

Panola County Groundwater Conservation District

**Temporary Rules for Water Wells in
Panola County**

**Adopted by the District Board of Directors
on January 20, 2009**

Panola County Groundwater Conservation District

District Rules

PREAMBLE

The Panola County Groundwater Conservation District ("District") was created in 2007 by the 80th Texas Legislature with a directive to conserve, protect and enhance the groundwater resources of Panola County. The District's boundaries are coextensive with the boundaries of Panola County and all lands and other property within these boundaries will benefit from the works and projects that will be accomplished by the District. On November 6, 2007, the citizens of Panola County approved the formation of the District to protect and monitor the aquifer resources within the District.

The Mission of the Panola County Groundwater Conservation District is to develop rules to provide protection to existing wells, prevent waste, promote conservation, and to preserve and protect the groundwater resources of Panola County. The District will accomplish this mission by working to minimize the drawdown of the groundwater levels, prevent the waste of groundwater and reduce the degradation of the quality of the groundwater located in the Panola County area. The District will also use the authority granted by state law to protect and maintain the economic vitality of the communities within Panola County. The District believes the economy, environment, and quality of life in Panola County will be benefitted by the work of the District to accomplish this mission.

The District is committed to managing and protecting the groundwater resources within its jurisdiction and to work with other stakeholders to ensure a sustainable, high quality and cost effective supply of water for future generations. The District will strive to develop, promote, and implement water conservation and management strategies to protect water resources for the benefit of the citizens, economy and environment of the District. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through conservation, education, management, and through rule implementation. Any action taken by the District shall be upon full consideration and deference to the individual property rights of the citizens residing in the District.

SECTION 1.

DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

Rule 1.1 Definition of Terms.

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

- (a) "Agricultural irrigation" means applying groundwater to soil to produce crops for human food, animal feed, or planting seed or for the production of fibers.
- (b) "Aquifer" means a water bearing geologic formation in the District.
- (c) "Beneficial use" or "beneficial purpose" means use of groundwater for:
 - 1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;
 - 2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or
 - 3. any other purpose that is useful and beneficial to the user that does not constitute waste.
- (d) "Board" means the Board of Directors of the District.
- (e) "District" means the Panola County Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act.
- (f) "District Act" means the Act of May 26, 2007, 80th Leg., R.S., ch. 867, 2007 Tex. Gen. Laws 1838, codified at SPEC. DIST. LOC. LAWS CODE ANN. ch. 8819 ("the District Act"), as may be amended from time to time.
- (g) "Domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold, use by or for a public water system., irrigation of crops in fields or pastures. Domestic use does not include water used for open-loop residential geothermal heating and cooling systems, but does include water used for closed-loop residential geothermal systems. Domestic use does not include pumping groundwater into a pond or other surface water impoundment unless the impoundment is fully lined with an impervious artificial liner and has a surface area equal to or smaller than one-third of a surface acre (14,520 square feet).
- (h) "Effective date" means January 20, 2009, which was the date of adoption of these Temporary Rules.
- (i) "General Manager" is the chief administrative officer of the District,.
- (j) "Groundwater" means water percolating below the surface of the earth.

- (k) “Groundwater reservoir” means a specific subsurface water-bearing stratum.
- (l) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.
- (m) “Livestock” means, in the singular or plural, grass or plant-eating, single- or cloven-hooved mammals raised in an agricultural setting for subsistence, profit or for its labor, or to make produce such as food or fiber, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this state from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families, but does not mean a mammal defined as a game animal in section 63.001, Parks and Wildlife Code, or as a fur-bearing animal in section 71.001, Parks and Wildlife Code, or any other indigenous mammal regulated by the Texas Department of Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.
- (n) “Meter” or “measurement device” means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transported from a well or well system during a measure of time.
- (o) “Penalty” means a reasonable civil penalty set by rule under the express authority delegated to the District through Section 36.102(b) of the Texas Water Code.
- (p) “Person” means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.
- (q) “Poultry” means chickens, turkeys, nonmigratory game birds, and other domestic nonmigratory fowl, but does not include any other bird regulated by the Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.
- (r) “Production” or “producing” means the act of extracting groundwater from an aquifer by a pump or other method.
- (s) “Public Water System” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for “drinking water” in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection,

treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

- (t) "Pump" means any facility, device, equipment, materials, or method used to obtain water from a well.
- (u) "Registrant" means a person required to submit a registration.
- (v) "Registration" means a well owner providing certain information about a well to the District, as more particularly described under Section 3.
- (w) "Rule" or "Rules" or "Temporary Rules" means these Temporary Rules of the District regulating water wells, which shall continue to be effective until amended or repealed.
- (x) "Substantially alter" with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way or to increase the size of the pump on the well.
- (y) "Transfer" means a change in a registration as follows, except that the term "transfer" shall have its ordinary meaning as read in context when used in other contexts:
 - 1. ownership; or
 - 2. the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.
- (z) Types of wells:
 - 1. "Existing well" means a well that was in existence or for which drilling commenced prior to January 20, 2009.
 - 2. "Leachate well" means a well used to remove contamination from soil or groundwater.

3. “Monitoring well” means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.
 4. “New well” means a well for which drilling commenced on or after January 1, 2010.
- (aa) “Waste” means one or more of the following:
1. withdrawal of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer unsuitable for agriculture, gardening, domestic, stock raising, or other beneficial purposes;
 2. the flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;
 3. the escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;
 4. pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
 5. willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;
 6. groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;
 7. for water produced from an artesian well, “waste” has the meaning assigned by Section 11.205, Texas Water Code;
 8. operating a deteriorated well;
 9. producing groundwater in violation of District Rule __.2(b) or (c); or
 10. producing groundwater in violation of any District rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.
- (bb) “Well” means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from the aquifer.

- (cc) “Well owner” means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.
- (dd) “Well system” means a well or group of wells tied to the same distribution system.
- (ee) “Withdraw” means the act of extracting or producing groundwater by pumping or other method.
- (ff) “Year” means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

Rule 1.2 Authority of District.

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

Rule 1.3 Authority of General Manager.

Unless otherwise provided by these Temporary Rules, Chapter 36 of the Texas Water Code, the laws of the State of Texas, or unless determined unsuitable by the Board, the General Manager of the District shall have the authority to carry out the purposes and conduct the necessary activities of the District promulgated by these Temporary Rules without action by the Board. The purpose of this authority is to allow the General Manager to properly conduct the daily and managerial activities of the District in order to allow the District to efficiently and effectively manage and preserve the groundwater resources of Panola County.

Rule 1.4 Purpose of Rules.

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

Rule 1.5 Purpose of District.

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

Rule 1.6 Use and Effect of Rules.

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

Rule 1.7 Construction of Rules.

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

Rule 1.8 Methods of Service Under the Rules.

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

Rule 1.9 Computing Time.

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

Rule 1.10 Severability.

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

Rule 1.11 Regulatory Compliance; Other Governmental Entities.

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

Rule 1.12 Time Limits.

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

Rule 1.13 Notification to Well Owners.

As soon as practicable after the effective date of these Temporary Rules, the District shall publish notice, in a newspaper of general circulation within the District, to inform the well owners of the District's existence, the management authority of the District, and the well owners' duties and responsibilities under these Rules.

Rule 1.14 Amending of Rules.

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

SECTION 2.
OTHER DISTRICT MANAGEMENT ACTIONS AND DUTIES

Rule 2.1 District Management Plan.

Following notice and hearing, the District shall adopt a comprehensive Management Plan. The District Management Plan shall specify the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once adopted, remains in effect until the subsequent adoption of another Management Plan.

SECTION 3.

REGISTRATIONS, RECORDS, REPORTS, AND LOGS; PERMIT NOT REQUIRED

Rule 3.1 Registration Required

All water wells, existing and new, must be registered with the District and are required to comply with the District's registration requirements in these rules.

Rule 3.2 Purpose and Policy

The accurate and timely reporting to the District is a critical component of the District's ability to manage the groundwater resources that it has the authority to regulate. The registration of all wells is necessary in order for the District to be able to receive water use information in the District. The registration of existing wells will allow the District to protect existing well owners' rights based on the historical use records. The purpose of this Section is to require the submission of complete, accurate, and timely records, reports, and logs as required throughout the Temporary Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions and use within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or any combination of the same.

