

**RULES OF THE COW CREEK
GROUNDWATER CONSERVATION DISTRICT**

As Amended Effective August 12, 2010

Cow Creek Groundwater Conservation District Rules

PREAMBLE

Cow Creek Groundwater Conservation District Rules

Throughout the State of Texas, groundwater conservation districts embody local representative government at its most basic level: local representatives determining the destiny of our most essential natural resource.

The Cow Creek Groundwater Conservation District, like our contemporaries throughout the state, was established to serve the people, while protecting our groundwater--now and for the future. To fulfill its role as a political subdivision of the State of Texas, the Cow Creek Groundwater Conservation District strives to be fair, open, consistent, just, and transparent at all times.

To that end, the Cow Creek Groundwater Conservation District will:

- Make and implement rules that are understandable while always equitable and legal;
- Welcome and encourage public participation at every opportunity;
- Support and recognize private property rights, thereby ensuring the value of available groundwater resources are shared by all, not just a select few;
- Follow the Texas Water Code, which is the legal framework of water regulation in the state and cannot be changed without Legislative action;
- Comply with all state and federal laws;
- Make rules and regulations that strive to preserve spring flows, and base flows to rivers, streams and creeks;
- Develop rules and regulations that preserve and protect recharge features from pollution and destruction
- Create and foster policies that encourage protection of open space and all the societal benefits that come from the responsible management of land resources;
- Help enable high quality-of-life for all citizens: rural, urban and suburban;
- Encourage policies and programs which reward water conservation, such as the use of drought-tolerant landscaping, by all citizens;
- Establish and enforce drought management rules and policies that are fair, understandable, consistent, and reasonable for everyone;
- Assist relevant state agencies to protect groundwater quality, as appropriate;
- Equitably administer and regulate groundwater resources according to availability as established by sound science and all applicable laws;
- Always focus policies, programs, and rules toward strictly adhering to due process;
- Promote balance between rural water-producing areas and urban water-consuming areas of the district's jurisdiction, without jeopardizing appropriate growth in either;
- Protect beneficial existing and historic uses of groundwater.

Cow Creek Groundwater Conservation District Rules

RULE REVISION RECORD

The history of each specific Rule is noted following that Rule.

Date Adopted	Effective Date	Affected Rules
10/7/03	10/7/03	Original Adoption
6/1/04	6/1/04	Original Adoption
5/17/05	5/17/05	Original Adoption and Amendment
9/12/05	9/14/05	Original Adoption and Amendment
10/20/05	10/25/05	Amendment
9/5/06	9/5/06	Amendment
1/8/07	1/8/07	Amendment
8/20/07	8/23/07	Original Adoption and Amendment
5/20/08	5/23/08	Original Adoption and Amendment
08/09/10	08/12/10	Original Adoption, Amendment, and Repeal

Cow Creek Groundwater Conservation District Rules

TABLE OF CONTENTS

RULE 1 INTRODUCTION AND REGULATORY AUTHORITY..... 7

Rule 1.1 Authority to Promulgate Rules7

Rule 1.2 Purpose of the Rules8

Rule 1.3 Effective Date8

Rule 1.4 Action on Rules8

Rule 1.5 Savings Clause9

Rule 1.6 Boundaries of the District9

Rule 1.7 Groundwater Management Policies.....9

RULE 2 DEFINITIONS 10

RULE 3 WELL REGISTRATION, DRILLING PERMITS, AND OPERATING PERMITS..... 23

Rule 3.1 Existing Wells23

Rule 3.3 New Wells – Operating Permit28

Rule 3.4 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation31

Rule 3.5 Wells Subject to Operating Permits.....34

RULE 4 FEES 35

Rule 4.1 Application Fee.....35

Rule 4.2 Contested Case Hearing Fee36

Rule 4.3 Annual Well Fee36

Rule 4.4 Production Fee38

Rule 4.5 Other Fees39

RULE 5 WELL CONSTRUCTION, COMPLETION, AND TECHNICAL STANDARDS..... 40

Cow Creek Groundwater Conservation District Rules

Rule 5.1	Preamble	40
Rule 5.2	Applicability	40
Rule 5.3	Exemptions.....	40
Rule 5.4	Additional Well Construction and Completion Standards	41
Rule 5.5	Authorized Well Drillers and Well Pump Installers.....	43
Rule 5.6	Reporting and Recordkeeping.....	44
Rule 5.7	Sealing of Wells.....	45
Rule 5.8	Capping of Wells	45
Rule 5.9	Plugging of Wells.....	46
Rule 5.10	Right to Inspect and Enter Property.....	47
Rule 5.11	Meter Registration	48
Rule 5.12	Geothermal Wells.....	48
RULE 5.13	Pump Test.....	48
RULE 6	WELL SPACING.....	50
Rule 6.1	Applicability	50
Rule 6.2	Determining Distances of a Tract Bordered By a Public Roadway	50
Rule 6.3	Spacing from Potential Sources of Pollution.....	50
Rule 6.4	Spacing From Property Lines and Other Wells	51
Rule 6.5	Spacing from Retail Water Utility Service Area or Community Water System	51
Rule 6.6	Variance Procedures.....	52
Rule 6.7	Well Clusters (repealed).....	52
RULE 7	ENFORCEMENT AND VARIANCES.....	53
Rule 7.2	Enforcement	54
Rule 7.3	Variances	55

Cow Creek Groundwater Conservation District Rules

RULE 8	PROCEDURAL RULES.....	57
Rule 8.1	Hearings on Management Plan, Budget and Rules Other Than Emergency Rules	57
Rule 8.2	Adoption of Emergency Rules	59
Rule 8.3	Actions On Drilling and Operating Permits	59
Rule 8.4	Permit Actions by the Board Not Requiring A Hearing	60
Rule 8.5	Permit Actions Requiring a Contested Case Hearing	62
Rule 8.6	Hearings On Enforcement Actions	66
RULE 9	PROHIBITION AGAINST WASTE.....	68
RULE 10	GROUNDWATER PRODUCTION LIMITS.....	69
Rule 10.1	Preamble	69
Rule 10.2	Production Limits for All Wells Requiring an Operating Permit.....	69
Rule 10.3	Production Limits for Wells Supplying Community Water Systems and Retail Water Utilities	70
Rule 10.4	Production Limits for New Domestic or Livestock Wells Incapable of Producing More Than 25,000 Gallons Per Day	70
RULE 11	DROUGHT MANAGEMENT	72
Rule 11.1	Determination of Waste	72
Rule 11.2	Applicability	72
Rule 11.3	Initiation and Determination of Drought Stages	73

Cow Creek Groundwater Conservation District Rules

Rule 1 Introduction and Regulatory Authority

Rule 1.1 Authority to Promulgate Rules

The Cow Creek Groundwater Conservation District (the District) is a political subdivision of the State of Texas. The District was formed as a temporary District by Act of June 18, 1999, 76th Legislature Regular Session, chapter 1331, 1999 Texas General Laws 4536 (Senate Bill 1911). The 77th Legislature (2001) ratified the District as a permanent district subject to voter approval under Act of May 23, 2001, 77th Legislature Regular Session, chapter 1349, 2001 Texas General Laws 3337 (House Bill 3544) and Article 3, Act of June 15, 2001, 77th Legislature Regular Session, chapter 966, 2001 Texas General Laws 1991 (Senate Bill 2). Both House Bill 3544 and Senate Bill 2 give the district all of the rights, powers, privileges, authority, functions and duties provided under the general law of this state, including Texas Water Code Chapter 36, applicable to groundwater conservation districts created under Section 59, Article XVI, of the Texas Constitution. House Bill 3544 and Senate Bill 2 prevail over conflicts with the earlier legislation (Senate Bill 1911) and general law. The District's authority has been amended by the following legislation: Act of June 18, 2005, 79th Legislature, Regular Session, chapter 1349, 2005 Texas General Laws 163 (Senate Bill 839); and Act of June 19, 2009, 81st Legislature, Regular Session, chapter 1064, 2009 Texas General Laws 2720 (House Bill 4713).

In a confirmation election held on November 5, 2002, Kendall County voters approved the creation of the District and elected five Directors to the Board of Directors. As a duly created groundwater conservation district, the District may exercise any and all statutory authority or power conferred under its Enabling Legislation and under Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Section 36.101 Rule Making Power. All references to statutory provisions are to those provisions as may be amended from time to time.

The District is located within the Hill Country Priority Groundwater Management Area (PGMA), which was designated and delineated in 1990 under Texas Water Code Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 1.2 Purpose of the Rules

The District acknowledges that groundwater is a limited resource within the District. Balancing the allocation of water among competing uses such as domestic, municipal, agricultural, and industrial, with the intent to maintain spring flow, riparian rights, and wildlife needs is beneficial to all residents within the District. Continuing population growth within the District and surrounding areas will place increasing demands on groundwater resources within the District. In order to meet future water availability needs, the District has developed these Rules.

The District Rules are promulgated under its Enabling Legislation and the Texas Water Code Chapter 36 authority to make and enforce rules to provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within the District. These Rules are also intended to minimize the drawdown of the water table, minimize the reduction of artesian pressure, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, give consideration to the service needs of retail water utilities, and carry out the powers and duties conferred under Chapter 36 and the District's Enabling Legislation.

These Rules, and any orders, requirements, resolutions, policies, directives, standards, guidelines, management plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by the District's Enabling Legislation, Texas Water Code Chapter 36, or any other applicable law or statute.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 1.3 Effective Date

These Rules and any amendment are effective on the effective dates indicated following each subsection.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 1.4 Action on Rules

- A.** The Board may from time to time, following notice and public hearing, amend or revoke Rules or adopt new Rules following the procedures of Rule 8.1.

Cow Creek Groundwater Conservation District Rules

- B.** The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 8.2.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 1.5 Savings Clause

If any Rule, provision, section, sentence, paragraph, clause, word, or other portion of these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other Rules or portions thereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable Rule or of portions thereof had never been contained herein.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 1.6 Boundaries of the District

The boundary of the District is contiguous with the county lines of Kendall County, Texas, and includes all land within Kendall County except for land located within the City Limits of the City of Fair Oaks Ranch, Texas. Fair Oaks Ranch is excluded pursuant to Act of June 16, 2001, 77th Legislature Regular Session, chapter 1312, 2001 Texas General Laws 3222 (House Bill 2005); and Act of June 19, 2009, 81st Legislature Regular Session, chapter 381, 2009 Texas General Laws 919 (House Bill 1518), and subsequent elections.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 1.7 Groundwater Management Policies

The District is in agreement with the commonly accepted groundwater management principle that opposes the mining of groundwater. Therefore, it shall be the policy of the District to limit withdrawal of groundwater from wells, while preserving historic use to the greatest extent practical and consistent with its certified Groundwater Management Plan. Any such limits shall be based on current estimates of groundwater availability presented in the Plan and as may be revised from time to time as new data becomes available.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Cow Creek Groundwater Conservation District Rules

Rule 2 Definitions

Unless the context indicates a contrary meaning, the words hereinafter defined shall have the following meanings in the Rules of the Cow Creek Groundwater Conservation District:

Abandoned Well – a well that has not been used for six consecutive months. A well is considered to be in use in the following cases:

(A) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or

(B) non-deteriorated well which has been capped.

Administratively Complete Application – a permit application received by the District that includes all documentation and fees required by Texas Water Code Sections 36.113 and 36.1131 and District Rules. In order for an application to be deemed administratively complete, it must include all administrative and technical information required by the District and there must be no unresolved compliance issues.

Agricultural Use or Purpose – means the use of groundwater for:

- (1) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (2) practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;
- (3) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (4) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- (5) engaging in wildlife management as defined in Texas Tax Code Section 23.51(7); and,
- (6) raising or keeping equine animals.

Cow Creek Groundwater Conservation District Rules

Annual Well Fee – a fee authorized by the District Enabling Legislation, as amended by Senate Bill 839, 78th Leg., R.S., 2005, and required under Rule 4.3. Previously called the Annual Permit Fee.

