

**RULES AND BY-LAWS**

**OF**

**SANDY LAND UNDERGROUND WATER  
CONSERVATION DISTRICT**

**P.O. Box 130  
Plains, Texas 79355  
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# **RULES OF THE SANDY LAND UNDERGROUND WATER CONSERVATION DISTRICT**

## **The Rules of Sandy Land Underground**

### **Water Conservation District**

In accordance with Section 59 of Article XVI of the Texas Constitution and with Act of June 14, 1989, 71<sup>st</sup> Leg., R.S., ch. 673, 1989 Tex. Gen. Laws 2219, and Chapters 35 and 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of the District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulation, and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the water laws of the State and the rules of the District. To the end that these objectives be attained, these rules shall be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case shall they, or any of them be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law, nor to limit or restrict the amount and accuracy of data or information which may be required for the proper administration of the law.

### **RULE 1.0 - DEFINITIONS**

Unless the context hereof indicates a contrary meaning the words hereinafter defined shall have the following meaning in these rules:

- A. "Affected person" means a person who has a personal justifiable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and is affected by the permit or permit amendment application to be considered, not including an interest common to members of the public.
- B. "Board" means the board of directors of the district.
- C. "Director" means a member of the board.

- D. **“District” means the Sandy Land Underground Water Conservation District, headquartered in Plains, Texas, where applications, reports and other papers are required to be filed.**
- E. **“Exempt Well” means a well exempt from permitting under Chapter 36, Water Code.**
- F. **“Groundwater” means water percolating below the surface of the earth.**
- G. **“Groundwater reservoir” means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.**
- H. **“Open or Uncovered Well” means any artificial excavation drilled or dug for the purpose of exploring for or producing water from the underground reservoir, not capped, covered or plugged as required by these rules.**
- I. **“Owner” means and includes any person, firm, partnership or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.**
- J. **“Person” means any individual, partnership, firm or corporation.**
- K. **“Plugging” means an absolute sealing of the well bore.**
- L. **“Pollution” means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.**
- M. **“Underground Water” means groundwater.**
- N. **“Undesirable Water” means water that is injurious to vegetation, to land, or to fresh water, or water that can cause pollution.**
- O. **The word “waste” as used herein shall have the same meaning as defined in Chapter 36 of the Texas Water Code.**
- P. **“Well” or “Water Well” means any artificial excavation constructed to produce groundwater.**

## **RULE 2.0 - WASTE**

- A. No person shall produce or use groundwater within or without the District, in such a manner as to constitute waste.**
- B. Any person producing or using groundwater shall use every possible precaution, in accordance with the latest approved methods, to stop and prevent waste of such water.**
- C. No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.**

## **RULE 3.0 - WELL REGISTRATION**

- A. Registration is required for all existing and future wells in the District and shall be filed with the District on a form and in the manner required by the District, regardless of the size, capacity, or purpose of use of the well.**
- B. No person or entity shall drill, operate, modify, complete, plug, abandon, or increase the size or capacity of a well within the District without first registering the well with the District, even though the well may be exempt from the requirement to obtain a permit under Rule 5.0.**
- C. A person may not change the operation of the well that may render the well non-exempt without first applying for and obtaining a registration amendment or permit amendment, as applicable, from the District to authorize the change.**
- D. Failure of the owner of a well to timely file for and obtain a registration from the District under this Section shall constitute a violation of these Rules.**

## **RULE 4.0 - DEPOSITS**

**Each application for a permit to drill a well shall be accompanied by a deposit in an amount to be established from time to time by the Board by resolution, which deposit shall be accepted by the District Manager or authorized personnel in the office of the District.**

- A. Said deposit shall be returned to the applicant by the District if:**

- (1) the application is denied, or
- (2) within ninety (90) days of the date the application was signed by the applicant:
  - (a) upon the receipt of a completed well log form; or
  - (b) if said permit location is abandoned without having been drilled, upon return and surrender of the permit marked "abandoned" by the applicant.

B. In the event neither the log of the well nor the permit marked abandoned is returned to the District office within ninety (90) days after the date the permit application was signed by the applicant, the said deposit shall become property of the District.

### **RULE 5.0 - PERMITS AND PERMIT AMENDMENTS**

A. No person shall hereafter drill, equip, operate, or complete a well, or increase the size or capacity of a well, or pump therein without having first applied to the District and been issued a permit to do so.