Rule 3.3 Permit Not Required Under Temporary Rules.

No permit of any kind is required under these Temporary Rules. Notwithstanding Chapter 36 of the Texas Water Code, a permit is not required under these Temporary Rules to drill, equip, operate, or complete a well, produce water from a well, or to substantially alter the size or capacity of a well. Permitting requirements will be developed and adopted by the District in the future after it has had a sufficient opportunity to further develop and implement its Management Plan and carefully consider the available regulatory methods and how such methods may impact the community, landowners and other water users in the District while achieving adequate management of the groundwater resources. Permitting rules will be adopted only after ample opportunity has been afforded to the public through the notice and hearing process to allow participation in the development of permitting rules.

Rule 3.4 Registration Requirements for New Wells.

- (a) Well owners of all new wells to be completed after the effective date of these Rules shall submit an application for well registration form to the District, and the District shall register all new wells drilled on or after January 1, 2010.
- (b) A person seeking to register a well under this Section shall provide the District with the following information in the registration application on a form provided by the District:

1. Applicant data: The name and mailing address of the registrant and the owner of the property, if different from the registrant, on which the well is or will be located. If the registrant is other than the owner of the property, the registrant shall also provide supplemental documentation proving that the individual has the authority to file the application for well registration, serve as the registrant in lieu of the property owner, and construct and operate the well for the proposed use;
 3. Well use information: Information on the nature and purpose of the existing or proposed use of water from the well;
 4. Well location: The location of the well and the location of the water use from the well if different from the well's location;
 5. Production capacity calculations: The production capacity of the well, as equipped, in gallons per minute;
 6. Closure plans: A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;
 7. Provision against waste: A statement that the water withdrawn from the well will be put to beneficial use at all times; and
 8. Other information: Any other information deemed necessary by the Board.
- (c) Once a registration is considered administratively complete, which also includes receipt by the District of the well report required by Rule 3.8, the registration shall be perpetual in nature, subject to being amended or transferred and to enforcement for violations of these Rules.

Rule 3.5 Registration Requirements for All Existing Wells.

- (a) The owner of an existing well must register the well with the District between before January 1, 2010. There is no charge for timely registering an existing water well. Failure of the owner to timely register a non-exempt existing well under this Rule shall subject the well owner to a \$50 late registration fee.
- (b) Existing well owners that do not register their well(s) prior to January 1, 2010 will be presumed to be wells not in existence prior to the adoption of these Temporary Rules. After January 1, 2010, existing well owners shall submit additional evidence that the well existed before the adoption of these Temporary Rules for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District and any other entitlements that existing wells may receive under these Temporary Rules.

Rule 3.6 Registration of New Wells or Alterations to Existing Wells Required Prior to Drilling or Alteration.

- (a) An owner or well driller, or any other person legally authorized to act on their behalf, must submit a completed water well registration form and well report deposit with the District before any new well, except leachate wells or monitoring wells, may be drilled, equipped, or completed, or before an existing well may be substantially altered with respect to size or capacity, beginning on and after TBD.
- (b) A registrant for a new well has 120 days from the date of filing its application for well registration of an exempt well to drill and complete the new well, and must file the well report within 60 days of completion.
- (c) If the well report for a new well is timely submitted to the District, the District shall return the well report deposit to the owner or well driller. In the event that the well report required under this rule and Rule 4.7 are not filed within 60 days after the date the well is completed, the driller shall forfeit the well report deposit and shall be subject to enforcement.

Rule 3.7 General Provisions Applicable to Registrations.

- (a) Registration forms may be submitted to the District in person, by mail, or by telephonic document transfer, using the registration form provided by the District. The District registration form can be downloaded from the District's website at www.pcgcd.org or can be obtained at the District office.
- (b) A determination of administrative completeness of a registration application shall be made by the General Manager. If an application is not administratively complete, the District shall notify the applicant in writing and request the applicant to complete the pending application. The application will expire and be returned to the applicant if not completed within 90 days of the date of the District's initial request to complete the pending application. An application will be considered administratively complete if it substantially complies with all requirements set forth under Rule 4.4, including all information required to be included in the application that may be obtained through reasonable diligence.
- (c) After the District adopts permanent District Rules, the General Manager shall review the registration and make a preliminary determination on whether the well will be required to obtain a permit from the District.
- (d) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information supplied in the application. A finding that false information has been supplied in the application may be grounds to deny approval of the registration or to revoke, suspend, or postpone the registration.