Annular Space – the space between the casing and borehole wall.

Aquifer – a geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

Aquifer Mining or Groundwater Mining – a condition where the average available recharge of an aquifer or portion of an aquifer is less than the annual production from that aquifer or that portion of that aquifer. For purposes of these Rules, the terms “aquifer overdrafting,” “reduction of artesian pressure,” “subsidence,” and the “drawdown of the water table or aquifer” shall mean aquifer mining.

Application Fee – a fee assessed under Rule 4.1. for processing applications for well registrations and permits.

Artesian Pressure – where water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

Beneficial Use – the use of groundwater for domestic, municipal, stock raising, agricultural, industrial, commercial, mining, manufacturing, irrigation, gardening, recreational, or any other purpose that is useful and beneficial to the user.

Board – the Board of Directors of the Cow Creek Groundwater Conservation District.

Capping – closing a well with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

Casing – a watertight pipe installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving; to advance the borehole; in conjunction with cementing and/or bentonite grouting, to confine groundwater to its respective zones of origin; and to prevent surface contaminant infiltration.

(A) Plastic casing--National Sanitation Foundation (NSF-WC) or American Society of Testing Material (ASTM) F-480 minimum SDR 26 approved water well casing.

Cow Creek Groundwater Conservation District Rules

(B) Steel Casing--New ASTM A-53 Grade B or better with a minimum weight and thickness of American National Standards Institute (ANSI) schedule 10.

(C) Monitoring wells may use other materials, such as fluoropolymer (Teflon), glass-fiber-reinforced epoxy, or various stainless steel alloys.

Chapter 36 – means Chapter 36 of the Texas Water Code, as amended.

Closed Loop Geothermal Well – a closed system well used to circulate water and other fluids or gases through the earth as a heat source or heat sink.

Commercial Use or Purpose – the use of groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use water in those processes, or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering).

Community Water System – a public water system that has the potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 residents on a year-round basis.

Complaint Under Texas Water Code § 36.119 – a written complaint filed pursuant to Rule 7.1 by an aggrieved party citing to Texas Water Code §36.119 alleging drilling or operating a well without a required permit or producing groundwater in violation of a District Rule adopted under Texas Water Code § 36.116(a)(2).

Completion or Complete – sealing 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. Same as surface completion.

Conservation – those water saving 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 recycling and reuse of water so that a water supply is made available for future or alternative uses.

Conservation Credit – a reduction in the annual well fee under Rule 4.3.D.

Cow Creek Groundwater Conservation District Rules

Contested Case Hearing – a permit hearing requested as authorized by Rule 8.4.I., which is noticed and conducted according to the procedures of Rule 8.5.

Contested Case Hearing Fee – a fee under Rule 4.2. for administrative acts of the District, if the District receives a request for a contested case hearing.

Dewatering well – an artificial excavation that is constructed to produce groundwater to lower the water table or potentiometric surface and that is not used to produce or to facilitate the production of minerals under a state regulatory program.

Director – an elected or appointed member of the Board of Directors of the District.

Discharge – the volume of water that passes a given point within a given period of time. The amount of water that leaves an aquifer by natural or artificial means.

District – the Cow Creek Groundwater Conservation District (CCGCD) or one of its authorized representatives.

District Office – the main office of the District at such location as may be established by the Board.

Domestic Use or Purpose – use of groundwater by a residence (not a business or other commercial structure) to support essential domestic activity, including but not limited to: uses inside the residence; irrigation of lawns, flower beds, shrubs, trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale; protection of foundations; and non-commercial recreation associated with the residence.

Drill – drilling, equipping, completing wells, or modifying the size of wells or well pumps/motors (resulting in an increase in production volume capability) whereby a drilling or service rig must be on location to perform the activity.

Drilling Permit – authorization under Rule 3.2., which is required before drilling a new well or substantially altering an existing well located within the District.

Drip Irrigation- Drip or micro-irrigation is a generic term for a family of irrigation equipment that provides for distribution of water directly to the plant root zone by means of surface or sub-surface applicators or emitters.

Cow Creek Groundwater Conservation District Rules

The three most common types of micro-irrigation used in Texas are micro-spray or bubblers, sub-surface (buried) drip and orchard surface drip or micro-spray irrigation.

Emergency Rule – a rule adopted under Rule 8.2.

Enabling Legislation – special law enactments that created the District, as summarized in Rule 1.1, and as may be amended from time to time.

Enforcement Action – an action taken by the District to enforce District Rules, orders, or permits, or any other law within its enforcement authority.

Enforcement Hearing – a hearing held under Rule 8.6.

Environmental Monitoring Well – well drilled or developed to a depth of 30 feet or less for the purpose of collecting groundwater samples to ascertain the presence or absence of hazardous materials, hazardous waste, petroleum products, oils, solvents, or other hazardous constituents in groundwater.

Environmental Sampling Well – well or bore 30 feet or less in depth drilled or cored for the purpose of collecting subsurface soil samples to ascertain the presence or absence of hazardous materials, hazardous waste, petroleum products, oils, solvents, or other hazardous constituents in subsurface soils.

Environmental Soil Boring – a man made excavation constructed to measure or monitor the quality and quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. The term shall not include any well that is used in conjunction with the production of oil, gas, or any other minerals.

Exempt Domestic or Livestock Well – a well used primarily for domestic or livestock uses that qualifies as exempt from obtaining an operating permit under Rule 3.5. A well used for domestic or livestock use is exempt under Rule 3.5 if the well is used solely for domestic use, as defined in this Rule 2, or for livestock use, as defined in this Rule 2, and is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day. However, a well is not an exempt domestic or livestock well if groundwater withdrawn from the well is transported outside the boundaries of the District.

A well is deemed capable of producing more than 25,000 gallons of groundwater per day unless the well is drilled, completed, or equipped so that it is incapable of producing more than 17.36 gallons per minute.

Cow Creek Groundwater Conservation District Rules

Exempt Well – a well exempted under Rule 3.5 for which the owner is not required to obtain an operating permit.

Existing Well – a well located within the District that was drilled and properly completed on or before May 17, 2005.

Fees – charges imposed by the District pursuant to Texas Water Code Chapter 36 and the District's Enabling Legislation.

Geologic Exploration Well – a well drilled for the purpose of exploring for, or otherwise determining the presence or absence of, subsurface minerals, including oil and natural gas.

Geologic formation – the basic unit for the naming of rocks in stratigraphy: a set of rocks that are or once were horizontally continuous, that share some distinctive feature of lithology, and are large enough to be mapped.

Geotechnical Well – a well drilled or bored to determine engineering properties of soils or geologic formations for the purpose of construction.

Groundwater or Underground Water – water percolating beneath the earth's surface.

Groundwater Management Plan or Management Plan, – a management plan developed by the District and certified or approved by the Texas Water Development Board pursuant to Texas Water Code Section 36.1071.

Groundwater Reservoir – a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

Hand-Dug Well – a well installed by hand digging or by auger drilling.

Hydrologic Unit – The aquifers described as Alluvium; Edwards and associated limestones; Upper Trinity; Middle Trinity; and Lower Trinity.

Industrial Use or Purpose – use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products.

Injection Well – a well used to inject water or other material into a subsurface formation or into pipe or tubing placed in the formation for the purpose of storage or disposal of the fluid. Injection Well includes a well listed in 16 Texas Administrative Code Section 76.10(29).

Cow Creek Groundwater Conservation District Rules

Investigation Report – a report prepared by the District summarizing its investigation of a possible violation of law and making a recommendation to the Board regarding any further action.

Irrigation Use or Purpose – use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees, other than for domestic use or purpose.

Licensed Water Well Driller – a person who holds a license issued by the Executive Director of the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1901.

Licensed Water Well Pump Installer – a person who holds a license issued by the Executive Director of the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1902.

Livestock Use or Purpose – use of groundwater to provide water to domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are not considered livestock. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock although providing water to such pets may be considered domestic use when associated with a residence.

Management Plan – see Groundwater Management Plan.

Meter - A District approved, totalizing flow meter properly sized for the well's production capability, which is not capable of being “reset” by the well owner.

Monitor or Monitoring Well – an excavation constructed to measure or monitor the quality and/or quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are piezometer wells, observation wells, and recovery wells. The term shall not include any well that is used in conjunction with the production of oil, gas, coal, lignite, or other minerals.

New Well – a well that is drilled or properly completed after May 17, 2005 or an existing well that has been substantially altered after May 17, 2005.

Non-exempt Domestic or Livestock Well – a well used primarily for domestic or livestock use that must obtain an operating permit under Rule 3.5. A domestic or livestock well is non-exempt if it is drilled, completed, or equipped so that it is capable of producing 25,000 gallons or more of groundwater a day. A domestic or livestock well of any sized production

Cow Creek Groundwater Conservation District Rules

capability is non-exempt if groundwater withdrawn from the well is transported outside the boundaries of the District.

Non-exempt Well – a well for which the owner is required to obtain an operating permit under Rule 3.5.

Non-potable Water – water that is not fit for human consumption due to dissolved solids, mineral content, hardness, turbidity, microbial or bacteriological level, or other chemical, physical, or biological parameter exceeding Maximum Contaminant Level (MCL) or Secondary Constituent Levels, as defined in 30 Texas Administrative Code Chapter 290.

Notice of Violation (NOV) – written correspondence from the District notifying a person that they are in violation of law, including violation of a District Rule, Order, or permit.

One-Time Authorization – a well used for a limited purpose, production volume, and duration specified in that authorization. Such authorization is limited solely to the terms specified in the authorization and does not create a right to produce water from the well in the future.

Open or Uncovered Well – an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and that is not capped or covered as required by District Rules.

Operate or Operations – to produce or cause to produce water from a well or to use a well for injection or closed loop heat exchange purposes.

Operating Permit – authorization issued under Rule 3, which is required to operate within the District a water well described in Rule 3.5.

Owner – a person who has the right to produce groundwater from the land, either by ownership, contract, lease, easement, or any other estate in the land.

Party in Contested Case Hearing – an applicant or other person defined under Rule 8.4.1.(2).

Permit Amendment – a District approved change in an operating permit under Rule 3.4.F.

Permitted Well – a well for which an operating permit under Rule 3 has been issued by the Cow Creek Groundwater Conservation District, as required by Rule 3.5.

Cow Creek Groundwater Conservation District Rules

Permittee – a person who holds either a drilling permit or an operating permit issued by the District.

Person – a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

Piezometer Well – a well of a temporary nature constructed to monitor well standards for the purpose of measuring water levels or used for the installation of a piezometer (a device constructed and sealed to measure hydraulic head at a point in the subsurface) resulting in the determination of locations and depths of permanent monitor wells.

Plugging – an absolute sealing of the well bore.

Pollution – the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

Pollution Source – a person, business, corporation, industry, operation, activity, or event, whether intentional or unintentional that causes, allows, or enables contaminants to be discharged to the environment, thereby causing pollution.

Potable Water – water that is suitable for human consumption, or can be made suitable for human consumption by primary filtration or chemical or ultraviolet disinfection. Potable water must comply with Maximum Contaminant Levels (MCL) or Secondary Constituent Levels, as defined in Title 30 Texas Administrative Code Chapter 290.

Presiding Officer – Either the Director or the Hearings Examiner designated under Rule 8.5.G. to conduct a contested case hearing.

Priority Groundwater Management Area (PGMA) – an area designated and delineated by the State under Texas Water Code Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

Production Capability – the volume of water a well can produce as determined by either the rated pumping capability of the installed pump or as determined by the District.

Production Fee – a fee authorized under Texas Water Code Chapter 36 and required under Rule 4.4.

Cow Creek Groundwater Conservation District Rules

Public Water System – a system as defined in 30 Texas Administrative Code Chapter 290 for providing water for human consumption to the public.

Pump Test - a well test as described in District Rule 5.13.

Pumping or Groundwater Production – all water withdrawn from the ground, measured at the wellhead.

