existing well that has been granted a Grandfathered Use Permit as that term is defined in Rule 1.1(y).
- (ss) “Party” means a person who is an automatic participant in a proceeding before the District as set forth under Rule _____ or a person who has been determined to be an affected person as defined by these Rules and Chapter 36 of the Texas Water Code.
- (tt) “Penalty” means a reasonable civil penalty set by rule under the express authority delegated to the District through Section 36.102(b) of the Texas Water Code.
- (uu) “Person” means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.
- (vv) “Pollution” means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any groundwater in the District that renders the groundwater harmful, detrimental, or injurious to humans, animal life, vegetation, property, or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable use.
- (ww) “Poultry” means chickens, turkeys, nonmigratory game birds, and other domestic nonmigratory fowl, but does not include any other bird regulated by the Parks and Wildlife as an endangered or threatened species. For purposes of qualifying for the exemption from the permitting requirements under Rule ____, the term “poultry” does not include any animal that is housed at a facility that is used to raise, grow, feed, or

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otherwise produce poultry for commercial purposes or is a commercial poultry hatchery that is used to produce chicks or ducklings and that qualifies as an Animal Feeding Operation or Concentrated Animal Feeding Operation under TCEQ Rules and as defined by these rules.

- (xx) “Poultry use” means the use of groundwater for the watering of poultry.
- (yy) “Presiding Officer” means the President of the Board, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner appointed by the Board to conduct or preside over any hearing or other District proceeding.
- (zz) “Production” or “producing” means the act of extracting groundwater from an aquifer by a pump or other method.
- (aaa) “Public Information Act” means Chapter 552, Texas Government Code, as it may be amended from time to time.
- (bbb) “Public water supply well” means a well that produces the majority of its water for use by a public water system.
- (ccc) “Public Water System” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for "drinking water" in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (ddd) “Pump” means any facility, device, equipment, materials, or method used to obtain water from a well.

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- (eee) “Registrant” means a person required to submit a registration.
- (fff) “Registration” means a well owner providing certain information about a well to the District, as more particularly described under Section __.
- (ggg) “Retail Public Utility” means any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling in this state facilities, for providing potable water service or sewer service, or both, for compensation, as defined by Section 13.002 of the Texas Water Code.
- (hhh) “Rule” or “Rules” means these Rules of the District regulating water wells, which shall continue to be effective until amended or repealed. Any Temporary Rules adopted by the District are replaced and superseded by these Rules.
- (iii) “Subsidence” means the lowering in elevation of the surface of the land caused by the withdrawal of groundwater from the aquifer.
- (jjj) “Substantially alter” with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way or to alter or replace the pump to increase its designed production capacity in any way, or to otherwise increase the capacity of the well to produce groundwater so that the maximum production capacity is increased by a factor of five (5) percent or more over the pre-alteration capacity.
- (kkk) “Transfer” means a change in a registration as follows, except that the term “transfer” shall have its ordinary meaning as read in context when used in other contexts:
 - 1. ownership; or
 - 2. the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.
- (lll) “Waste” means one or more of the following:

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1. Withdrawal of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer unsuitable for agriculture, gardening, domestic, stock raising, or other beneficial purposes;
2. The flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;
3. The escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;
4. Pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;
6. 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;
7. For water produced from an artesian well, “waste” has the meaning assigned by Section 11.205, Texas Water Code;
8. Operating a deteriorated well;
9. Producing groundwater in violation of Rule ____; or
10. Producing groundwater in violation of any rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.

(mmm)“Well” means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from the aquifer.

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- (nnn) “Well owner” means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.

- (ooo) “Well system” means a well or group of wells tied to the same distribution system and where the groundwater production amount authorized by permit is aggregated and assigned to the entire well system.

- (ppp) “Withdraw” means the act of extracting or producing groundwater by pumping or other method.

- (qqq) “Year” means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.