- (e) Submission of a registration application constitutes an acknowledgment by the registrant of notice and receipt of the rules and regulations of the District and agreement that the registrant will comply with all District Rules and regulations, as they may be amended from time to time.
- (f) The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36 of the Texas Water Code.
- (g) If multiple wells have been aggregated into one registration and one or more wells under the registration will be transferred, the District will require separate registration applications from each new owner of the wells obtained by that person.

Rule 3.8 Records of Drilling and Pump Installation and Alteration Activity

- (a) Each person who drills, deepens, completes or otherwise alters a well shall make, at the time of drilling, deepening, completing or otherwise altering the well, a legible and accurate well report recorded on forms prescribed by the District or by the Texas Department of Licensing and Regulation (“TDLR”). Each person who drills a water well within the District boundaries shall adhere to the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code.
- (b) Each well report required by subsection (a) of this Rule shall contain:
 - (1) the name and physical address of the well owner;
 - (2) the location of the drilled, deepened, completed or otherwise altered well, including the physical address of the property on which the well will be located, and the coordinates of the wellhead location, as determined by a properly functioning and calibrated global positioning system (GPS) unit;
 - (3) the type of work being commenced on the well;
 - (4) the proposed use of water from the well;
 - (5) the diameter of the well bore;
 - (6) the date that drilling was commenced and completed, along with a description of the depth, thickness, and nature of each strata penetrated;
 - (7) the drilling method used;
 - (8) the borehole completion method performed on the well, including the depth, size and nature of the casing installed;
 - (9) a description of the annular seals installed in the well;
 - (10) the surface completion method performed on the well;

- (11) the location of water bearing strata, including the static level and the date the level was encountered, as well as the measured rate of any artesian flow encountered;
 - (12) the type and depth of any packers installed;
 - (13) a description of the plugging methods used, if applicable;
 - (14) the type of pump installed on the well, including the horsepower rating of the pump, as assigned by the pump manufacturer;
 - (15) the type and results of water tests conducted on the well, including the yield, in gallons per minute, of the pump operated under optimal conditions in a pump test of the well; and
 - (16) a brief description of the water quality found in the well;
- (c) As set forth in Rule 4.6, the person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within 60 days after the date the well is completed, file a well report described in Subsections (a) and (b) of this Rule with the District. Failure to submit a well report within 60 days may result in suspension of operations until the well report is submitted to the District.

Rule 3.9 Transfer of Well Ownership

- (a) Within 90 days after the date of a change in ownership of a well, the new well owner (transferee) shall notify the District in writing of the effective date of the change in ownership, the name, daytime telephone number, and mailing address of the new well owner, along with any other contact or well-related information requested by the General Manager. The new well owner may, in addition, be required to submit an application for registration of an existing well if a registration does not yet exist for the well. The new well owner of an existing well shall not be subject to any late registration penalties or enforcement if the new owner submits existing well registration to the District within 90 days after the date ownership of the well commenced.
- (b) Within 90 days after the date of a change in ownership of a well, the new well owner (transferee) shall submit to the District, on a form provided by the District staff, a signed and sworn-to application for transfer of ownership.
- (c) If a registrant conveys by any lawful and legally enforceable means to another person the real property interests in one or more wells or a well system that is recognized in the registration so that the transferring party (the transferor) is no longer the "well owner" as defined herein, and if an application for change of ownership under subsection (b) has been approved by the District, the District shall recognize the person to whom such interests were conveyed (the transferee) as the legal holder of the registration, subject to the conditions and limitations of these District Rules.

