

**RULES OF THE DUVAL COUNTY
GROUNDWATER CONSERVATION DISTRICT**

Effective _____, 2016

RULE REVISION RECORD

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

Date Approved	Effective Date	Affected Rules
February 16, 2010	February 16, 2010	Original Rules
, 2016	, 2016	Repealed February 16, 2010 Rules
, 2016	, 2016	Adopted All Rules

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

TABLE OF CONTENTS

Table of Contents.....	2
Rule 1: GENERAL PROVISIONS	5
1.1 Authority to Promulgate Rules.....	5
1.2 District Boundaries.....	5
1.3 Purpose of the Rules	5
1.4 Effective Date	6
1.5 Action on Rules	7
1.6 Regulatory Compliance	7
1.7 Variances.....	8
1.8 Administrative Fees.....	8
1.9 Annexations.....	8
Rule 2: DEFINITIONS	10
Rule 3: REGISTRATION AND PERMITTING.....	27
3.1 Wells Subject to Operating Permits and Exemptions	27
3.2 Required Registration of Wells.....	27
3.3 Registration Applications.....	28
3.4 Required Operating Permit for Non-Exempt Wells	30
3.5 Information Required in an Operating Permit Application	30
3.6 Processing an Operating Permit Application and Issuance of Permit.....	32
3.7 Considerations for Issuing an Operating Permit.....	34
3.8 Change in Well Conditions or Operations.....	36
3.9 Change in Non-Exempt Well Conditions or Operations	37
3.10 Change in Well Ownership, Transfer of Well Registration Certificate or Operating Permit	38
3.11 Operating Permit Term and Renewal	39
3.12 Involuntary Amendment or Revocation of an Operating Permit.....	39
3.13 Replacing a Well.....	40
3.14 Responsibility for Compliance.....	41
Rule 4: WELL CONSTRUCTION STANDARDS	42
4.1 State Standards Applicable	42
4.2 Additional Well Construction Standards.....	42
4.3 Watertight Sanitary Seal.....	42
4.4 Access for Testing	42
4.5 Responsibility for Compliance.....	43
Rule 5: REPORTING AND RECORDKEEPING	44
5.1 Well Drilling, Completion, and Water Data Reporting	44
5.2 Annual Water Production Report for Non-Exempt Wells	44

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

5.3	<i>Plugging Report</i>	44
5.4	<i>Annual Water Production Report for Exempt Oil and Gas Water Wells</i>	45
5.5	<i>Water Wells Associated with Uranium Exploration and Mining</i>	46
5.6	<i>Water Pollution Event Reporting</i>	46
5.7	<i>Annual Transport Water Report</i>	46
Rule 6:	PLUGGING, CAPPING, AND SEALING OF WELLS	48
6.1	<i>Plugging Water Wells</i>	48
6.2	<i>Well Plugging Reimbursement Program</i>	48
6.3	<i>Capping Water Wells</i>	51
6.4	<i>Sealing Wells</i>	52
Rule 7:	ENFORCEMENT	53
7.1	<i>Complaints and Investigations</i>	53
7.2	<i>Notice of Violation</i>	54
7.3	<i>Penalty Schedule</i>	54
7.4	<i>Suspension of Transport Permits</i>	55
7.5	<i>Notice and Access to Property</i>	55
7.6	<i>Civil Enforcement</i>	56
Rule 8:	PROCEDURAL RULES	58
8.1	<i>Actions on Budget, Management Plan, Bylaws, and Fee Schedules</i>	58
8.2	<i>Hearing on Rules (Other Than Emergency Rules)</i>	58
8.3	<i>Adoption of Emergency Rules</i>	60
8.4	<i>Actions On Operating Permits</i>	61
8.5	<i>Public Hearing on Operating and Transport Permit and Amendment Applications</i> 61	
8.6	<i>Contested Case Hearings on Permitting Actions</i>	64
8.7	<i>Contested Case Hearing Referred to SOAH</i>	69
8.8	<i>Show Cause Hearing</i>	70
8.9	<i>Procedures for Joint Planning</i>	71
Rule 9:	WATER WELLS ASSOCIATED WITH URANIUM EXPLORATION AND MINING ..	76
9.1	<i>Uranium Exploration Activities</i>	76
9.2	<i>Injection Well Area Permit for In Situ Uranium Mining</i>	78
9.3	<i>Aquifer Exemption Boundaries Reporting Requirement</i>	80
Rule 10:	WELL LOCATION AND SPACING	81
10.1	<i>Purpose</i>	81
10.2	<i>Applicability</i>	81
10.3	<i>Well Location Requested in Application</i>	81
10.4	<i>Spacing from Potential Sources of Pollution</i>	82
10.5	<i>Spacing From Property Lines</i>	82