B. No permit shall be required for the drilling of exempt wells. However, an exempt well shall:

- (1) be registered in accordance with Rule 3.0;
- (2) be equipped and maintained so as to conform to the District's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution of, or any harmful alteration to the character of the water in any groundwater reservoir; and
- (3) comply with the location and completion requirements of Rule 11.0.

C. Applications for permits to drill wells shall be made at the office of the District at Plains, Texas.

D. Upon properly completing and signing the drilling permit application form, the District staff shall issue a copy of the completed application form to the applicant, which copy shall serve as the applicant's temporary permit from the District office to drill the well. The applicant may proceed at his/her own risk to drill such well after obtaining the temporary permit. The application shall not, however, be officially granted as a final permit for the drilling and operation of the well until the same shall have been set for a public hearing, passed upon, and approved by the Board. In drilling

a well with a temporary permit prior to approval and issuance of a final permit by the Board, the applicant expressly assumes the risk that the permit application may ultimately be denied or granted only in part with special conditions by the Board, which may result in the well having to be equipped at a lesser capacity or plugged by the applicant or in the applicant having to obtain waivers from adjacent property owners in order to fully comply with the District Rules or such special permit conditions.

- E. After the well has been drilled and either (1) the completed well log form has been returned to the District or (2) the passage of ninety (90) days from the date the completed permit application was signed by the applicant (plus extensions of time, if any, granted under Rule 7.0(E) , the District Manager or his staff shall within sixty (60) additional days conduct a site investigation to confirm the location and spacing of the well and inspect its construction. The information obtained from the site investigation shall thereafter be entered onto the original well permit application in the District's records by the District staff. Once the information from the site investigation has been finally entered by the District staff on the well permit application, the application shall be deemed administratively complete and set for hearing and consideration by the Board in accordance with Rule 18.0. If after a hearing on the permit application, three (3) or more Directors recommend the granting of the application and sign it, then the permit shall be granted and become final. The refusal of three (3) or more Directors to grant and sign the application shall constitute a rejection of the application. The Directors may grant the permit only subject to special conditions.
- F. A change to a permit may be made only after application to and approval by the District to so amend.
- G. A permit or permit amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the production capabilities of the well to more than its authorized or permitted production.

## **RULE 6.0 - MAXIMUM ALLOWABLE PRODUCTION**

- A. Determination of maximum allowable production will always and only be for the tract of land where the well or wells will be permitted. Other acres owned but not contiguous to the tract where a well or wells are being permitted will not be included in the computation for maximum allowable production.
- B. A well or wells may only be permitted to be drilled and equipped for production of additional water up to the cumulative total of five (5) gpm



per acre owned, whether such existing well or wells were drilled prior to or subsequent to enactment of this rule.

- C. In the event an existing well or wells are located on property where a permit is applied to drill an additional well or wells, said cumulative gallonage per acre owned shall be computed by District personnel of existing wells. The maximum rate of production of each well established hereunder may not be considered the actual production rate if an existing well or wells are equipped to produce at a lesser rate of production.

## **RULE 7.0 - ISSUANCE OF PERMITS**

- A. A permit application shall be considered filed for purposes of obtaining a temporary drilling permit when properly made out, completed, signed, tendered, and accompanied by the required deposit. However, such permit application shall not be deemed administratively complete until the site investigation information has been entered onto the original permit application by District staff, as set forth under Rule 5.0(E).
- B. The Board shall issue or cause to be issued a final permit for a well properly spaced only after notice and hearing on an administratively complete application executed and filed by the owner containing the matters specified below.

Such applications shall be on forms provided by the District, shall be in writing, sworn to, and shall be prepared in accordance with and contain the information called for in the application form. Otherwise, the application will not be considered.

- C. Rules for the filing of permit applications:
  - (1) If the applicant is an individual, the application shall be signed by the applicant or his agent. The agent may be requested to present satisfactory evidence of his authority to represent the applicant.
  - (2) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "a Partnership", and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.
  - (3) In the case of a corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution of other authorization to make the application may be required by the officer or agent receiving the application.