- (d) The burden of proof in any proceeding related to a question of well ownership or status as the legal holder of a registration issued by the District and the rights thereunder shall be on the person claiming such ownership or status.
- (e) Notwithstanding any provision of this Rule to the contrary, no application made pursuant to Subsection (b) of this Rule shall be granted by the District unless all outstanding fees, penalties, and compliance matters have first been fully remedied and paid or otherwise resolved by the transferring party (transferor) for all wells included in the application or existing registration, and each well and registration made the subject of the application is otherwise in good standing with the District.

Rule 3.10 Amendment of Registration.

A registrant shall file an application to amend an existing registration prior to conducting any activity that would constitute a material change from the information provided in the existing registration on file with the District. For purposes of this rule, a material change includes a change that would substantially alter the size or capacity of a pump, a change in the type of use of the water produced, the addition of a new well to be included in an already registered aggregate system, a change in location of a well or proposed well, a change of the location of use of the groundwater, or a change in ownership of a well. A registration amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the designed production capabilities of the well.

SECTION 4. **SPACING AND LOCATION OF WELLS; WELL COMPLETION**

Rule 4.1 Spacing and Location of Existing Wells.

Wells drilled prior to the effective date shall be drilled in accordance with state law in effect, if any, on the date such drilling commenced and are exempt from the spacing and location requirements of these rules to the extent that they were lawfully drilled.

Rule 4.2 Spacing and Location of New Wells.

- (a) All new well construction 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. All such new wells must also be drilled or completed at locations that comply with the minimum distance from the nearest registered well, and the minimum distance from the property lines for the land upon which the well is to be located, as provided in the Rule 4.3, unless an exception is granted by the Board under this rule. As used in this Section, "tract" shall mean a surface estate plat, surface estate deed, or other legally recognized surface estate property

conveyance recorded in the deed records of the county in which the real estate is located, and "property line" shall mean the property line of such tract.

- (b) After authorization to drill a well has been granted under the District's registration rules, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location identified in the registration, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code, and these Rules.
- (c) Exceptions to Spacing Requirements:
 - (1) The Board may grant exceptions, within its discretion, to the spacing requirements of the District.
 - (2) If an exception to the spacing requirements of the District is desired, a person shall submit an application to the Board. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a plat or sketch of the proposed well site and must include the surrounding wells within one-half mile radius, drawn to scale. The plat or sketch must show the property lines in the immediate area and show accurately, to scale, all registered wells within one-half mile radius of the proposed well site. The application must contain the names and addresses of all owners of property whose property adjoins the tract on which the proposed well is to be located. The application must contain the names and addresses of all owners of existing registered wells within one-half mile of the proposed well site. The application and plat must be certified by the well owner and the application must be sworn to.
 - (3) The applicant must provide written notice to all adjacent property owners and existing registered wells within one-half mile radius from the proposed well site. After notice and public hearing where all interested parties may appear and be heard, the Board may determine whether an exception should be granted.
 - (4) If the Board grants an exception to its spacing requirements, the well owner granted the spacing exception is required to have the spacing exception recorded in the property deed records of the Panola County and shall provide the District with a copy of the recordation within 60 days.
 - (6) Notwithstanding anything to the contrary, the Board shall grant an exception to the spacing requirements upon application by a person and without the need for written notice to other landowners or well owners to drill a well on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully configured prior to the effective date as a tract that is too small to comply with the spacing requirements set forth under Rule 4.3, only if:

(A) the well is to be used solely for domestic, livestock, or poultry watering use;

(B) the well as equipped is incapable of producing more than 17.36 gallons of water per minute; and

(C) such tract is not further subdivided into smaller tracts of land after the effective date and prior to the drilling, completion, or equipping of the well.

(7) The burden of proof in any proceeding related to an application for an exception to a spacing requirement shall be on the applicant. The Board may impose additional restrictions on the exact location of a well to be drilled pursuant to an exception granted.

(e) Compliance with the spacing and location requirements of these rules or the grant of an exception to such requirements does not necessarily authorize the drilling of a well at a specified location in the District. Agencies or other political subdivisions of the State of Texas that are located in whole or in part within the boundaries of the District may impose additional requirements, apart from the District's requirements, related to the drilling or completion of water wells.