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

10.6	<i>Well Spacing Variance Procedures</i>	83
10.7	<i>Responsibility for Compliance</i>	84
Rule 11:	PRODUCTION LIMITS	86
11.1	<i>Existing Non-Exempt Wells</i>	86
11.2	<i>New Non-Exempt Wells</i>	86
11.3	<i>Effect of Drought on Production Limits</i>	87
Rule 12:	PROHIBITION AGAINST WASTE AND POLLUTION.....	89
12.1	<i>General Prohibition</i>	89
12.2	<i>Wasteful Use</i>	89
12.3	<i>Wasteful Production</i>	89
12.4	<i>Groundwater Pollution</i>	89
12.5	<i>Orders to Prevent Waste or Pollution</i>	89
RULE 13:	WATER WELLS ASSOCIATED WITH OIL, GAS, AND MINING ACTIVITIES	91
13.1	<i>District Jurisdiction over Water Wells Associated with Oil and Gas Activities</i>	91
13.2	<i>Water Wells Associated with Oil and Gas Activities</i>	91
RULE 14:	TRANSPORT OF WATER FOR USE OUT-OF-District	94
14.1	<i>Applicability</i>	94
14.2	<i>Required Transport Permit</i>	94
14.3	<i>Information Required in a Transport Permit Application</i>	94
14.4	<i>Processing a Transport Permit Application and Issuing a Permit</i>	97
14.5	<i>Considerations for Issuing a Transport Permit</i>	99
14.6	<i>Transport Fee</i>	100
14.7	<i>Revocation of a Transport Permit</i>	101
14.8	<i>Permit Term, Renewal, and Extension</i>	101
14.9	<i>Other Changes to a Transport Permit</i>	102

RULE 1: GENERAL PROVISIONS

1.1 Authority to Promulgate Rules

A. The Duval County Groundwater Conservation District is a political subdivision of the State of Texas. The District was created by the 79th Legislature 2005 by Senate Bill 1847, subject to voter approval. Senate Bill 1847 gives the District all of the rights, powers, privileges, authority, functions and duties provided under the general law of this state, including Texas Water Code Chapter 36, applicable to Groundwater Conservation Districts created under Section 59, Article XVI, of the Texas Constitution. The District's Enabling Legislation has been codified in Texas Special District Law Code, chapter 8808.

B. In a confirmation election held on July 25, 2009, District voters confirmed the creation of the District and elected five Directors to the Board of Directors. As a duly created and confirmed Groundwater Conservation District, the District may exercise any and all statutory authority or power conferred under its Enabling Legislation and under Chapter 36 of the Texas Water Code, including the adoption and Enforcement of Rules under Section 36.101 Rule Making Power. All references to statutory provisions in these Rules are to those provisions as may be amended from time to time.

C. The District is located within Groundwater Management Area 16. The District is located in the Coastal Bend Regional Water Planning Area (N).

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.2 District Boundaries

The District includes all territory located within Duval County.

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.3 Purpose of the Rules

A. The District Rules are promulgated under its Enabling Legislation and the Texas Water Code Chapter 36 authority to make and enforce Rules to provide for the Conservation, preservation, protection, and Recharge of Groundwater and aquifers within the District, in order to control subsidence, prevent degradation of water quality, and to prevent Waste, while recognizing the ownership and rights of the owners of the land and their lessees and assigns in Groundwater. Consistent with Texas Water Code section 36.0015, the District through these Rules will manage Groundwater in a manner that protects

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

property rights, balances the conservation and development of Groundwater to meet the needs of this state, and uses the Best Available Science in the Conservation and development of Groundwater.