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

**D. A permit application shall contain the following information:**

- (1) The name and address of the applicant and fee owner of the land upon which the well will be located.
- (2) The proposed location of the well to be drilled as provided in the application including, the section, block, survey and township; labor and league; or other adequate legal description.
- (3) The proposed use of the well to be drilled, whether municipal, industrial, irrigation, or other.
- (4) The name of the driller.
- (5) The approximate date drilling operation is to begin.
- (6) The location of all existing wells on the proposed tract.
- (7) The estimated yield of such existing wells.
- (8) The estimated yield of the proposed well.
- (9) An agreement by the applicant that a completed well log form will be furnished to the District by the applicant upon completion of this well and prior to the production of water therefrom (except for such production as may be necessary to the drilling and testing of such well).
- (10) A declaration that the applicant will comply with well plugging guidelines and report closure to the Texas Commission on Environmental Quality.
- (11) A declaration that the applicant has the authority to construct and operate a well for the proposed use.
- (12) An attached drought contingency plan, if the applicant is otherwise required by law to develop a drought contingency plan.
- (13) Any additional data as may be required by the Board.

**E. Time during which a temporary drilling permit shall remain valid: A temporary drilling permit issued hereunder shall be valid if the work permitted shall have been completed within ninety (90) days from the date the completed permit application was signed by the applicant. It shall**

thereafter be void. Provided, however, that the District Manager, for good cause, may extend the life of such temporary permit for an additional sixty (60) days if an application for such extension shall have been made known to the District during the first ninety (90) day period. Provided, further, that when it is made known to the District that a proposed project will take more time to complete, the District Manager, upon receiving written application may grant such time as is reasonably necessary to complete such project.

### **RULE 8.0 – REQUIREMENTS OF DRILLER’S LOG, CASING AND PUMP DATA**

- A. Complete records shall be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled. Such records shall include an accurate driller’s log, any electric log which shall have been made and such additional data concerning the description of the well, its potential, hereinafter referred to as “maximum rate of production,” and its actual equipment and rate of discharge permitted by said equipment as may be required by the Board. Such records shall be filed with the District within thirty (30) days after completion of the well or within ninety (90) days of the date the completed permit application was signed by the applicant, whichever is earlier.

No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller’s log, any electric log which shall have been made, and correctly furnishing all available information regarding the well required on the forms furnished by the District. After providing such required well information and logs to the District, the holder of the temporary drilling permit may operate and produce water from the well for beneficial use without waste until action on the application by the Board after notice and hearing to grant or deny the permit application in full or in part.

- B. No person shall be required to equip and produce any well to its maximum rate of production. For purposes of reworking, redrilling or replacing a well pursuant to Rule 12 hereof, the maximum rate of production of each well may not be considered the actual production rate if a well is equipped to produce at a lesser rate.

## **RULE 9.0 - SPACING OF PERMITTED WELLS**

Owners are encouraged to consider spacing wells over as wide an area as possible. Such action will help assure less well interference and opening of locally isolated zones to production, and, in turn, offer possibilities for maximizing yield and providing higher well productivity.

- A. A well, subject to permitting, drilled subsequent to the date of enactment of this rule shall be located at least three hundred (300) feet from all property lines.**
- B. In applying this rule with relation to spacing of wells within the District, any subdivision of property made subsequent to the drilling and approval of permitted wells shall not be regarded as a subdivision of property in determining the matter of spacing from property lines for permitted wells existing at the time of the subdividing of the property.**
- C. The Board reserves the right to enter special orders to increase or decrease the distance provided by this rule for reasonable cause.**

## **RULE 10.0 - EXCEPTION TO SPACING AND PRODUCTION**

- A. The Board may grant exceptions to the above spacing regulations. This rule shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board.**
- B. If an exception to such spacing and production is desired, an application thereof shall be submitted by the applicant in writing to the Board at the District office on forms furnished by the District. The application shall be accompanied by a plat or sketch, drawn to scale of one (1) inch equaling three hundred (300) feet. The plat or sketch shall show thereon all property lines of the tract, where the exception to well spacing is being applied for and shall show accurately to scale the location of all wells within six hundred (600) feet of all property lines of the tract. The application shall also contain the names and addresses of all property owners adjoining the tract on which the application for exception to spacing is to be located. Additionally, if wells located within six hundred (600) feet of the property line are owned by someone other than the owner of adjoining property, their names and addresses must also be included.**
- C. An exception may be granted after a public hearing, at which all interested persons may appear, including without limitation all owners of wells within six hundred (600) feet of the proposed well for which an**

exception to spacing is applied.

- D. If all owners of adjoining property and all owners of wells within six hundred (600) feet of the proposed well for which an exception to spacing is applied shall execute a waiver in writing stating that they do not object to the granting of such exception, the Board may thereupon proceed to decide upon the granting or refusing of such application without notice of hearing.