Rule 4.3 Well Spacing Requirements

All new wells drilled or completed in the District shall observe the spacing and tract size requirements as follows:

Casing Size	Spacing from Other Well Sites	Spacing from Property Line
The inside diameter, measured in inches, at the screened interval of the casing or well screen installed within the borehole of a well for the purpose of preventing collapse of the borehole, protecting water quality or for any other purpose.	The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered well or approved well site.	The minimum distance, in feet, that a new well or proposed well site may be located from the nearest property line of the tract of land on which it is to be located.
5-inch or less	150 feet	50 feet
More than 5-inch but less than 8-inch	1,200 feet	100 feet
8-inch or larger but less than 10-inch	1,800 feet	200 feet
10-inch or larger	2,400 feet	400 feet

Rule 4.4 Standards of Completion for All Wells

- (a) 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, and under these Rules.
- (b) Water well drillers shall indicate the method of completion on the well report.
- (c) To prevent the commingling of water between the aquifer subdivisions, which can result in a loss of artesian (or static) head pressure or the degradation of water quality, each well penetrating more than one subdivision thereof must be completed in a manner so as to prevent the commingling of groundwater between the subdivisions of the aquifer. The driller shall indicate the method of completion used to prevent the commingling of water on the well report. The well driller may use any lawful method of completion calculated to prevent the commingling of groundwater. The following is one well completion method that may be used by a well driller for wells penetrating more than one subdivision or formation:
 - (1) Verify and document the depth of the overlying subdivision with a geophysical log indicating the base of the overlying subdivision and provide a copy of the log to the District prior to completion of the well.
 - (2) Notwithstanding the borehole completion requirements in Chapter 76.1000, Texas Occupations Code, drill the borehole of the well that will penetrate the overlying subdivision to a diameter at least 4 inches greater than the largest outside dimension of the casing to be installed in the well, creating an annulus of at least 2 inches in all directions around the casing. Install at least one centralizer at a distance halfway between the land surface and the base of the casing.
 - (3) Extend the borehole (drilled to a diameter at least 4 inches greater than the largest outside dimension of the casing to be installed) to a depth at least 10 feet greater than the base of the overlying subdivision as identified in the geophysical log provided the District.
 - (4) Cement the 2-inch casing annulus by means of positive pressure displacement or tremie method from the depth identified as being at least 10 feet below the identified base of the overlying subdivision to land surface.
 - (5) Notify the District at least 24 hours prior to the cementing of the casing by positive pressure of the intent to proceed with cementing, to allow the opportunity to observe the cementing procedure.
 - (6) Provide the District with an affidavit of the cementing procedure describing the positive pressure cementing procedure employed, giving the depth to which the well was cemented by positive pressure and the volume of cement used for the procedure within 10 days of cementing.

- (d) In order to protect water quality, the integrity of a proposed well, or loss of groundwater from the well, the District may impose additional well completion requirements on any well authorized to be completed, as determined necessary by the Board.

SECTION 5.
TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT

Rule 5.1 General Requirements.

- (a) A person who produces or wishes to produce water from a well located or to be located within the District and transport such water for use outside of the District must register the well and submit timely payment of the Groundwater Transport Fee to the District pursuant to Rule 6.2 for any water transported out of the District. The District may require the person to install any meters necessary to report the total amount of groundwater transported outside of the District for reporting purposes and for purposes of calculating the Groundwater Transport Fee.
- (b) The District may not regulate production of groundwater or assess fees against the transport of water produced in an area of a retail public utility that is located inside the District boundaries and transported for use to an area that is within the same retail public utility but that is located outside the District boundaries if the majority of the geographic area of the retail public utility's boundaries or defined service area is within the boundaries of the District and the majority of the groundwater produced is used within the boundaries of the District. If conditions change over time such that the majority of such geographic area or use is not within the boundaries of the District, the groundwater transported for use outside of the District shall be assessed the Groundwater Transport Fee.

Rule 5.2 Reporting.