Recharge– the amount of water that infiltrates to the water table of an aquifer.

Recovery Well – a well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

Remediation Well – a well used to pump or vent contaminated air, water, or fluids from the ground.

Respondent – an individual who receives a Notice of Violation or other correspondence from the District regarding the individual's non-compliance with District Rules or other law within the District's enforcement authority.

Retail Water Utility or Retail Public Water Utility – as defined by Texas Water Code Section 13.002 and 30 Texas Administrative Code Section 291.3, any person, corporation, public utility, water supply corporation, municipality, political subdivision or agency operating, maintaining, or controlling within the District facilities for providing potable water service for compensation.

Rules – standards and regulations promulgated by the District.

Seal – an official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, shall be in violation of District Rules, and may subject the well owner to civil suit and/or penalties.

Single-Family Residence – An equivalent single-family connection or ESFC. An ESFC is defined as equaling a typical detached single-family house using an average of 360 gallons of water per day.

Special Provisions – conditions or requirements added to a drilling or operating permit, which may be more or less restrictive than the Rules as a result of circumstances unique to a particular situation.

Cow Creek Groundwater Conservation District Rules

Spring – a point of natural discharge from an aquifer.

State of Texas Well Report – see “Well Log,” defined below.

Subdivision – a tract or parcel of land for which a plat is required in accordance with Chapter 232 of the Texas Local Government Code.

Substantial Alteration of a Well – to change the physical or mechanical characteristics of a well, its equipment, production capabilities, or its purpose or location of use of the water produced in a way that may impact the level of fees the well is subject to or may impact whether an operating permit or amendment to an operating permit is required. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

Surface Impoundment – Any excavation or man made structure that impounds or stores groundwater and is open to the air allowing evaporation. A non-permeable excavation or artificial structure that impounds less than 20,000 gallons of groundwater is not considered a surface impoundment.

Temporary Permit – see One-Time Authorization.

Test Well – a well drilled to explore for groundwater.

Variance – an exception to requirements or provisions of the Rules granted by the District as authorized under District Rules.

Waste –

- (1) The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- (2) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (3) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
- (4) The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious

Cow Creek Groundwater Conservation District Rules

matter admitted from another stratum or from the surface of the ground.

- (5) Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26 "Water Quality Control".
- (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) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.

Water Table – the upper boundary of the saturated zone in an unconfined aquifer.

Water Well – a man made excavation constructed to explore for or produce groundwater. The term does not include:

(A) a test or blast hole in a quarry or mine or a well or excavation constructed to explore for or produce oil, gas, or other minerals unless the hole is also used to produce groundwater; or

(B) an injection water source well regulated under Section 91.101, Natural Resources Code.

Well – an excavation drilled or dug into the ground that may intercept or penetrate a water-bearing stratum or formation.

Well Log or State of Texas Well Report – the report that every well driller who drills, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.10 and 76.700, including any special purpose geophysical log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

Cow Creek Groundwater Conservation District Rules

Well Pumps and Equipment – devices and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

Well Registration – the creation of a record of a well, under Rule 3, for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping, or future planning purposes. First step in the process required by Rule 3 for drilling or operating a well located within the District.

Withdraw or Withdrawal – the act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 3 Well Registration, Drilling Permits, and Operating Permits

All wells located within the District except environmental sampling wells, environmental monitoring wells, environmental soil borings, geotechnical wells, and geologic exploration wells, shall be registered with the District. Based on the registration information, certain well owners shall be required to obtain operating permits.

All registrations and permits issued by the District shall be subject to the District's Rules and to terms and conditions regarding the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practical the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.

The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules applicable to wells subject to registration and permitting. Registration of a well, issuance of a drilling permit, operating permit, or permit to substantially alter a well does not limit the District's authority to regulate a well or the production of water from a well.

The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, production capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District. All well and well site access shall be conducted in accordance with Rule 5.10.

The District makes no representations and shall have no responsibility with respect to the availability or quality of water.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 3.1 Existing Wells

Any well in the District that was drilled and properly completed on or before May 17, 2005, is an existing well under these Rules. All existing wells are required to either register with the District under Rule 3.1.A. or obtain an operating permit from the District under Rule 3.1.B. A failure to take these steps may result in issuance of a notice of violation and assessment of a penalty under Rule 7.2. If an existing well is substantially

Cow Creek Groundwater Conservation District Rules

altered, as defined by District Rules, after May 17, 2005, it becomes subject to the requirements of the District Rules applicable to new wells.

A. Registration

The owner of an existing well located within the District shall register the well with the District. Forms for registering existing wells are available from the District Office. The owner shall provide all information required on the form and a copy of the completed State of Texas Well Report. This information shall include, but is not limited to:

- (1) The name of the well owner, mailing address, and telephone number;
- (2) A location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells on the subject tract, the location of the existing use(s), the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well;
- (3) Casing size, well depth, pump size, and production capability;
- (4) What the well is used for; and
- (5) If it is a water well, the information shall include what water from the well is used for and where water from the well is used.

No application fee under Rule 4.1. shall be charged for registering an existing well. The District shall issue a well number.

The District shall determine under Rule 3.5. whether the existing well must obtain an operating permit, and whether it is currently operational, abandoned, or plugged, and what annual well fees under Rule 4.3. are required, if any. No further approval is required of existing wells, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations. Changes in well conditions or operations or purpose of use of water from the well, may make the well subject to production limits under Rule 10. Increases in the production capability may require an operating permit.

Cow Creek Groundwater Conservation District Rules

B. Operating Permit

If based on the registration submitted under Rule 3.1.A., the District determines that an existing well requires an operating permit, the well owner shall obtain an operating permit as described in this Rule 3.1.B. The owner shall submit to the District an operating permit application on a form obtained from the District. All operating permit applications shall be signed and sworn to as required by Texas Water Code Section 36.113(b). In addition to the information required under Rule 3.1.A., the owner shall provide other information such as a water conservation plan and a drought contingency plan, and any other information deemed necessary by the District. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. No application fee under Rule 4.1. shall be charged for issuing an operating permit for an existing well.

If the application seeks less than 131,400 gallons per year, once the application is deemed administratively complete, the General Manager will either deny the application or determine the production amount under Rule 10 and issue the permit. Per Rule 8.3, the application will be referred to the Board for a public hearing if the General Manager denies the application or if requested by the applicant.

If the application seeks 131,400 gallons per year or more, once the application is deemed administratively complete, the District will determine the production amount under Rule 10. The application will be processed per Rule 8.3.

An operating permit shall require installation of a meter, specify and authorize the annual maximum groundwater production from the well as provided by Rule 10, the owner of the well, the well number, the purpose of use permitted, and any special permit conditions, including the production fee, if required under Rule 4.4. All meters must be registered with the District under Rule 5.11.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 3.2 New Wells – Registration/Drilling Permit

- A.** Under the District's Enabling Legislation, written authorization must be obtained from the District before a new well is drilled or an existing well is substantially altered.
- B.** A new well is a well drilled or properly completed after May 17, 2005. A well that is substantially altered after this date must also comply with the requirements of this Rule 3.2.
- C.** The owner of a new well proposed to be located within the District shall register the well with the District and pay the application fee, as required by Rule 4.1.A.(1), prior to commencement of drilling. This registration shall serve as an application for a drilling permit. Forms for registering new wells are available from the District Office. The owner of an existing well that will be substantially altered shall seek authorization from the District, as required by Rule 3.4, prior to altering the well.
- D.** The owner shall provide all information required on the form. This information shall include, but is not limited to:
 - (1) The name of the well owner, mailing address, and telephone number;
 - (2) The proposed well location, including a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells, any existing or proposed wastewater systems, and other potential sources of contamination within 2000 feet of the proposed well showing compliance with Rule 6 spacing requirements. This map or plat shall provide adequate detail to allow the District to determine compliance with Rule 10.4, if applicable.
 - (3) Certification that the well is not located within 50 feet of or within the service area of a retail public water utility or community water system;
 - (4) If the well is to be located within 50 feet of or within the service area of a retail public water utility or community water system, a document from the retail public water utility or community water system stating that it is unable or unwilling to provide service or that it has no objection to the location of the proposed well;

Cow Creek Groundwater Conservation District Rules

- (5) Casing size, well depth, pump size, and production capability;
- (6) What the well will be used for; and
- (7) If it is a water well, the information shall include what water from the well will be used for and where water from the well will be used. It shall also include a demonstration of beneficial use without waste.

The District shall issue a well number.

If the District determines that the information is complete, that the application fee has been paid, that location of the proposed well complies with Rule 6 spacing requirements, and Rule 10.4, if applicable, that no operating permit under Rule 3.3. is required, and that the registrant is in compliance with all District Rules and all required fees have been paid, the District shall issue a drilling permit. If an operating permit under Rule 3.3. is required, the owner may drill the well, but shall not produce water from the well until an operating permit is issued. The only exception is during a pump test authorized by the District.

If no operating permit under Rule 3.3 is required, upon issuance of the drilling permit, the owner may drill the well. A copy of the drilling permit shall be on-site while the well is being drilled. The issuance of a permit to drill is not a guaranty of the availability of groundwater. The well shall comply with all State and District well construction and spacing requirements. The owner shall ensure that the driller files a copy of the State of Texas Well Report with the District within 60 days of well completion. Although no further approval is required, except as may be required by Rule 3.4. regarding changes in ownership or well conditions or operations, all new wells are subject to the production limits imposed by Rule 10. Increases in the production capability or purpose of use may result in the well being reclassified so that the well owner would be required to apply for an operating permit and be subject to annual production fees under Rule 4.4.

Drilling shall begin within one year of approval of a registration and issuance of a drilling permit. At that time, if no drilling has begun, the drilling permit expires. The application fee is non-refundable. After expiration of a drilling permit, an owner shall submit a new registration/application for drilling permit accompanied by the appropriate application fee prior to drilling the well. The District

Cow Creek Groundwater Conservation District Rules

may grant a one-time extension of no more than 180 days upon written request to the District.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 3.3 New Wells – Operating Permit

If based on the registration submitted under Rule 3.2., the District determines that a new well requires an operating permit, prior to producing water from the well, the owner is required to obtain an operating permit as follows.

A. Application

An application for an operating permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the well owner as required by Texas Water Code Section 36.113(b). A separate application is required for each well. Each application shall include the following:

- (1) Name, address, phone number, and facsimile number of the well owner or owners;
- (2) Name, address, phone number, and facsimile number of the person submitting the permit application;
- (3) Name of the proposed project, if any;
- (4) Any previous or other name(s) that identifies the tract of land;
- (5) Location and legal property description of the proposed project;
- (6) A copy of the well registration and drilling permit;
- (7) The annual maximum production requested (in gallons per year or acre feet per year) and a demonstration of compliance with Rules 10.3 and 10.4, if applicable;
- (8) A water conservation plan;

Cow Creek Groundwater Conservation District Rules

- (9) A drought contingency plan;
- (10) A demonstration that the purpose of use and production amount are consistent with the District Management Plan;
- (11) A demonstration of other sources of water available for the requested production amount and use;
- (12) A pump test as described in Rule 5.13, unless waived by the District;
- (13) Any other information deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36 and address specific District needs; and
- (14) Application fee required by Rule 4.1.A(2).

B. Administrative Completeness of Application

In order to adequately address the purposes and requirements of Texas Water Code Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant. The applicant shall be notified when the application has been reviewed and deemed administratively complete. No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. If an application remains administratively incomplete for more than 180 days following either the original application date or the date that the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.

C. Consideration of Operating Permit Applications

The District shall promptly act on each administratively complete application for an operating permit. An application seeking less than 131,400 gallons per year may be acted on by the General Manager. Within 60 days after the date an operating permit application or application to substantially alter a well is determined to be administratively complete, the application shall either be acted on by the General Manager or referred to the Board in accordance with the provisions of Rule 8.3.