## **RULE 11.0 - WELL LOCATION AND COMPLETION**

### **A. Responsibility**

All wells, if drilled, must be drilled on the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operations of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code.

All well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of this Rule prescribing the location of wells and proper completion.

### **B. Location of Wells**

- (1) All wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation and a copy of the variance is forwarded to the District by the applicant or registrant. A well subject to permitting shall also comply with the spacing rules set forth under Rule 9.0.

### **C. Standards of Completion For Wells**

All wells must be completed in accordance with the well completion standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. Water well drillers shall indicate the method of completion performed on the appropriate forms.

### **D. Recompletions**

- (1) The landowner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.

- (2) If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well recompleted with the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss or water.
- (3) The District Manager may direct the landowner to take proper steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water.

### **RULE 12.0 - REWORKING OR REPLACING OF WELL**

No person shall replace, rework, redrill, deepen, or reequip an existing well without first having made an application to the District. Such an application to replace, rework, redrill, or reequip an existing well that does not meet spacing requirements shall be filed, processed and approved by the Board of Directors before commencement of the activities.

### **RULE 13.0 - CHANGED CONDITIONS**

The decision of the Board on any matter contained herein may be reconsidered upon its own motion or upon motion showing changed conditions, or upon the discovery of new and different conditions or facts after the hearing or decision of such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having finally granted or denied an application, it shall give notice in the manner required for the original action, including without limitation by regular mail to persons who were proper parties to an original action, and hold a hearing on the matter.

### **RULE 14.0 - FINAL ORDERS OF THE BOARD**

Except as provided under Rule 20.0, the orders of the Board in any proceeding shall become the final order of the Board on the day it is entered by the Board.

### **RULE 15.0 - RIGHT TO INSPECT AND TEST WELLS**

Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon the lands which a well or wells may be located within the boundaries of the District, to inspect such well or wells and to read, or interpret any meter, or other instrument for the purpose of measuring production of water from said well or wells or for determining the

pumping capacity of said well or wells; and any authorized officer, employee, agent, or representative of the District shall have the right at reasonable times to enter upon any land upon which a well or wells may be located within the boundaries of the District for the purposes of testing the pump and the power unit of the well or wells and of making any other reasonable and necessary inspections and tests that may be required or necessary for the information or enforcement of the rules and regulations of the District. The operation of any well may be enjoined by the Board immediately upon refusal to permit the gathering of information as above provided from such well.

## **RULE 16.0 - OPEN WELLS TO BE CAPPED**

Every owner or operator of any land within the District upon which is located any open or uncovered well is, and shall be, required to close or cap and seal the same permanently with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement. Officers, agents and employees of the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well permanently with a covering in compliance herewith. In the event any owner or operator fails to comply with such request within ten (10) days after such written notice, any officer, agent, or employee of the District may go upon said land and close or cap said well in a manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed \$500 for any single closing. Any officer, agent, or employee of the District, is authorized to perfect said lien by filing of the affidavit authorized by Chapter 36 of the Texas Water Code as amended. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

## **RULE 17.0 RULES GOVERNING PROTESTS**

- A. **NOTICE OF PROTEST.** The District Manager, the applicant, or an affected person may protest a permit or permit amendment application. To protest a matter, the person other than the District Manager or applicant shall either:
- (1) file a written notice of protest or opposition that must be received by the District at least the day prior to the date on which such application or matter has been set for hearing and before final action on the application by the Board; or

- (2) appear before the Board at the hearing and oppose the application.

For the convenience of the Board, it is urged that protests be received by the District at least five (5) days before the hearing date. A person protesting a matter that is unable to attend the first day of the proceeding must submit a continuance request in writing that is received by the District at least the day prior to the date of hearing setting forth good cause for his inability to appear at the proceeding. The Presiding Officer may grant or deny the request, at his discretion.

**B. PROTEST REQUIREMENTS.** Written and oral protests shall be timely under Section A. of this Rule and shall comply in substance with the following requirements:

- (1) Each protest shall show the name and address of the protestant and show that protestant has read either the application or a notice relative thereto published by the Board.
- (2) The protestant shall demonstrate that he is an affected person.
- (3) If the protest is based upon claim of interference with some present right of protestant, it shall include a statement of the basis of protestant's claim of right.
- (4) Protestant should call attention to any amendment of the application or adjustment which, if made, would result in withdrawal of the protest.