A person transporting groundwater for use outside of the District and subject to the requirement to pay the Groundwater Transport Fee shall file annual reports with the District indicating the amount of water transported and used outside the District. The report shall be filed with the District no later than **February** 1st of each year on the appropriate form provided by the District and shall state the following:

- (1) the name of the person;
- (2) the well registration number of each well from which the person has produced groundwater transported for use outside the District;
- (3) the total amount of groundwater produced from each well or well system during the previous calendar year;
- (4) the total amount of groundwater transported outside of the district from each well or well system during each month of the previous calendar year;
- (5) the purposes for which the water was transported;
- (6) the amount and source of surface water transported, if any; and

(7) any other information reasonably requested by the District.

SECTION 6.
FEES AND PAYMENT OF FEES

Rule 6.1 Groundwater Transport Fee.

The District shall impose a 50 percent export surcharge in addition to the District's water use fee established for in-District use for the groundwater produced within the District's boundaries that is transported for use outside of the District, except as provide by Rule 5.1(b). The procedures, requirements, and penalties regulating payment of the Water Use Fee shall apply to payment of the Groundwater Transport Fee.

Rule 6.2 Payment of Fees.

- (a) All fees for groundwater production or transport in a calendar year are due to the District by February 1st of the following calendar year. The registrant may determine whether to pay the annual water use fee in advance or quarterly, as set forth under Rule 6.4.
- (b) A well that is subject to fee payment and that provides water for both agricultural and non-agricultural purposes shall pay the water use fee rate applicable to non-agricultural purposes for all water produced from the well, unless the applicant can demonstrate to the District that a system is or will be in place so as to assure an accurate accounting of water for each purpose of use.

Rule 6.3 Failure to Make Fee Payments.

- (a) Fee payments determined to be greater than 30 days late from the date due and owed to the District pursuant to Rule 7.3(a) or Rule 7.4(c) will be subject to a late payment fee of the greater amount of the following:
 - (1) \$25.00; or
 - (2) ten percent (10 %) of the total amount of annual water use fees due and owing to the District.
- (b) Fee payments determined to be greater than 60 days late of the date from the date due and owed to the District pursuant to Rule 6.3(a) or Rule 6.4(c) shall be subject to a civil penalty not to exceed three (3) times the amount of the outstanding water use fees due, in addition to the late fee penalty provided for in Subsection (a) of this Rule, and may be subject to additional enforcement measures provided for by these Rules or by order of the District Board.

Rule 6.4 Enforcement.

After a well is determined to be in violation of these rules for failure to make payment of water use fees or groundwater transport fees on or before the 60th day following the date such fees are due pursuant to Rule 7.3, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager.

Rule 6.5 Returned Check Fee.

The Board may, by resolution, establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository.

Rule 6.6 Well Report Deposit.

The Board, by resolution, may establish a well report deposit to be held by the District as part of well registration. The District shall return the deposit if all relevant well logs are timely submitted to the District. If the District does not timely receive all relevant well logs, or if rights granted within the registration are not utilized in a timely manner, the deposit shall become the property of the District. The Board may also establish a schedule of forfeiture, whereby the depositor forfeits an established amount upon the well report being seven (7) days late, and may increase as the District sees fit depending on the number of days the depositor is late.

SECTION 7.
INSPECTION AND ENFORCEMENT MECHANISMS

Rule 7.1 Purpose and Policy.

The District's ability to effectively manage and preserve the limited groundwater resources within the District relies entirely upon adherence to the rules promulgated by the Board to carry out the District's authorized duties and purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, to protect against degradation of water quality and to prevent waste of those resources. The ability to enforce these rules in a reasonable, uniform, and effective manner will make it possible for the District to accomplish its purposes. The inspection and enforcement rules and procedures provided in this Section are in accordance with the responsibilities delegated to the District by the Texas Legislature through the District Act and through Chapter 36 of the Texas Water Code.

Rule 7.2 Rules Enforcement.

- (a) If it appears that a person or entity has violated, is currently violating, or threatens to violate any provision of the District Rules, the Board may institute and conduct a suit in a court of competent jurisdiction in the name of the District for injunctive relief, recovery of a civil penalty in an amount set by District Rule per violation, may seek both an

injunctive relief and a civil penalty, or any other appropriate remedy authorized by law. Each day of a continuing violation constitutes a separate violation.