The District shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each application. The District shall

Cow Creek Groundwater Conservation District Rules

consider the following, which include the considerations required by Texas Water Code Section 36.113(d):

- (1) Does the application conform to the requirements of Chapter 36 and these Rules?
- (2) Is the well located within 50 feet or within the service area of a retail public water utility or community water system? If so, has the applicant shown that the utility or community water system is unable or unwilling to provide water service or that it has no objection to the location of the well?
- (3) Has the applicant demonstrated compliance with Rules 10.3 and 10.4, if applicable?
- (4) Has the applicant considered other sources of water available for the requested use and production amount?
- (5) Does the proposed use of water unreasonably affect existing groundwater and surface water resources or existing permit holders?
- (6) Has the applicant demonstrated that the proposed well will be for beneficial use without waste?
- (7) Are the proposed use of water and production amount consistent with the District's approved District Management Plan?
- (8) Has the applicant agreed to avoid waste and achieve water conservation?
- (9) Will the conditions and limitations in the permit prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells?
- (10) Does the application include an acceptable drought contingency plan?
- (11) Does the application include an acceptable water conservation plan?
- (12) Has the applicant agreed to use reasonable diligence to protect groundwater quality?

Cow Creek Groundwater Conservation District Rules

- (13) Has the applicant agreed to follow the District's rules on well plugging at the time of well closure?"
- (14) Are the applicant and the well in compliance with all District rules and have all required fees been paid?
- (15) Is the proposed use of water from the well wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape?

An operating permit shall require installation of a meter, and specify and authorize the annual maximum groundwater production from the well as provided by Rule 10. All meters must be registered with the District under Rule 5.11.

The issuance or amendment of an operating permit is not a guaranty of the availability of groundwater.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 3.4 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation

A. Change in Well Conditions or Operations

No person shall take any of the following actions related to a well located in the District without notifying and receiving authorization from the District: (1) change the type of use of a well; (2) change the place of use of the water produced from the well; (3) alter the size or depth of a well, the well pump, or its pumping volume; (4) plug a well; or (5) abandon a well. Such changes may be processed administratively, may require an amendment to an existing operating permit, may make an exempt well be required to obtain an operating permit, and may make a well subject to the production limits of Rule 10. No pump installer or water well driller shall make changes to a well if the owner has not applied for and obtained the appropriate authorization under this Rule.

Cow Creek Groundwater Conservation District Rules

B. Change in Use That Requires a Well to Have an Operating Permit

Any time the production of groundwater from a well or the capability to produce groundwater from a well increases to more than 25,000 gpd (17.36 gpm), an operating permit shall be required. It is the responsibility of the owner of such a well to apply for an operating permit no later than 90 days prior to making the changes that render such well subject to this Rule. A change in use from domestic or livestock to any other purpose or use, regardless of production capability, shall likewise require the owner to obtain an operating permit. No pump installer or water well driller shall make changes to a well if the owner has not applied for and obtained the appropriate authorization under this Rule.

C. Change in Ownership

Any change in ownership of a well shall be reported to the District by the purchaser on an approved form within 60 days after the change. If there are unpaid annual well fees or production fees at the time of transfer, the new owner shall become responsible for payment of such fees. For wells with an operating permit, failure to timely notify the District may result in the permit being revoked.

D. Operating Permit Term

Operating permits issued by the District are valid for a period of five (5) years, unless otherwise specified by the District as a special permit condition. Such a special permit condition may include the need for additional data regarding the impact of the well on the aquifer or surrounding wells. The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit.

E. Renewal of Operating Permits

- (1) An application for renewal of an operating permit shall be submitted no later than 90 days prior to the expiration date of the operating permit and shall be accompanied by the appropriate application fee under Rule 4.1. The District shall normally renew the permit at the end of each permit term unless: (1) the permit holder is not in compliance with permit conditions, the District Management Plan or District Rules; (2) the permit holder has delinquent annual well fees, production fees, or other District fees; or (3) conditions of the

Cow Creek Groundwater Conservation District Rules

aquifer, as reflected in the District's water monitoring program or drought management plan, indicate that a reduction in production is required to prevent aquifer mining. In the event of noncompliance or delinquent fees, the District shall notify the permit holder of the conditions preventing the automatic renewal of the permit and allow the permit holder an opportunity to correct any noncompliance or pay delinquent fees. Failure of the permit holder to correct any noncompliance or pay delinquent fees within 30 days may result in revocation of the permit.

- (2) In order to adequately address the purposes and requirements of Texas Water Code Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant/permittee. This may include compliance with current District Rules in place at the time of renewal. The applicant/permittee shall be notified when the application for renewal has been reviewed and deemed administratively complete. Permittees shall operate under their existing permit until issuance of renewal.

F. Operating Permit Amendment

An amendment to an operating permit is required for any change to the operation, use, or condition of a well, including changing the production limit, the type of use of the well, the place of use of the water produced from the well, the size or depth of a well, a well pump, or its pumping volume. An application for an amendment, on a form obtained from the District and accompanied by the appropriate application fee under Rule 4.1., shall be submitted at least 90 days prior to the date the change is to take place. The applicant shall be notified when the application has been reviewed and deemed administratively complete. No amendment application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District. Within 60 days after the date an operating permit amendment application is determined to be administratively complete, the application shall be referred to the Board in accordance with the provisions of Rule 8.3. The amendment shall be considered as provided in Rule 3.3.C. No pump installer or water well driller shall make changes to a well if the owner has not applied for and obtained the appropriate authorization under this Rule.

Cow Creek Groundwater Conservation District Rules

G. Operating Permit Involuntary Amendment or Revocation

Operating permits are subject to involuntary amendment or revocation for violation of District Rules; violation of the permit, including special permit conditions; violation of the provisions of Texas Water Code Chapter 36; waste of groundwater; non-payment of annual well fees or production fees; or other actions that the District determines to be detrimental to the groundwater resources within the District, including noncompliance with the District's conservation plan or drought contingency plan.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 3.5 Wells Subject to Operating Permits

- A.** All water wells located within the District, having the capacity to produce more than 25,000 gallons per day (17.36 gallons per minute) shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. and pay a production fee under Rule 4.4.
- B.** All water wells located within the District incapable of producing more than 25,000 gallons per day (17.36 gallons per minute), except such wells used for domestic or livestock purposes as defined in Rule 2, shall be required to obtain an operating permit under Rules 3.1.B. or 3.3. Such wells are not required to pay a production fee under Rule 4.4.
- C.** A well may be issued a temporary or one-time authorization for the limited purpose, production volume, and duration specified in the authorization. Such authorization is limited solely to the terms specified in the authorization and does not create a right to produce water from the well in the future. Such authorization shall be obtained under Rules 3.1.B. or 3.3 and shall pay a production fee under Rule 4.4.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008.

Cow Creek Groundwater Conservation District Rules

Rule 4 Fees

Rule 4.1 Application Fee

- A.** An application fee shall be paid to the District when submitting a new well registration/drilling permit application under Rule 3.2.; a new well application for an operating permit under Rule 3.3; an application to renew an operating permit under Rule 3.4.E.; or an application to amend an operating permit under Rule 3.4.F. In this Rule 4.1., references to “application” cover these submittals. The application fee shall be calculated as follows:
- (1) All new wells submitting a registration/drilling permit application under Rule 3.2 - \$500.00.
 - (2) All new wells submitting an application for an operating permit under Rule 3.3 - \$1000.00.
 - (3) All wells submitting an application to renew an operating permit under Rule 3.4.E. - \$350.00
 - (4) All wells submitting an application to amend an operating permit under Rule 3.4.F. - \$650.00
 - (5) All wells submitting an application to both renew and amend an operating permit - \$1000.00
- B.** An application fee required by Rule 4.1.A. is a non-refundable minimum and no portion of the fee shall be returned to the applicant. The application fee is charged each time an application as described in Rule 4.1.A. is submitted. The District may assess an additional fee if the District incurs non-routine expenses relating to the investigation of the application, a protest to the application requiring a hearing, or recurring inspections caused by the applicant or the applicant’s agent failing to comply with District Rules and requirements. Such an additional fee shall be paid before the District will deem the application administratively complete.
- C.** The amount of the application fee assessed under Rule 4.1.A. is based on the information provided in the application. If the District later determines that the information was incorrect and a higher application fee should have been paid, all work on the well or production of groundwater from the well shall cease until the higher fee, plus a late payment, is paid.

Cow Creek Groundwater Conservation District Rules

Adopted June 1, 2004 by Board Order; effective June 1, 2004. Amended May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007.

Rule 4.2 Contested Case Hearing Fee

The parties to a contested case hearing will be required to pay, as an additional fee for administrative acts of the District, for the District's costs including the cost of public notices, legal fees, expert fees, hearing facility rental fees, and other expenses associated with the hearing. The parties shall deposit with the District reasonable fees determined by the District to cover these costs. The minimum total deposit shall be assessed against one or more parties. Any of the deposit that is not used by the District for this purpose, shall be refunded after the final action is taken on the permit application. The parties may be required by the District to deposit with the District additional funds if the amount of the original deposit is expended prior to the District's action on the permit. The District may waive fees for persons who in the opinion of the District, are unable to bear the financial burden.

Adopted September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007.

Rule 4.3 Annual Well Fee

The District will no longer charge an Annual Well Fee under this Rule 4.3, effective October 1, 2006. Any well subject to an Annual Well Fee for any period prior to October 1, 2006, however, shall remain subject to Rule 4.3 until all amounts owing under this rule have been paid in full to the District.

- A.** All wells, including all domestic or livestock wells, shall pay an annual well fee. Under District Rules, the annual well fee was previously called the annual permit fee.
- B.** The following wells are exempt from paying an annual well fee:
 - (1) Water wells used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig, as qualified by Texas Water Code §36.117(d).

Cow Creek Groundwater Conservation District Rules

- (2) Water wells authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water, as qualified by Texas Water Code § 36.117(d).
 - (3) Monitor wells, test wells, environmental sampling wells, environmental monitoring wells, geotechnical wells, and geologic exploration wells.
- C.** The annual well fee is set at the following rates. The total amount of the annual well fee is due regardless of when the fee is paid during the year. The fee will not be prorated.
- (1) An exempt domestic or livestock well, as defined in District Rule 2 - \$20.00 per year.
 - (2) All other wells that are not exempt from the fee under Rule 4.3.B. - \$250.00 per year.

D. Conservation Credit

If the owner of a well subject to the annual well fee, other than a retail public water utility, implements a significant water conservation or water enhancement project on the tract of land where the well is located, the Board may reduce or eliminate the annual well fee. The owner shall demonstrate to the Board that a significant water conservation or water enhancement project has been implemented. This demonstration may be achieved by submitting to the Board written documentation describing the project and its implementation. Examples of such projects include:

- (1) Construction of recharge dams that increase the recharge of groundwater from rainfall.
- (2) Construction of detention ponds, stock tanks, or other surface impoundments to capture or collect rainfall and runoff from rainfall.
- (3) Construction of rainfall harvesting systems that collect and store rainfall for domestic or commercial use.
- (4) Installation of drip irrigation systems.

Cow Creek Groundwater Conservation District Rules

- (5) Removal of brush or significant vegetative cover to enhance percolation and retention of rainwater, and to reduce water losses through evapo-transpiration.

Adopted October 7, 2003 by Board Order; effective October 7, 2003. Amended May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended October 20, 2005 by Board Order 2005-08; effective October 25, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006.

Rule 4.4 Production Fee

A. Wells Subject to a Production Fee

All wells that are required by Rule 3.5.A. to obtain an operating permit shall pay a production fee under this Rule 4.4. Wells required by Rule 3.5.B. to obtain an operating permit are exempt from this fee.

B. Amount of Production Fees

- (1) Groundwater used for agricultural purposes, as defined in District Rule 2: \$1 per acre-foot per year (\$0.0030689 per thousand gallons).
- (2) Groundwater used for all other purposes: \$10 per acre-foot per year (\$0.030689 per thousand gallons).