**CONTESTED APPLICATIONS OR PROCEEDINGS DEFINED:** The filing of an oral or written protest does not, in itself, mean that a hearing will be declared to be a contested case. An application or proceeding pending before the Board is considered contested when it is timely, the person appears at the hearing held on the application, motion, or proceeding and presents testimony of evidence in support of the contentions, or presents a question or questions of law with regard to the application, motion or proceedings, and the Presiding Officer of the Board determines that the person is an affected person and declares the matter to be contested. Where notice of protest is not timely filed, the person does not so appear and offer testimony or evidence in support of the contentions or raise a question of law with reference to any pending application, motion or proceeding, or where otherwise the Presiding Officer of the Board determines that the person is not an affected person, the same shall be considered and declared by the Presiding Officer as uncontested.



- C. In the event of a contested hearing, each party shall furnish other parties to the proceeding with a copy of all motions, amendments or briefs filed by him with the Board.

## **RULE 18.0 - GENERAL RULES OF PROCEDURE FOR HEARING**

- A. **TYPES OF HEARINGS.** The District conducts two general types of hearings:
  - (1) Permit hearings involving permit matters, in which the rights, duties, or privileges of a person are determined after an opportunity for an adjudicative hearing, and
  - (2) Rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District.
- B. **PERMIT HEARINGS.** The District shall hold a permit hearing on permit applications and permit amendments. The District may hold a hearing on permit revocations, suspensions, or renewals. The District Manager may, at his discretion, follow provisions of this Rule for actions not requiring a hearing. For actions for which a hearing is not required, the Board shall act at a meeting, as defined by Section 551.001, Government Code, unless authority has been delegated to the District Manager under these Rules. A permit hearing may be held in conjunction with such a meeting of the Board and need not be posted as a "hearing" separate and apart from the Board meeting, so long as notice of the permit or permit amendment applications to be considered meets the applicable requirements of Section (E) of this Rule.
- C. **HEARINGS ON MOTIONS FOR REHEARING.** Motions for Rehearing will be heard by the Board in the manner prescribed for permit hearings under this Section.
- D. **RULEMAKING HEARINGS.** The District shall hold a rulemaking hearing as required by these Rules to consider adoption of a new District Management Plan or revising an existing District Management Plan or to amend the District Rules or adopt new District Rules. A public hearing may also be held under the rulemaking hearings procedures set forth under this Section on any matter within the jurisdiction of the Board if the Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District.

**E. NOTICE AND SCHEDULING OF HEARINGS.**

- (1) Notices of all hearings of the District shall be prepared by the District Manager.**
- (2) For all rulemaking hearings, the notice shall include:**
  - (a) the subject matter of the hearing;**
  - (b) the time, date, and place of the hearing;**
  - (c) a location or Internet site at which a copy of the proposed rule may be reviewed or copied; and**
  - (d) any other information deemed relevant by the District Manager or the Board.**
- (3) For all permit hearings, the notice shall, at a minimum, state the following information:**
  - (a) the name of the applicant;**
  - (b) the time, date, and location of the hearing;**
  - (c) the address or approximate proposed location of the well;**
  - (d) a brief explanation of the proposed action, including any requested amount of groundwater, the purpose of the proposed use, and any change in use, if applicable; and**
  - (e) any other information the Board or District Manager deem appropriate to include in the notice.**
- (4) For permit hearings, not less than ten (10) days prior to the date of the hearing, the District Manager shall:**
  - (a) post notice at a place readily accessible to the public in the District Office; and**
  - (b) provide notice to the county clerk of Yoakum County, whereupon such county clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse; and**
  - (c) provide notice by:**
    - (i) regular mail to the applicant; and**

- (ii) regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (5) of this section.
- (5) A person may request notice from the District of a hearing on a permit, permit amendment application or rulemaking. The request must be in writing and 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. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.
- (6) For rulemaking hearings, not less than twenty (20) days prior to the date of the hearing, the District Manager shall:
  - (a) post notice in a place readily accessible to the public at the District's office;
  - (b) provide notice to the County Clerk;
  - (c) publish notice in one or more newspapers of general circulation in Yoakum County,
  - (d) provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Subsection (5) of this section; and
  - (e) make available a copy of all proposed rules at a place accessible to the public during normal business hours.
- (7) Any hearing may or may not be scheduled during the District's regular business hours. All hearings shall be held at the location set forth in the notice. The District may schedule as many applications for consideration at one Permit Hearing as deemed desirable. Except as provided in Chapter 551, Texas Government Code, any hearing may be continued from time to time and date to date without notice after the initial notice. The District Manager shall set a Permit Hearing date within sixty (60) calendar days after the date the permit or permit amendment application is administratively complete. The Permit Hearing shall be held within 35 calendar days after the setting of the date. Within this same time frame, the District Manager shall post notice and set a hearing on the application before the District Board.