- (b) Unless otherwise provided in these rules, the penalty for a violation of any District rule shall be either:
 - (1) \$10,000.00 per violation; or
 - (2) a lesser amount, based on the severity of the violation, as set forth in an enforcement policy that may include a civil penalty and a disincentive fee schedule, and the policy shall be adopted by the Board pursuant to Sections 36.101 and/or 36.1011 of the Texas Water Code, which shall be incorporated by reference into these Temporary Rules and shall constitute a Rule of the District for all purposes herein.
- (c) A penalty under this section is in addition to any other penalty provided by law and may be enforced by filing a complaint in a court of competent jurisdiction in the Panola County.
- (d) If the District prevails in a suit to enforce its Rules, the District may seek, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District in pursuit of its rules enforcement before the court. The amount of attorney's fees awarded by a court under this Rule shall be fixed by the court.

Rule 7.3 Failure to Report Pumpage and/or Transported Volumes.

The accurate reporting and timely submission of pumpage and/or transported volumes outside of the District is essential for the proper management of water resources in the District. The failure of a well owner/registrant required by these Temporary Rules to submit complete, accurate, and timely pumpage and groundwater transportation reports may result in the following:

- (a) the assessment of any fees or penalties adopted under Rule 10.2 for meter reading and inspection as a result of District inspections to obtain current and accurate pumpage and/or transported volumes out of the District; and
- (b) additional enforcement mechanisms provided by these Rules or by order of the Board.

Rule 7.4 District Inspections.

No person or entity shall unreasonably interfere with the District's efforts to conduct inspections or otherwise comply with the requirements, obligations, and statutory authority provided in Section 36.123 of the Texas Water Code.

Rule 7.5 Notice of Violation.

Upon determination by the District that a person has violated or is violation of any provision of the District's Rules, including the terms of any rule or order issued by the District, it may employ any of the following means, or a combination thereof, in providing notice of the violation:

- (a) **Informal Notice:** The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation via telephone by informing, or attempting to inform, the appropriate person to explain the violation and the steps necessary to cure the violation. The information received by the District through this informal notice concerning the violation and the date and time of the telephone call will be documented and will remain in the District's files.. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
- (b) **Written Notice of Violation:** The District may inform the person of the violation through written notice of violation. Each notice of violation issued herein shall explain the basis of the violation, identify the rule or order that has been violated or is currently being violated, and list specific required actions that must be satisfactorily completed to cure a past or present violation to address each violation raised ,and may include the payment of applicable civil penalties. Notice of a violation issued herein shall be provided through a delivery method in compliance with District Rule 1.7. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
- (c) **Compliance Meeting:** The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The General Manager may conduct a compliance meeting without the Board, unless otherwise determined by the Board or General Manager. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.

Rule 7.6 Show Cause Hearing.

- (a) Upon recommendation of the General Manger to the Board or upon the Board's own motion, the Board may order any person that it believes has violated or is violating any provision of the District's Rules a District order to appear before the Board at a public meeting, held in accordance with the Texas Open Meetings Act, and called for such purpose and to show cause of the reasons an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be pursued against the person(s) made the subject of the show cause hearing.
- (b) No show cause hearing under subsection (a) of this Rule may be conducted unless the District serves, on each person made the subject of the show cause hearing, a written

notice 30 days prior to the date of the hearing. Such notice shall include all of the following information:

- (1) the time, date, and place for the hearing; and
 - (2) the basis of each asserted violation; and
 - (3) the rule or order that the District believes has been violated or is currently being violated; and
 - (4) a request that the person duly appear and show cause of the reasons an enforcement action should not be pursued.
- (c) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person cited fails to appear and show cause of the reasons an enforcement action should not be pursued.
- (d) Nothing in this rule shall constrain the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time, regardless of whether the District decides to hold a hearing under this Section.

SECTION 8.

EFFECTIVE DATE OF THESE TEMPORARY RULES

Rule 8.1. Effective Date.

These Rules take effect on January 20, 2009 the date of their original adoption. It is the intent of the District that these Temporary Rules and amendments hereto be applied retroactively to activities involving the production and use of groundwater resources located in the District, as specifically set forth in these Rules.