C. How Production Fees Are Calculated

Production fees are calculated based on the amount of water the operating permit authorizes the well to produce on an annual basis. One fourth of this amount shall be paid each quarter, as follows. On January 15th, April 15th, July 15th, and October 15th of each year, the owner shall submit payment to the District of twenty-five percent of the annual production fee, or as stipulated in the operating permit. If requested by the Permittee, annual production fees of less than \$10.00 per year can be paid upon permit renewal rather than annually.

Adopted October 7, 2003 by Board Order; effective October 7, 2003. Amended May 17, 2005 by Board Order; effective May 17, 2005. Renumbered September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 4.5 Other Fees

A. Returned Check Fee

The District will assess the person writing the returned check a \$25.00 fee for each check returned by the District Depository due to non-sufficient funds, account closed, signature missing or any other problem causing such a return. This fee will be charged every time a check is returned.

B. Late fee

A late fee of 10% of the amount due will be assessed if payments are not received within 15 days following the due date.

C. Trip Fee

If the District is required to have an employee or agent observe a well or meter or review documents not located at the District's office due to the actions or inaction of a well owner, the District may charge a trip fee in the amount of \$50.00.

D. Copies

The District will charge reasonable fees to cover the cost of information requested to include information requested through the Public Information Act.

Adopted October 7, 2003 by Board Order; effective October 7, 2003. Amended May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended September 5, 2006 by Board Order 2006-025; effective September 5, 2006. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 5 Well Construction, Completion, and Technical Standards

Rule 5.1 Preamble

The following Well Construction and Completion Standards are required in order to provide for the health and safety of individuals and communities utilizing groundwater within the District, to prevent the unintentional contamination of potable groundwater resources, and to ensure the long-term quality of potable water supplies within the boundaries of the District.

A copy of the drilling permit (authorization to construct) must be on-site while the well is being constructed, a pump is being installed, or the well or pump is being re-worked or modified. The owner, water well driller, and pump installer are equally responsible for compliance with this requirement.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007.

Rule 5.2 Applicability

Construction of all wells and installation of all pumps located within the District shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended, and the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code ("TAC"), Chapter 76, as amended. In addition, all wells and pumps must comply with the additional requirements of Rule 5.4., unless exempted from the Rule 5.4. requirements.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 5.3 Exemptions

- A.** The following wells are exempt from the Rule 5.4. requirements: Environmental Sampling Wells, Environmental Monitoring Wells, Geotechnical Wells, and Geologic Exploration Wells.
- B.** Geothermal wells are exempt from the Rule 5.4 and 6.4 requirements, but shall comply with Rule 5.2 and 5.12.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 5.4 Additional Well Construction and Completion Standards

- A.** All wells and pumps shall comply with these additional standards unless exempted under Rule 5.3.
- B.** The borehole shall be a minimum of three inches (3") larger in diameter than the outside diameter of the casing to be used. The casing shall extend from the surface to twenty feet (20') into the hydrologic unit that is to be utilized as a water source.
- C.** All water wells shall be cemented from twenty feet (20') into the hydrologic unit to the ground surface.
- D.** When pressure sealing the annular space, the end of the tremie pipe shall be set within twenty (20) feet of the bottom of the packer or cementing point. Concrete slurry shall be placed in successive lifts of appropriate depths so as not to collapse the casing. Each lift shall be allowed to cure prior to beginning the next lift. An adequate number of lifts shall be placed until the slurry reaches the ground surface.
- E.** When sealing the annular space with bentonite, bentonite slurry may be utilized. At a minimum, a cement plug of twenty feet shall be set on the bottom of the casing on top of the packer or gravel pack. Sealing of the annular space will begin within 20 feet of the bottom of the casing. Bentonite slurry will be placed in successive lifts to ensure proper hydration. Successive lifts will be placed until the top of the bentonite seal reaches no less than 8 feet from the ground surface. The annular space from the top of the bentonite seal to the ground surface will be filled with concrete slurry.
- F.** The casing shall extend at least twenty-four inches (24") above land surface at a site not within the 100-year floodplain, as determined from Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA).
- G.** If a well is placed within the 100-year floodplain, it shall be completed with a water tight sanitary well seal and steel casing extending a minimum of thirty six inches (36") above the 100-year floodplain level. The well owner shall provide a certificate, signed and sealed by a Registered Professional Land Surveyor, or Professional Engineer, which indicates the floodplain elevation as indicated on the FEMA map, along with the elevation of the top of the casing.

Cow Creek Groundwater Conservation District Rules

- H.** All wells completed with PVC casing shall be completed according to one of the three surface completion methods as described by the following:
- (1) **Slab** - The slab or block shall extend at least two feet (2') from the well in all directions and have a minimum thickness of four inches (4"), and shall be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing. The surface of the slab shall be sloped to drain away from the well. The top of the casing shall extend a minimum of twenty inches (20") above the top of the slab.
 - (2) **Steel and PVC Sleeve** - The steel sleeve shall be a minimum of 3/16" in thickness and/or the plastic sleeve shall be a minimum of Schedule 80 sun resistant and twenty four inches (24") in length and shall extend twelve inches (12") into the cement, except when steel casing or a pitless adapter is used. The casing shall extend a minimum of one foot (1') above the original ground surface, and the steel sleeve shall be two inches (2"), larger in diameter than the plastic casing being used.
 - (3) **Pitless Adapters** - In wells with Steel or Plastic Casings completed with pitless adapters, the adapters shall be welded to the casing or fitted with another suitably effective seal, and the borehole-casing annulus filled with cement slurry or bentonite down to the top of the water bearing formation to be utilized as a water source. All wells completed with pitless adapters shall satisfy all State water well completion and annular space sealing requirements that pertain to pitless adapters.
- I.** All wells shall be equipped with a water tight sanitary well seal with an inspection port, or some other means which allows for free access to the water table for the purpose of water level measurement and disinfection. Any well presently not equipped with a water tight sanitary well seal is required to be so equipped in the future when that well is serviced. On those wells with odd sized casing, which cannot be fitted with a factory made water tight sanitary well seal, the completion shall be done in a manner that shall prevent any pollutants from entering the well.

Cow Creek Groundwater Conservation District Rules

- J.** All wells must have a marker permanently installed in the concrete slab to identify the well's registration or permit number. The marker will be provided by the District at the time of registration.
- K.** A geophysical log shall be prepared on all wells drilled after May 23, 2008 that require an operating permit under Rule 3.5. The log shall provide qualitative information on aquifer characteristics and groundwater quality. At a minimum, the geophysical logs shall include an electrical log with shallow and deep-investigative curves (e.g., 16-inch short normal/64-inch long normal resistivity curves or induction log) with a spontaneous potential curve, and a caliper. The General Manager, upon written request, may waive this requirement if the operating permit requests less than 131,400 gallons per year.
- L.** This Rule 5.4.L applies to all water wells located within the Comfort, Waring, Turkey Knob, Ranger Creek, and Jack Mountain USGS quadrangles not mandatorily exempt from permitting under Texas Water Code Section 36.117(b)(1) that are proposed to be drilled at a site with a ground surface elevation at or above 1700 feet msl (mean sea level), as determined from the USGS 7 ½ minute quadrangle topographic map, other acceptable published data, or an elevation certificate. Casing for such wells shall be set to a minimum elevation of 1680 feet msl, (i.e.- A well drilled at a ground surface elevation of 1900 feet msl would have to set at least 220 feet of casing).

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 5.5 Authorized Well Drillers and Well Pump Installers

- A.** Only persons who have a license issued by the Executive Director of the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1091 and whose licenses are verified with the District are allowed to commercially drill wells within the District. Licenses must be verified with the District on forms provided by the District and be in accordance with and contain information called for in the form of verification.
- B.** Commercial Pump Installers are required to verify that they have a license issued by the Executive Director of the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1902. License verification shall be on forms provided by

Cow Creek Groundwater Conservation District Rules

the District and shall be in accordance with and contain the information called for in the form of verification.

- C. The only exceptions from the requirements of Rules 5.5.A. and 5.5.B. are the exceptions provided by 16 Texas Administrative Code Chapter 76, which includes an exception for owners drilling wells on their own property.
- D. When a water well driller or pump installer is performing activities within the District, they are subject to the authority of the District and these Rules. When such activities are undertaken on behalf of a well owner, the driller or installer is acting as the well owner's agent and is subject to enforcement for non-compliance to the same extent as the well owner.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007.

Rule 5.6 Reporting and Recordkeeping

A. Well Drilling and Completion Reports

The State of Texas Well Report, any pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District office within 60 days after completion of the well or after the data is compiled or prepared, whichever is earlier. This shall include information about the production capability of the well and the type of and location of use of the groundwater. Although the information will ordinarily be submitted by the well driller or pump installer, the owner is equally responsible for ensuring compliance with this Rule.

B. Pump Report

When there is a change in the size or depth of a well pump, or a replacement pump is installed, the serial number and size of the pump shall be submitted to the District office within 60 days after the work is completed. Although the information will ordinarily be submitted by the well driller or pump installer, owner is equally responsible for ensuring compliance with this Rule.

C. Water Use Report / Meter Readings

The production from all wells required under Rule 3.5 to obtain an operating permit shall be recorded using a meter. The owner shall keep a record of monthly water production. The water production records shall be submitted to the District on a monthly basis, by the

Cow Creek Groundwater Conservation District Rules

10th of each month for the preceding month, unless the District imposes alternate recordkeeping and reporting requirements in the operating permit for the well.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 5.7 Sealing of Wells

Following public notice, the Board may order the sealing of a well that is in violation of District Rules or that has been prohibited from producing groundwater. The reasons for ordering the sealing of a well include, but are not limited to: (1) failure to apply for an operating permit prior to drilling a well that under Rule 3.5, requires an operating permit; (2) operating such a well without an operating permit; or (3) when the Board has denied, cancelled, or revoked an operating permit.

Once the Board has ordered a well sealed, the District, following the procedures of Rule 5.10, shall seal the well by physical means, tag it to indicate that the well has been sealed by the District, or take any other appropriate action necessary to clearly indicate that the well has been sealed. The seal is intended to preclude operation of the well and/or identify unauthorized operation of the well.

Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner, to enforcement and penalties pursuant to all applicable District Rules.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 5.8 Capping of Wells

The District shall require an open or uncovered well that is in a non-deteriorated condition to be capped to prevent waste, pollution, or prevent deterioration. The well shall remain capped until conditions that led to the capping are eliminated. The cap shall provide a sanitary seal to prevent the introduction of potential contaminants and shall be capable of sustaining a weight of at least four hundred (400) pounds. If the owner fails to close or cap the well in compliance with District Rules, the District, following the procedures of Rule 5.10, shall cap the well. Reasonable expenses incurred by the District in capping a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Cow Creek Groundwater Conservation District Rules

Rule 5.9 Plugging of Wells

- A.** Not later than the 180th day after the date a landowner or other person who possesses a deteriorated or abandoned well learns of its condition, the well shall be plugged in accordance with Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended, as modified by this Rule 5.9.
- B.** Prior to plugging a well, casing, liner, or bore hole, a plugging plan shall be submitted to the District. Written authorization shall be obtained from the District prior to initiating the plugging operation.
- C.** The District shall be notified at least 24 hours prior to the plugging operation. If written authorization has been granted by the District, this notification can be done by telephone.
- D.** All removable casing shall be removed from the borehole. Non-removable casing shall be cut off at the ground level. The well must be free of any obstructions to the bottom of the borehole. If the borehole has obstructions all debris must be removed prior to the commencement of the plugging operation.
- E.** The total depth of the well shall be determined by tagging or logging the borehole. When more than one hydrologic unit is present, the well shall be plugged by filling the borehole to within 20 feet of the top of the hydrologic unit that was utilized as a water source with:
 - (1) washed and disinfected pea gravel free of flocculants or other chemicals; or
 - (2) 3/8 inch bentonite.
- F.** If only one hydrologic unit is present, the borehole shall be filled with washed and disinfected pea gravel or 3/8 inch bentonite to the water level.
- G.** The remainder of the borehole shall be pressure-cemented from the top of the washed and disinfected pea gravel free of flocculants or other chemicals or 3/8 inch bentonite to the land surface.
- H.** Bentonite may also be used up to two (2) ft from the surface and cemented so that the remaining borehole creates an atmospheric seal. For aesthetic or ground working reasons the two (2) ft cement atmospheric seal can be placed up to six (6) ft below ground level and the remaining borehole may be topped off with topsoil.