- F. QUORUM OF THE BOARD AND PRESIDING OFFICER.** All hearings shall be held before a quorum of the Board. The Board President, or in his absence or at his direction the Vice-President or other director, shall preside at the hearing and thus serve as the Presiding Officer.
- G. HEARINGS.** Hearings will be conducted in such a manner as the Board deems most suitable to the particular case, and, except as set forth herein, technical rules of legal and court procedure need not be applied. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either applicants or protestants.
- H. WHO MAY APPEAR.** Any affected person in a proceeding may appear either in person or by representative or both in such proceedings. At the discretion of the board, anyone not an affected person in a proceeding may appear.
- I. ADMISSIBILITY.** Evidence relevant to an issue at the permit hearing shall be admitted. Evidence that is irrelevant, immaterial, or unduly repetitious may be excluded by the Presiding Officer.
- J. TESTIMONY SHALL BE PERTINENT.** The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or immaterial, the Presiding Officer conducting the hearing may forthwith terminate such line of interrogation.
- K. A STIPULATION.** Evidence may be stipulated by agreement of all parties.
- L. LIMITING NUMBER OF WITNESSES.** The right is reserved to the Board in any proceeding to limit the number of witnesses appearing whose testimony may be merely cumulative.
- M. RECORDINGS.**
- (1) Rulemaking Hearings.** The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.
  - (2) Contested Permit Hearings.** A record of the hearing in the form of an audio or video recording or a court reporter transcription shall be prepared and kept by the Presiding Officer in a contested hearing. The Presiding Officer shall have the hearing transcribed by a court reporter upon a request by a party to a contested hearing.

The Presiding Officer may assess court reporter transcription costs against the party requesting the transcription or among the parties to the hearing. The Presiding Officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this rule, unless the parties have agreed that the costs assessed against such party will be paid by another party.

- (3) **Uncontested Permit Hearings.** In an uncontested hearing, the Presiding Officer may use the means available in Rule 18.M.2 of this Rule to record a proceeding or substitute meeting minutes or the report required under Rule 18.N. for a method of recording the hearing.
- N. REPORT.** The Presiding Officer shall determine whether to submit a permit hearing report to the Board under this Rule. If the Presiding Officer determines to submit a hearing report, it must: (1) be submitted within thirty (30) days after the date the hearing is finally concluded; and (2) include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the Presiding Officer's recommendations for Board action on the subject matter of the hearing. A copy of the report shall be provided by the Presiding Officer or District Manager to the applicant, each designated party, and each person who provided a comment, each of whom may submit to the Board written exceptions to the hearing report. The Presiding Officer may direct the District Manager or another District representative to prepare the hearing report and recommendations under this Rule.
- O. BOARD ACTION ON PERMIT HEARINGS.** Within sixty (60) days after the final hearing date is concluded, the Board must take action on the subject matter of the hearing.
- P. CONSOLIDATED HEARING ON PERMIT APPLICATIONS.**
- (1) Except as provided by Rule 18.P.2, the Board shall process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant.
- (2) The Board is not required to use consolidated notice and hearing procedures to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another application.

## **RULE 19.0 - REQUEST FOR REHEARING OR FINDINGS AND CONCLUSIONS**

- A. An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may appeal a decision of the Board by requesting a rehearing or written findings and conclusions within twenty (20) calendar days of the date of the Board's decision. Such a rehearing request must be mailed to the District in writing and must state clear and concise grounds for the request. If the original hearing was a contested hearing, the person requesting a rehearing must provide copies of the request to all parties to the hearing. Such a hearing is mandatory with respect to any decision or action of the Board before any appeal to District Court may be brought. Any appeal to District Court shall be limited to the issues and grounds raised in the motion for rehearing. If the hearing on the application was uncontested and the decision of the Board on the application is materially inconsistent with the relief sought in the application, the applicant shall be afforded an opportunity to submit a request for a contested case in conjunction with the request for rehearing. If the request for rehearing is timely filed, the accompanying request for a contested case hearing shall be deemed timely filed for all purposes under these Rules. On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the Board receives the request. A person who receives a certified copy of the findings and conclusions from the board may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions. The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within forty-five (45) calendar days thereafter. The failure of the Board to grant or deny the request for rehearing within ninety (90) calendar days of the date of submission shall constitute a denial of the request.**
- B. The Board may, in a proper case, find that an emergency exists and that substantial injustice will result from delay. In that event, and upon recitation of such finding, the order of the Board will become final on the date of the announcement of the order by the Board, and no motion for rehearing will be considered thereon.**

