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SECTION 1.

DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

Rule 1.2 Authority of District

The Terrell County Groundwater Conservation District is a political subdivision of the State of Texas organized and existing under Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act. The District is a governmental agency and a body politic and corporate of the State of Texas. The District was created to serve a public use and benefit in preserving the groundwater resources of Terrell County.

Rule 1.3 Purpose of Rules

These Rules are adopted under the authority of Sections 36.101 and 36.1071(f), Texas Water Code, and the District Act for the purpose of conserving, preserving, protecting, and recharging groundwater in the District in order to prevent the degradation of water quality, prevent waste of groundwater, and to carry out the powers and duties of Chapter 36, Texas Water Code, and the District Act.

Rule 1.4 Purpose of District

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, Chapter 36 of the Texas Water Code, and the District Act.

Rule 1.5 Use and Effect of Rules

These Rules are used by the District in the exercise of the powers conferred on the District by law and in the accomplishment of the purposes of the law creating the District. These rules may be used as a guide in the exercise of discretion, where discretion is vested. These Rules shall not be construed as a limitation or restriction upon the District to exercise its powers, duties and jurisdiction conferred by law. These Rules create no vested rights or privileges in any person or water well, and shall not be construed to bind the Board in any manner in its promulgation of the amendments to these Rules. When adopting or amending these Rules, the District shall:

- (1) consider all groundwater uses and needs;
- (2) develop Rules that are fair and impartial;
- (3) consider the groundwater ownership and rights described by Section 36.002, Texas Water Code;

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- (4) consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater reservoirs or their subdivision, consistent with the objectives of Section 59, Article XVI, Texas Constitution;
- (5) consider the goals developed as part of the District's Management Plan under Section 36.1071, Texas Water Code; and,
- (6) not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program.

Rule 1.6 Construction of Rules

A reference to a title or chapter without further identification is a reference to a title or chapter of the Texas Water Code. A reference to a section or rule without further identification is a reference to a section or rule in these Rules. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

Rule 1.7 Ownership of Groundwater

Nothing in Chapter 36, Texas Water Code, or these Rules shall be construed as granting the authority to deprive or divest a landowner, including a landowner's lessees, heirs, or assigns, of the groundwater ownership and rights described by Section 36.002, Texas Water Code, recognizing, however, that Section 36.002 does not prohibit the District from limiting or prohibiting the drilling of a well for failure or inability to comply with minimum well spacing or tract size requirements adopted by the District; affect the ability of the District to regulate groundwater production as authorized under Section 36.113, 36.116, or 36.122 or otherwise under Chapter 36, Texas Water Code, or a special law governing the District.

Rule 1.8 Methods of Service Under the Rules

Except as provided in these rules, any notice or document required by these Rules to be served or delivered may be delivered to the recipient or the recipient's authorized representative in person, by agent, by courier receipted delivery, by certified or registered mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number and shall be accomplished by 5:00 o'clock p.m. on the date which it is due. Service by mail is complete upon deposit in a post office depository box or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer commencing after 5:00 o'clock p.m. shall be deemed complete the following business day. If service or delivery is by mail and the recipient has the right or is required to do some act within a

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prescribed period of time after service, three days will be added to the prescribed period. If service by other methods has proved unsuccessful, service will be deemed complete upon publication of the notice or document in a newspaper of general circulation in the District.

Rule 1.9 Computing Time

In computing any period of time prescribed or allowed by these Rules, order of the Board, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

Rule 1.10 Severability

If a provision contained in these Rules is for any reason held to be invalid or unenforceable in any respect, the invalidity or unenforceability does not affect any other rules or provisions of these Rules.

Rule 1.11 Regulatory Compliance; Other Governmental Entities

All registrants of the District shall comply with all applicable rules and regulations of the District and of all other appropriate governmental entities. If the District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations control.

Rule 1.12 Time Limits

Applications, requests, or other papers or documents required or allowed to be filed under these Rules or by law must be received for filing by the District within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing. Time periods set forth in these rules shall be measured by calendar days, unless otherwise specified.

Rule 1.13 Headings and Captions

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

Rule 1.14 Amending of Rules

The Board may, following notice and hearing, amend or repeal these rules or adopt new rules from time to time, at the Board's discretion.

Rule 1.15 Requests for Reconsideration and Appeal

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To appeal a decision of the Board concerning any matter, a request for reconsideration must be filed with the District within 20 calendar days of the date of the Board's decision. Such request for reconsideration must be in writing and must state clear and concise grounds for the request. The Board's decision is final if no request for reconsideration is timely filed, upon the Board's denial of the request for reconsideration, or upon rendering a decision after rehearing the request for reconsideration. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter. The failure of the Board to grant or deny the request for reconsideration within 90 calendar days of the date of submission shall constitute a denial of the request. After all administrative remedies are exhausted with the District and the Board's decision is final, suit may be filed in a court of competent jurisdiction to appeal the Board's decision. The deadline for filing this suit is 60 days after the Board's decision is final. A suit is prohibited if a request for reconsideration was not timely filed.