Cow Creek Groundwater Conservation District Rules

- I. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. .
- J. Not later than the 30th day after the date the well is plugged, a State of Texas Plugging Report and any driller's or geologist's logs (field notes on stratigraphy), shall be submitted to the District.
- K. Environmental sampling wells, environmental monitoring wells, geotechnical wells, and geologic exploration wells shall comply with Rule 5.9.A and Texas Department of Licensing and Regulation, 16 Texas Administrative Code § 76.1004, except that submittal of a plugging plan prior to plugging is not required.
- L. If the owner fails to plug the well in compliance with District Rules, the District, following the procedures of Rule 5.10, shall plug the well. Reasonable expenses incurred by the District in plugging a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008.

Rule 5.10 Right to Inspect and Enter Property

The District has authority under Texas Water Code Section 36.123 to enter any public or private property located within the District at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, wells, or compliance with District Rules, regulations, permits, or orders. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. Whenever possible, the District shall notify, coordinate, and schedule well and property access in advance with the property owner, his agent, tenant, or other local contact. Notice is not required if prior permission to enter land or access wells has been granted by the property owner, his agent, tenant, or other local contact. District employees or agents accessing public or private wells or property shall exhibit proper credentials upon request. District employees or agents acting under this authority shall observe all applicable rules and regulations concerning safety, internal security, and fire protection. If unexpected, emergency, or critical conditions require the District to access public or private wells or property without prior access arrangements, the District shall, at the first reasonable opportunity, contact the property owner, his agent, tenant, or other local contact. The District shall inform him that the District accessed the well or property, the reasons for the

Cow Creek Groundwater Conservation District Rules

District access, and any pertinent information or action resulting from the District's access.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 5.11 Meter Registration

All meters installed to comply with District Rules or permits must be registered within 30 days of installation. The registration form is available in the District office.

Adopted August 20, 2007 by Board Order 2007-029; effective August 23, 2007.

Rule 5.12 Geothermal Wells

- A.** All geothermal wells shall comply with these minimum standards, as well as the requirements of Rule 5.2. Each system shall register with the District on a form available from the District office.
- B.** Pressure cemented/bentonite to a minimum of 20 feet below the land surface, except in the case where the borehole encounters more than one hydrologic unit as defined in these Rules. Boreholes that encounter more than one hydrologic unit shall be cemented from twenty feet into the hydrologic unit being utilized to the ground surface. No commingling of hydrologic units is allowed.
- C.** All fill used in the borehole (i.e. gravel or crushed limestone) shall be washed and disinfected prior to use.
- D.** Open loop geothermal wells are prohibited in the District.
- E.** Within 60 days after completion, a State of Texas Well Report for at least one of the boreholes drilled shall be submitted to the District to ensure compliance with Rule 5.12.B.

Adopted May 20, 2008 by Board Order No. 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

RULE 5.13 Pump Test

When a pump test is required by the District, it must conform to the minimum standards set out in this Rule 5.13.

- A.** The well shall be pumped with a pump capable of varying its discharge rate. During the testing period, the discharge rate shall be adjusted until the water level in the well stabilizes and remains constant for a pumping period of thirty-six (36) hours.

Cow Creek Groundwater Conservation District Rules

- B.** After the well is pumped, water levels shall be taken every hour for thirty-six (36) hours after the test to determine the recovery rate of the well. If the water level recovers to within one (1) foot of the pre-test level before the thirty six (36) hour period following the test, the test can be concluded.
- C.** The well shall be equipped with a meter properly sized for the flow rate of the well. Meter readings and water levels shall be taken prior to and at the conclusion of each test, and at least every hour during the test (pumping and recovery).

Adopted August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 6 Well Spacing

The purpose of these well spacing requirements is to promote groundwater conservation, provide for long-term availability of groundwater resources, reduce localized depletion of groundwater, prevent interference between wells, and prevent the degradation of groundwater quality.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 6.1 Applicability

The requirements of this Rule 6 apply to all wells drilled within the District unless specifically noted. As authorized by Texas Water Code Section 36.116, some of the required distances are more stringent than those required by 16 Texas Administrative Code Section 76.1000, as amended.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 6.2 Determining Distances of a Tract Bordered By a Public Roadway

In determining the minimum distances set out in this Rule 6, it is permissible to use the centerline of a public roadway to calculate the distance required for the setback of a tract bordered by such a roadway.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 6.3 Spacing from Potential Sources of Pollution

- A.** All wells must comply with the location standards of 16 Texas Administrative Code § 76.1000 and with the minimum required separation distance for on-site sewage facilities of 30 Texas Administrative Code §285.91(10), which dictate horizontal distance from potential sources of pollution. Section 76.1000 excludes monitoring wells, environmental soil borings, dewatering wells, piezometer wells, and recovery wells from these requirements. Such wells may be located where necessity dictates.
- B.** Public Water System Wells must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Cow Creek Groundwater Conservation District Rules

Rule 6.4 Spacing From Property Lines and Other Wells

- A. All new wells shall be located a minimum horizontal distance from existing wells and property lines as required by 16 Texas Administrative Code Section 76.1000, unless covered by the more stringent spacing requirements of this Rule 6.4.
- B. All new water wells shall be located a minimum horizontal distance from existing water wells as specified in the following Table.

Any subdivision of existing tracts of land shall be done in such a fashion that new property lines shall be located no closer than the spacing requirements of this Rule from any existing or proposed water well.

Actual Pumping Capacity of Well as Equipped (gallons per minute)	Minimum Distance (in feet) between Existing Water Wells and the New Water Well	Distance of New Water Well from Property Lines (in feet)
Less than 17.36 gpm	50	100 (50) ¹
17.36 gpm through 100 gpm	200	100
100 gpm through 200 gpm	300	150
200 gpm through 400 gpm	750	375
greater than 400 gpm	1200	600
¹ pressure cementing of annular space required to reduce distance from property line from 100 feet to 50 feet		

- C. Geothermal wells are exempt from the requirements of Rules 6.4.A and 6.4.B.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 6.5 Spacing from Retail Water Utility Service Area or Community Water System

In order to minimize the drawdown of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve historic use of groundwater, and give consideration to the service areas of retail water utilities, all new wells other than those belonging to the retail water utility or the community water system shall be required to be spaced such that they are located a minimum of fifty feet (50 feet) outside the service area of a retail water

Cow Creek Groundwater Conservation District Rules

utility or community water system unless additional spacing is required under this Rule 6.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 6.6 Variance Procedures

The owner of a proposed new water well or someone desiring to subdivide existing tracts of land who, due to the peculiarities of the property shape or the local geology or hydrology, may need to locate a well closer than the spacing requirements of Rule 6.4., may apply for a variance. The owner shall obtain a waiver or easement of the property line distances from adjoining, affected property owners. The owner shall prepare a plat and legal description of the affected property, and such plat shall be signed and sealed by a Registered Professional Land Surveyor. The deed, plat, and waiver shall be notarized, filed with the Kendall County Clerk, and copies shall be submitted with the application for a variance to the District office prior to drilling the proposed water well or subdividing the land. Such a waiver or easement will affect drilling options on the property of the owner granting it by causing the distance requirements from property lines and between water wells to be adjusted inward on the property for which the waiver is granted. The District shall not accept reciprocal waivers or easements from adjoining property owners if the waivers or easements would involve the same portion of the adjoining properties.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 6.7 Well Clusters

Repealed August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 7 Enforcement and Variances

Rule 7.1 Complaints and Investigations

- A.** All complaints shall be reflected on a District complaint form. These forms are available at the District office. If a complaint is made verbally, by telephone, or in person, District personnel will ensure that the information is memorialized on a District complaint form. The complainant must inform the District if they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code §36.119.
- B.** For purposes of this Rule 7.1 and § 36.119, an aggrieved party is a landowner or other person who has a right to produce groundwater from land that is adjacent to the land on which the well subject to the complaint is located, or who owns or otherwise has a right to produce groundwater from land that lies within one-half mile of the subject well.
- C.** A complainant may ask to remain anonymous, unless they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code §36.119.
- D.** A District representative will investigate the complaint promptly and will memorialize his findings in a written investigation report.
- E.** A copy of the investigation report will be sent to the person about whom the complaint was made. If the complainant has provided his name and address, a copy of the investigation report will be sent to the complainant.
- F.** Board Consideration of Investigation Reports
 - (1) The investigation reports for all complaints must be presented to the Board for consideration not later than 90 days from the date of receipt of the complaint.
 - (2) Notice of the date, time, and location of the Board meeting at which the investigation report will be considered and a copy of the investigation report shall be mailed to the person about whom the complaint was made and to the complainant by certified mail, return receipt requested, at least ten days prior to the scheduled Board meeting.
 - (3) At the Board meeting, the Board may decide that there was no violation and close the complaint file. If the Board decides

Cow Creek Groundwater Conservation District Rules

that there has been a violation, it may direct the District staff to issue a notice of violation under Rule 7.2.B or initiate civil enforcement under Rule 7.2.A.

Adopted May 20, 2008 by Board Order No. 2008-007; effective May 23, 2008.

Rule 7.2 Enforcement

A. Civil Enforcement

As authorized by Texas Water Code Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed \$10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation. The Board may seek enforcement of such civil penalties against any person by injunction, mandatory injunction, or other appropriate remedy through a complaint filed in a court of competent jurisdiction. In addition, the District may seek, and the court shall grant against any person, recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.

B. Notice of Violation

The District shall send a notice of violation to a person who is believed to be in violation of law, including violation of a District Rule, Order, or permit. The notice shall include a copy of the investigation report. The notice may require remedial action and may assess a penalty. The notice shall provide the opportunity for public hearing under Rule 8.6.

C. Penalty Schedule

The District may assess penalties for non-compliance with District Rules including failure to comply with conditions of a permit issued by the District. Penalties will be assessed in accordance with the following schedule.

Schedule of Penalties for Non-Compliance

Non-Compliant Action	Minimum Penalty
Failure to notify District of drilling activity, location, date, and time.	\$250.00
Failure to obtain a drilling permit or drilling a well without a permit	\$1,000.00
Failure to notify District of date and time of setting casing and/or annular space sealing	\$250.00

Cow Creek Groundwater Conservation District Rules

Violation of District Rule	\$250.00
Exceeding production rate or volume specified in operating permit	\$1,000.00
Violation of drought rule (Rule 11)	\$250.00
Substantially altering an existing well prior to obtaining a permit or permit amendment	\$500.00
Equipping a well to make it capable of producing more than 25,000 gallons per day prior to obtaining a permit	\$1,000.00
Using water from a well for a purpose other than the purpose indicated in the well registration or permit	\$1,000.00
Failure to comply with Permit conditions	\$1,000.00
Failure to apply for an Operating Permit after notification by the District	\$5,000.00

Penalties may be assessed per day per violation, with each day of a continuing violation constituting a separate violation.

D. Enforcement Fee

In addition to any penalty authorized by Rule 7.2.C., if the District is required to incur expenses to enforce District Rules, including the payment of a production fee, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within ten days after receipt of a demand for payment from the District.

E. Regulatory Compliance

All wells and well owners located within the District shall comply with all applicable Rules, orders, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Renumbered (previously 7.1) and amended May 20, 2008 by Board Order No. 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 7.3 Variances

Any exceptions or variances to the requirements imposed by District Rules shall be considered on a case-by-case basis. A request for variance shall be submitted in writing and include the reasons for the request. A request for a variance from the requirements of Rule 6 Well Spacing shall comply

Cow Creek Groundwater Conservation District Rules

with rule 6.6. This Rule 7.3 is not applicable to a request for a variance from a permit requirement. A variance from a permit requirement requires an application for an amendment and shall comply with Rule 3.4.F.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Renumbered (previously 7.2) May 20, 2008 by Board Order No. 2008-007; effective May 23, 2008.