## **RULE 20.0 - DECISIONS; WHEN FINAL**

- A. A decision by the Board on a permit or permit amendment application is final:**
  - (1) if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or**
  - (2) if 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.**
- B. Except as provided by Rule 20.C, an applicant or a party to a contested hearing may file a suit against the district under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.**
- C. An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.**

## **RULE 21.0 - STANDARDS FOR PLUGGING WELLS**

**All wells which are required to be plugged under Texas Occupation Code Chapters 1901 or 1902 or by order of the Board must be plugged in accordance with the well plugging standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. All persons shall notify the District prior to the plugging of any well.**

## **RULE 22.0 - GENERAL RULES**

- A. COMPUTING TIME.** In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a legal holiday.
- B. TIME LIMIT.** Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing at the Board's offices at Plains, Texas, within the time

limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

- C. **SHOW CAUSE ORDERS AND COMPLAINTS.** The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating within the District to appear before it in a public hearing and require him to show cause why his operating authority or permit should not be suspended, cancelled, or otherwise restricted and limited, for failure to comply with the orders or rules of the board or the relevant of the State, or for failure to abide by the terms and provisions of the permit or operating authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these rules of procedures and practice.

### **REPEAL OF PRIOR REGULATIONS**

All of the previous rules and regulations of the District have been revised and amended; and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with or it contrary to these rules is hereby repealed.

### **SAVINGS CLAUSE**

If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

Amended: October 8, 2003

Amended: December 13, 2006



## **BY-LAWS OF THE SANDY LAND UNDERGROUND WATER CONSERVATION DISTRICT**

In accordance with the Act of June 14, 1989, 71<sup>st</sup> Leg., R.S., ch. 673, 1989 Tex. Gen. Laws 2219, Article XVI, Section 59, of the Texas Constitution, and Chapters 35 and 36 of the Texas Water Code, Vernon's Civil Statutes of Texas, the following on the 12<sup>th</sup> day of December, 1990, were ratified and adopted, and were amended on the 16<sup>th</sup> day of February, 2007. These are guides to be used with discretion and were adopted for the purpose of simplifying procedures and facilitating the administration of the District.

### **ESTABLISHMENT OF THE DISTRICT**

#### **Definitions:**

**“Board” means the board of directors of the district.**

**“District” means the Sandy Land Underground Water Conservation District, headquartered in Plains, Texas, where applications, reports and other papers are required to be filed.**

**“Underground water” means groundwater.**

**“Owner” shall mean and include any person, firm, partnership or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.**

**“Person” shall mean any individual, partnership, firm or corporation.**

**The word “Waste” as used herein shall have the same meaning as defined by the Legislature.**

### **REQUIREMENTS FOR THE BOARD AND PROCEDURES FOR MEETINGS**

#### **Candidates:**

**All procedures for holding the election shall be in accordance with the Texas Election Code, Chapter 36 of the Texas Water Code, and the act creating the District.**

**Election:**

On the first Saturday in May of the second year after the year in which the District is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board. Beginning with any election ordered on or after October 1, 2005, the directors election shall be held on the second Saturday in May in the appropriate subsequent second year.

**Meetings:**

The Board shall hold monthly meetings and it may hold other meetings at the call of the chairman or at the request of at least two (2) of the directors.

- a quorum is the majority of the Directors.
- the Board may elect its own officers yearly, or when an office is vacated.
- meetings will be held in the District's office.
- the Board will follow the Roberts Rules of Parliamentary Procedures.
- the Board may also act as a hearing Board concerning any disputes concerning the Rules and operations of the District.