Cow Creek Groundwater Conservation District Rules

Rule 8 Procedural Rules

Rule 8.1 Hearings on Management Plan, Budget and Rules Other Than Emergency Rules

- A.** Once the District has developed a proposal involving its Rules, Management Plan, or budget, the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.
- B.** Notice required by the Open Meetings Act shall be provided for the hearing.
- C.** In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:
 - (1) Post notice in a place readily accessible to the public at the District office;
 - (2) Provide notice to the county clerk of Kendall County;
 - (3) Publish notice in one or more newspapers of general circulation in the county or counties in which the District is located; and
 - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 8.1.F. Failure to provide notice under this Rule 8.1.C(4) does not invalidate an action taken by the District at a rulemaking hearing.
- D.** Notice of the hearing on the proposal required by Rule 8.1.C shall include:
 - (1) A brief explanation of the subject of the rulemaking hearing, including a statement that the District's Board of Directors will consider changes to the District's Rules, Management Plan, or budget, at the Board meeting, which will serve as the public hearing on the matter.
 - (2) The time, date, and location of the hearing.

Cow Creek Groundwater Conservation District Rules

- (3) The agenda of the hearing.
 - (4) A statement that the proposal is available to be reviewed or copied at the District Office prior to the hearing.
 - (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
 - (6) A statement that oral public comment will be taken at the hearing.
- E.** Copies of the proposal shall be available at the District Office during normal business hours at least 20 days prior to the hearing.
- F.** A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request.
- G.** Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.
- H.** Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.
- I.** The District shall make and keep in its files an audio recording of the hearing.
- J.** The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
- K.** The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.
- L.** If in the course of the deliberation during the meeting, the Board decides it wants to substantially change the proposal, the Board shall “continue” or postpone the matter until a future Board meeting.

Cow Creek Groundwater Conservation District Rules

Prior to consideration of the substantially changed proposal, the District shall provide notice and opportunity for comment and hold a hearing on the substantially changed proposal under this Rule. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 8.2 Adoption of Emergency Rules

- A.** The District may adopt an emergency rule without following the notice and hearing provisions of Rule 8.1, if the Board:
 - (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and
 - (2) Prepares a written statement of the reasons for its finding under Rule 8.2.A(1).
- B.** An emergency rule under this Rule 8.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C.** Except as provided by Rule 8.2.D., a rule adopted under this Rule may not be effective for longer than 90 days.
- D.** If notice of a hearing under Rule 8.1 is given before the emergency rule expires under Rule 8.2.C., the emergency rule is effective for an additional 90 days.

Adopted September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 8.3 Actions On Drilling and Operating Permits

- A.** Within 60 days after the date it is deemed administratively complete by the District, an application under this Rule 8.3 shall be acted on by the District's General Manager or set on a specific date for action at a meeting of the District Board.
- B.** An application for a drilling permit for a new exempt well under Rule 3.2 may be approved by the District's General Manager without further Board action. Denial of a drilling permit for a new exempt well shall be referred to the Board for action under Rule 8.4. An

Cow Creek Groundwater Conservation District Rules

application for a drilling permit for a new non-exempt well shall be referred to the Board for action with the associated application for an operating permit.

- C. An application for an operating permit for either an existing or new well, which requests production of less than 131,400 gallons per year, may be approved by the District's General Manager without further Board action. Upon denial of such an application, or upon request of the applicant, the application shall be referred to the Board for action under Rule 8.4. All other applications for an operating permit for an existing or new well under Rules 3.1.B and 3.3, or an amendment to an operating permit, shall be referred to the Board for action under Rule 8.4.
- D. An application for renewal of an operating permit under Rule 3.4.E may be approved by the District's General Manager without further Board action. Denial of an operating permit renewal shall be referred to the Board for action under Rule 8.4.

*Adopted September 12, 2005 by Board Order 2005-007; effective September 14, 2005.
Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007.
Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008.*

Rule 8.4 Permit Actions by the Board Not Requiring A Hearing

- A. In this Rule, "Applications" refers to applications referred to the Board for action under the requirements of Rule 8.3.
- B. Within 60 days of the date on which the District determines that an Application is administratively complete, it shall be set on the agenda for Board action at a Board meeting. Such setting shall be no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by Rule 8.4.E.
- C. An Application that is referred to the Board shall be considered by the Board within 95 days of the date on which the Application was determined to be administratively complete.
- D. Notice required by the Open Meetings Law shall be provided for the meeting and shall include the name of the applicant and the address or approximate location of the well.
- E. Notice of the Board meeting at which the Application will be considered shall be mailed to the applicant at least seven days prior to the scheduled meeting date. Such notice may be waived by the applicant.

Cow Creek Groundwater Conservation District Rules

- F.** Anyone interested in the Application may attend the meeting and make oral comments at the time designated for comments.
- G.** The Board, at its sole discretion, may administer an oath to the staff, the applicant, and anyone who makes oral comments on the Application.
- H.** The Board shall issue a written order or resolution reflecting its decision. If the Board approves the Application, the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the Board meeting at which the Application was considered.
- I.** A request for contested case hearing, which will be conducted under Rule 8.5., shall be in writing and shall be made within 10 days after the Board's action on the Application. The following individuals may request a contested case hearing:
 - (1) The applicant; or
 - (2) A person who (a) has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority, that is not merely an interest common to members of the public; and (b) is affected by the Board's action on the Application.
- J.** If the District receives a written request for contested case hearing, the District shall schedule a pre-hearing conference at its next regularly scheduled Board meeting, in no event longer than 35 days after the date of the request. The pre-hearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process, including, but not limited to:
 - (1) whether a valid contested case hearing request has been submitted and if so, the designation of parties.
 - (2) the Contested Case Hearing Fee deposit amount required to be paid by each designated party under Rule 4.2.
 - (3) formulation and simplification of issues.
 - (4) the hearing schedule, including any necessary discovery.
- K.** The effective date of the written order shall be 10 days after the date on which the President of the District signs the order or resolution, if no request for a contested case hearing under Rule

Cow Creek Groundwater Conservation District Rules

8.4.I. is received by the District. The order or resolution shall include a statement that the order or resolution and its attachment become effective and final within 10 days of that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final, unless there is a request for a contested case hearing.

- L. If there is a timely filed request for a contested case hearing, a pre-hearing conference is held under Rule 8.4.J. and the Board determines that there will be no contested case hearing, the effective date of the written order shall be the date on which the Board denies the contested case hearing request.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 8.5 Permit Actions Requiring a Contested Case Hearing

- A. Rule 8.5 applies only to Applications for which the District has received a timely filed request for a contested case hearing under Rule 8.4.I.
- B. If the District receives a timely filed request for a contested case hearing under Rule 8.4.I., the Application shall be set for the initial hearing no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by this Rule 8.5. Setting of a pre-hearing conference under Rule 8.4.J. shall be considered the setting of the initial hearing.
- C. Notice required by the Open Meetings Law shall be provided for the hearing if conducted by a quorum of the Board.
- D. In addition to the notice required by the Open Meetings Act, not later than the 10th day before the date of the hearing, notice shall be provided as follows:
 - (1) Post notice in a place readily accessible to the public at the District office;
 - (2) Provide notice to the county clerk of Kendall County;
 - (3) Mail notice to the applicant by regular mail;
 - (4) Mail notice to the individual requesting a contested case hearing by regular mail; and

Cow Creek Groundwater Conservation District Rules

- (5) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 8.5.F. Failure to provide notice under this Rule 8.5.D(5) does not invalidate an action taken by the District at contested case hearing.
- E.** Notice of the hearing on the Application shall include the following:
- (1) The name of the applicant;
 - (2) The address or approximate location of the well or proposed well;
 - (3) A brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
 - (4) The time, date and location of the hearing; and
 - (5) Any other information the District considers relevant and appropriate.
- F.** A person may submit to the District a written request for notice of a hearing on a permit or permit amendment. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request.
- G.** The hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside at and conduct the hearing on the Application. The appointment of a Hearings Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside.
- H.** The presiding officer has the following authority and obligations:
- (1) May convene the hearing at the time and place specified in the notice;
 - (2) May set any necessary additional hearing dates;
 - (3) May designate the parties regarding a contested application;
 - (4) May establish the order for presentation of evidence;

Cow Creek Groundwater Conservation District Rules

- (5) May administer oaths to all persons presenting testimony;
 - (6) May examine persons presenting testimony;
 - (7) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;
 - (8) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
 - (9) May prescribe reasonable time limits for testimony and the presentation of evidence.
 - (10) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
 - (11) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and
 - (12) May continue a hearing from time to time and from place to place without providing notice under Rule 8.5.D. and E. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings notice under Rule 8.5.C. shall be provided.
- I. The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing and payment of an appropriate deposit, as set by the presiding officer, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule 8.5.I.

Cow Creek Groundwater Conservation District Rules

- J.** If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board written exceptions to the report within 10 days of issuance of the report. The report shall include:
- (1) A summary of the subject matter of the hearing;
 - (2) A summary of the evidence received; and
 - (3) The hearing examiner's recommendations for Board action on the subject matter of the hearing.
- K.** The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the Application is concluded.
- L.** Request for rehearing or findings and conclusions shall be considered as follows:
- (1) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may administratively appeal a decision of the Board on an Application by requesting written findings and conclusions or a rehearing before the Board.
 - (2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an Application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
 - (3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person

Cow Creek Groundwater Conservation District Rules

requesting a rehearing must provide copies of the request to all parties to the hearing.

- (4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- (5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

M. A decision by the Board on an Application is final if:

- (1) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- (2) A request for rehearing is filed on time, on the date:
 - (a) the Board denies the request for rehearing; or
 - (b) the Board renders a written decision after rehearing.

N. An applicant or a party to a contested hearing may file a suit against the District under Texas Water Code § 36.251 to appeal a decision on an Application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005.

Rule 8.6 Hearings On Enforcement Actions

- A.** If the District receives a timely filed written request for hearing from a Respondent who has received a notice of violation from the District, the District shall decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.
- B.** Notice required by the Open Meetings Law shall be provided for the meeting.

Cow Creek Groundwater Conservation District Rules

- C.** Notice of the hearing on the enforcement action shall be mailed to the Respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.
- D.** Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.
- E.** The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the enforcement action.
- F.** The Board, at its sole discretion, may appoint a Hearings Officer or committee of the Board to conduct the hearing on the enforcement action. In this Rule, either procedure is referred to as a Hearing Body. Any hearing conducted by a Hearing Body, shall be conducted in the same manner as provided in this Rule 8.6. At the close of the hearing, the Hearing Body, through the Hearings Officer or Presiding Officer, shall make a written recommendation to the Board. The recommendation shall become part of the record. The Board is not required to approve the recommendation of the Hearing Body.
- G.** The Board shall issue a written order or resolution reflecting its decision.
- H.** The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Renumbered September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended August 20, 2007 by Board Order 2007-029 effective August 23, 2007.

Cow Creek Groundwater Conservation District Rules

Rule 9 Prohibition Against Waste

Groundwater shall not be produced within the District in such a manner as to constitute waste, as defined in these Rules. In the event of a conflict between determining whether a use is a beneficial use or waste, beneficial use is subordinate to waste.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Cow Creek Groundwater Conservation District Rules

Rule 10 Groundwater Production Limits

Rule 10.1 Preamble

Rule 10 limits the production of groundwater as authorized by the District's Enabling Legislation and Texas Water Code Sections 36.101 and 36.116. This method of limiting groundwater is appropriate based on the hydrogeological conditions of the aquifers in the District and is consistent with the District's comprehensive Groundwater Management Plan developed and adopted under Texas Water Code Section 36.1071.

Adopted May 17, 2005 by Board Order; effective May 17, 2005.