## **POWERS AND DUTIES OF THE DISTRICT**

The District has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 35 and 36, Texas Water Code, applicable to groundwater conservation districts created under Article XVI, Section 59, of the Texas Constitution. This act prevails over any provision of general law that is in conflict or inconsistent with this Act. Including authority to:

- A. Make and enforce rules to provide for conserving, preserving, protecting, recharging, and preventing waste of the ground water from the groundwater reservoirs that may be enforced by injunction, mandatory injunction, or other appropriate remedies in a court of competent jurisdiction, or;

- B. Require permits for the drilling, equipping and completion of wells in the groundwater reservoirs and issue permits subject to terms and provisions with reference to the drilling, equipping, and completion of the wells as may be necessary to prevent waste or conserve, preserve and protect groundwater;**
- C. Provide for the spacing of wells producing from the groundwater reservoirs and regulate the production from those wells to minimize as far as practicable the drawdown of the water table or the reduction of the artesian pressure, provided, the owner of the land, his heirs, assigns, and lessees are not denied a permit to drill a well on their land and the right to produce groundwater from that well subject to rules adopted under this act;**
- D. Require records to be kept and reports to be made of the drilling, equipping, and completion of wells into any groundwater reservoir and the taking and use of groundwater from those reservoirs and require accurate driller's logs to be kept of those wells and a copy of those logs and of any electric logs that may be made of the wells to be filed with the District;**
- E. Acquire land for the erection of dams and for the purpose of draining lakes, draws and depressions, and construct dams, drain lakes depressions, draws, and creeks and install pumps and other equipment necessary to recharge groundwater reservoirs;**
- F. Have made by registered professional engineers surveys of the groundwater of any groundwater reservoir and of the facilities for the development, production and use of the groundwater, determine the quantity of the groundwater available for production and use and the improvements, developments and recharges needed for those groundwater reservoirs;**
- G. Develop comprehensive plans for the most efficient use of the groundwater of any groundwater reservoir and for the control and prevention of waste of that groundwater, with the plans to specify in the amount of detail that may be practicable the acts, procedures, performance, and avoidance that are or may be necessary to effect those plans, including specifications;**
- H. Carry out research projects, develop information, and determine limitations, if any, that should be made on the withdrawal of groundwater from any groundwater reservoir;**
- I. Collect and preserve information regarding the use of the groundwater and the practicability of recharge of any groundwater reservoir;**

- J. Publish plans and information. Bring them to the notice and attention of the users of the groundwater within the District, and encourage their adoption and execution;**
- K. Contract for, sell and distribute water from a water import authority, or other agency.**

## **ADMINISTRATIVE PROCEDURES**

### **Administrator and Employees:**

**The Board may employ a District Manager and set his/her salary. The Board may delegate any of its powers and duties (Except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation and bonds) to the manager who may carry out the powers and duties delegated to him/her by the Board. Employment of personnel is subject to the general law of nepotism. The manager with the approval of the Board may employ employees of the Board and set their salaries and hire legal counsel for the Board.**

**The manager shall with the approval of the Board develop a plan for the District, act as official liaison for the Board between the public and governmental agencies, and prepare budgets.**

**The manager's position may be reviewed yearly at the beginning of the Fiscal Year.**

## **TAXATION AND BONDS**

**The tax and bond provisions of Chapter 35 and 36 of the Texas Water Code as amended apply to the District.**

**The Board may levy and collect property taxes levied on the property in the District that are necessary to enable the Board to perform the powers and functions given it in the Act.**

**The Board may levy annual taxes not to exceed 2 ½ cents for each \$100 of assessed valuation on all taxable property within the District. The Board has adopted the county appraisal as the base for valuations necessary to provide net funds.**

## **ANNEXATION**

**Additional territory may be added to the District by petition of the landowner under Chapter 35 and 36 of the Texas Water Code, as amended.**

## **AMENDMENT TO BY- LAWS**

**These By-Laws may be altered or amended or the same may be repealed by new By-Laws adopted at any regular or special meeting of the Board of Directors of the District, provided that no such action shall be taken at a regular or special meeting unless ten (10) days notice of the proposed alteration, amendment or repeal and a copy of proposed new By-Laws is submitted in writing to each of the Directors of the District with the notice of such meeting. No such alterations, amendment or repeal of the By-Laws or the adoption of new By-Laws shall be valid unless the same shall be by the affirmative vote of at least a majority of all of the Directors of the District.**

## **DISSOLUTION OF THE DISTRICT**

**Chapter 36 of the Texas Water Code, as amended, applies to dissolution of the District.**

**Amended August 13, 2003  
Amended February 16, 2007**