Rule 10.2 Production Limits for All Wells Requiring an Operating Permit

- A.** The District shall set production limits on all wells requiring an operating permit under Rule 3.5. on a case-by-case basis during the permitting process set out in Rule 3.
- B.** These production limits shall be established on the basis of beneficial use without waste. Establishing a production limit on the basis of beneficial use without waste shall be based on, in the following order:
 - (1) a demonstration of beneficial use without waste;
 - (2) a demonstration of compliance with Rule 10.3, if applicable;
 - (3) a demonstration that the purpose of use and production amount are consistent with the approved District Management Plan;
 - (4) a consideration of other sources of water available for the requested use and production amount; and
 - (5) the well's production capability.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended May 20, 2008, by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 10.3 Production Limits for Wells Supplying Community Water Systems and Retail Water Utilities

For a community water system or a retail public water utility, which utilizes groundwater as a source of supply, the beneficial use without waste requirement of Rule 10.2 shall be based on one single family residential unit connection per four (4) acres of service area taking into consideration other sources of water available for the requested use. This Rule applies to new wells supplying groundwater to a community water system or retail public water utility and to existing wells if, after May 23, 2008 the community water system increases the number of connections it serves or the retail public water utility increases its service area.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended September 12, 2005 by Board Order 2005-007; effective September 14, 2005. Amended May 20, 2008, by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 10.4 Production Limits for New Domestic or Livestock Wells Incapable of Producing More Than 25,000 Gallons Per Day

A. Applicability

This Rule 10.4 applies to a new well used for domestic or livestock purposes, as these terms are defined in Rule 2, and which is incapable of producing more than 25,000 gallons per day.

B. A well subject to this Rule 10.4 shall not be drilled on a tract or property of less than six (6) acres. There shall not be another water well located on the same six acres. Recognizing that a subdivision using groundwater as a source of potable water and platted before May 17, 2005 may include tracts smaller than six (6) acres, this Rule 10.4.B is modified for such existing subdivisions as follows. In an existing subdivision, tracts of six (6) acres or larger shall comply with the one well per six (6) acre tract restriction. Wells shall be limited on tracts smaller than six (6) acres to no more than one well per tract.

C. This Rule 10.4.C applies to a well subject to the six-acre tract size restriction of Rule 10.4.B that is located within a subdivision that uses groundwater as a source of potable water and that is platted after May 17, 2005. The six (6) acre restriction shall be modified so that the total number of wells located in the subdivision, or section thereof, shall be no more than the total acres in the subdivision, or section thereof, divided by six. When computing the average

Cow Creek Groundwater Conservation District Rules

density of wells for compliance with this Rule 10.4.C, the owner may include in the area calculation all property within the subdivision. This includes all lots, easements, roadways, park areas, dedications, and common areas under common ownership.

- D.** Rule 10.4 applies to wells located in subdivisions and on land described in abstract and survey. A parcel or tract of land shall only have one domestic or livestock well per six acres. The total number of wells located on the parcel or tract shall be no more than the total acreage of the tract divided by six.

Adopted May 17, 2005 by Board Order; effective May 17, 2005. Amended August 20, 2007 by Board Order 2007-029; effective August 23, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Cow Creek Groundwater Conservation District Rules

Rule 11 Drought Management

Rule 11.1 Determination of Waste

Water uses regulated or prohibited under this Rule are considered to be non-essential and continuation of such uses during times of water restrictions, as defined herein, are deemed to constitute a waste of water. Person(s) violating these rules are subject to penalties as defined in District Rule 7, including Rule 7.1.A, which specifies that the District, as authorized by Texas Water Code 36.102, may assess civil penalties not to exceed \$10,000.00 per day per violation, and that each day of a continuing violation constitutes a separate violation.

Adopted January 8, 2007 by Board Order 2007-001; effective January 8, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 11.2 Applicability

- A.** The provisions of this Rule shall apply to all persons or organizations, public or private, having or operating wells, or person(s) utilizing groundwater within the District, regardless of purpose of use, size, capacity, and date of drilling or ownership of the wells.

- B.** The District recognizes that permittees within the district may have developed and utilize their own drought management plans. If a permittee has multiple water sources, the groundwater component must be in compliance with the current stage. The Permittee must either:
 - (1) comply with this Rule 11,
 - (2) or provide the District written documentation, as a requirement of the permit application or permit renewal application prior to permit issuance or renewal, which demonstrates to the District's satisfaction that the permittee's groundwater conservation measures are sufficient to meet the intent of, and be at least as restrictive as, this Rule.

The District shall make a determination of sufficiency based on information presented by the permittee and inform the permittee of such determinations in writing.

Cow Creek Groundwater Conservation District Rules

- C.** The restrictions set forth herein shall not apply to the uses of water to alleviate conditions threatening health, safety, or welfare of the public, the suppression of fires or the watering of landscape using solely grey water, surface water, harvested rain water or reclaimed water.

Adopted January 8, 2007 by Board Order 2007-001; effective January 8, 2007. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.

Rule 11.3 Initiation and Determination of Drought Stages

Each of the drought stages shall be initiated by action of the Board after analysis of the District's network of monitor wells, stream flow in the Guadalupe River, cumulative rainfall and/or other factors as deemed appropriate by the Board and shall remain in effect for a minimum of thirty (30) days. Mandatory percentage reductions in groundwater use under this Rule 11.3 shall not apply to health and safety uses, such as sanitation and firefighting.

A. Stage 1 – Year-Round Conservation

All well owners and/or users of groundwater will minimize the use of groundwater especially for non-essential uses year-round through good water use and water conservation practices. Automatic sprinklers shall not be operated between the hours of 10:00 A.M. and 8:00 P.M. All ornamental fountains and water features shall be closed loop re-circulating systems. There are no requirements for termination as Stage 1 is a year-round conservation program.

B. Stage 2 - Incipient Dry Spell-Mild Drought

- (1) Water Reduction for Permitted Users – Mandatory 10% reduction in groundwater use or as specified in the operating permit.
- (2) All other users must implement the following conservation practices
 - (a) Outdoor lawn and landscape irrigation by hose-end sprinklers, automatic sprinklers, soaker hoses, or drip irrigation may not be performed between the hours of 10:00 A.M. and 8:00 P.M. Hand-held hoses or hand-held buckets are allowed at any time. Automatic sprinkler systems shall be equipped with rain sensors to prevent operation during periods of rainfall.

Cow Creek Groundwater Conservation District Rules

- (b) Washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment must be done over pervious cover, with a hand held hose equipped with a positive shutoff valve, or at a commercial facility.
- (c) Water troughs or any water receptacles with mechanical float controls shall be routinely inspected and properly maintained to prevent leaks and waste of water.

C. Stage 3 - Moderate Drought

- (1) Water Reduction for Permitted Users – Mandatory 20% reduction in groundwater use or as specified in the operating permit.
- (2) All other users must implement the following conservation practices. The conservation practices from Stage 2 shall remain in effect and mandatory.
 - (a) Outdoor lawn and landscape irrigation shall only be allowed during the following outlined days and hours:

Lawn and Landscape Watering Schedule

<u>Day of the Week</u>	<u>Address ends with #</u>
Monday	0 or 1
Tuesday	2 or 3
Wednesday	4 or 5
Thursday	6 or 7
Friday	8 or 9

No lawn and landscape irrigation shall be performed between the hours of 10:00 A.M. and 8:00 P.M. No watering on weekends is allowed

- (b) If a new lawn or landscaping has been installed within two weeks before or after the initiation of Stage 3, then irrigation of that lawn or landscape may not occur between the hours of 10:00 A.M. to 8:00 P.M. in accordance with the following 30-day schedule:
 - For the first 10 days after installation, once a day;
 - For day 11 through 20 after installation, once every other day; and
 - For day 21 through 30 after installation, once every third day.

Cow Creek Groundwater Conservation District Rules

- (c) Use of groundwater to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or spa type pools is prohibited except on designated watering days during the designated watering hours. When such facilities are not in use, some form of surface cover shall be used to limit the evaporation of water.
- (d) Filling or adding groundwater to any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except on designated watering days during the designated watering hours.
- (e) All restaurants are encouraged to serve water to their patrons only upon request.

D. Stage 4 - Severe Drought

- (1) Water Reduction for Permitted Users – Mandatory 30% reduction in groundwater use or as specified in the operating permit.
- (2) The conservation practices from Stage 3 shall remain in effect and mandatory. When initiating this Stage, the Board may impose one or more of the following conservation practices.
 - (a) All outdoor lawn and landscape irrigation, including the irrigation of new lawns and landscaping is limited to one day a week per the schedule designated in Rule 11.3.C.(2)(a) (Lawn and Landscape Watering Schedule).
 - (b) The use of groundwater for washing sidewalks, driveways, parking areas, streets, tennis courts, or other paved impermeable areas, except to alleviate health or fire hazards is prohibited.
 - (c) The watering of the ground around foundation to prevent foundation cracking with groundwater is permitted only during times designated for lawn and landscape irrigation, unless watering is accomplished by a drip system or a hand-held hose, then foundation watering may be done at any time.
 - (d) The operation, other than for basic filtration and/or recirculation, of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited. Filling of ponds, lakes, tanks, reservoirs, swimming pools or other surface impoundments with groundwater is prohibited.

Cow Creek Groundwater Conservation District Rules

Groundwater may be added to pools to replace water lost due to use or evaporation during times when landscape irrigation is allowed.

- (e) Washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment, utilizing groundwater, is prohibited unless it is on the premises of a commercial car wash, service station, or a private facility that utilizes a recycled water system. Charity carwashes are prohibited.

E. Stage 5 - Extreme Drought

- (1) Water reduction for permitted users – Mandatory 40% reduction in groundwater use or as specified in the operating permit.
- (2) The conservation practices from Stage 4 shall remain in effect and mandatory. When initiating this Stage, the Board may impose one or more of the following conservation practices.
 - (a) Irrigation of lawns and landscaped areas shall be limited to once a week on the schedule designated in Rule 11.3.C(2)(a) (Lawn and Landscape Watering Schedule), and shall be by means of hand-held hoses or hand-held buckets only. No hose-end sprinklers or automatic sprinklers are allowed at any time.
 - (b) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare.
 - (c) Leak-proof troughs shall be used to provide water for livestock.
 - (d) Use of groundwater for construction activities is prohibited, unless authorized by an operating permit.
 - (e) The irrigation of a domestic or home garden with groundwater shall be limited to an area of 5,000 square feet and shall be by means of drip irrigation, hand-held hoses with a positive shut off device or hand-held buckets only.

Cow Creek Groundwater Conservation District Rules

F. Stage 6 - Extreme Drought Emergency

- (1) Water Reduction for Permitted Users – Mandatory 50% reduction in groundwater use or as specified in the operating permit.
- (2) The following requirements are for community water systems and retail water utilities:
 - (a) No additional, expanded or increase-in-size water service connections, meters, service lines, pipeline extensions, mains or water service facilities of any kind shall be allowed or approved if groundwater is used.
 - (b) In the event of system failure, the water supply will be managed by such measures necessary to maintain public health and safety, including elimination of service to part or all of the water system.
- (3) Irrigation of hay crops is prohibited, unless specified in an operating permit.
- (4) The conservation practices from Stage 5 shall remain in effect and mandatory. When initiating this Stage, the Board may impose one or more of the following conservation practices.
 - (a) Irrigation of lawn and landscape areas is prohibited at all times.
 - (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or any other mobile vehicle is prohibited at all times.
 - (c) The filling, refilling, or adding of groundwater to private swimming, or spa type pools for any reason is prohibited.
 - (d) The issuance of new well drilling permits, operating permits and amendments may be suspended except to replace an existing well.
 - (e) Other measures deemed necessary by the Board to protect public health and safety.

Adopted January 8, 2007 by Board Order 2007-001; effective January 8, 2007. Amended May 20, 2008 by Board Order 2008-007; effective May 23, 2008. Amended August 9, 2010 by Board Order 2010-016; effective August 12, 2010.