B. The District recognizes that a landowner owns the Groundwater below the surface of his land as real property and has any other right recognized under common law. This entitles the landowner, his lessees, heirs, or assigns, to drill for and produce the Groundwater without causing Waste or malicious drainage of other property or negligently causing subsidence, but it does not give them the right to capture a specific Volume of Groundwater and does not affect any defenses to liability under the rule of capture.

C. While the District does not have the authority to deprive or divest a landowner, his lessees, heirs, or assigns of the Groundwater ownership and rights described in Rule 1.3.B, the District does have the authority to adopt and enforce Rules:

- (1) to limit or prohibit the drilling of a Well if the location does not comply with minimum spacing or tract size requirements adopted by the District;
- (2) to regulate Groundwater production as authorized under Texas Water Code Chapter 36 or a special law governing the District; and
- (3) to allocate to each landowner a proportionate share of available Groundwater for production from an aquifer based on the number of acres owned.

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

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.4 Effective Date

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

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.5 Action on Rules

- A.** The Board may from time to time, following notice and Public Hearing, amend or revoke these Rules or adopt new Rules following the procedures of Rule 8.2.
- B.** The Board may adopt an Emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 8.3.
- C.** In adopting, amending, or revoking a rule, the District must:
- (1) consider all Groundwater needs and uses;
 - (2) develop Rules that are fair and impartial;
 - (3) consider the Groundwater ownership rights described in Texas Water Code 36.002 and District Rule 1.3.B;
 - (4) consistent with the objectives of Section 59, Article XVI of the Texas Constitution, consider the public interest in Conservation, preservation, protection, recharging and prevention of Waste of Groundwater; and controlling subsidence;
 - (5) consider the goals of the District's Management Plan; and
 - (6) not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal Conservation program.
 - (7) protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater.

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.6 Regulatory Compliance

All Wells located within the District, Owners and Operators of those Wells, and others under the jurisdiction of the District, shall be in compliance with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.7 Variances

A. Any exceptions or Variances to the requirements imposed by District Rules shall be considered on a case-by-case basis. A request for Variance shall be submitted in writing and include the reasons for the request.

B. This Rule 1.7 is not applicable to a request for a Variance from an Operating Permit requirement. A Variance from any requirements contained in an Operating Permit requires an Application for an Amendment pursuant to Rule 3.9.

C. A request for a Variance from the Spacing requirements of Rule 10 must comply with Rule 10.6.

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.8 Administrative Fees

Texas Water Code Section 36.205 authorizes the District to assess Fees for administrative acts of the District. Such Fees shall not unreasonably exceed the cost to the District of providing the administrative function for which the Fee is charged. Fees shall be assessed in accordance with the District Fee Schedule set by the Board. If the Board adopts a Fee Schedule, a copy will be available at the District Office and on the District website.

Adopted _____, 2016, by Board Order; effective _____, 2016.

1.9 Annexations

A. Unless this restriction is waived by the Board, petitions for annexation of territory into the District shall only be considered by the Board each October.

B. A petition by an owner of land not already in the District and filed under Texas Water Code Sections 36.321 – 36.324 shall comply with those sections and must include the following information:

- (1) An executed and notarized annexation Application on a form obtained from the District;
- (2) A description of the annexed property by metes and bounds;

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (3) A plat or map identifying and designating the property to be considered for annexation;
- (4) A copy of the landowner's most recent property tax statement;
- (5) Population and census data; and
- (6) Other information requested by the District.

C. A petition of a defined area of territory, whether or not contiguous, filed under Texas Water Code Sections 36.325 – 36.331 shall comply with those sections. The petitioner must have a pre-petition meeting with the General Manager during which the petition process will be detailed.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 2: DEFINITIONS

Abandoned Oil or Gas Well - an artificial penetration into or through water-bearing strata for the purpose of exploring for or producing oil or gas, which the Railroad Commission deems as being abandoned.

Abandoned Well - a Well that is not in use. A Well is considered to be in use if:

- (1) the Well is not a Deteriorated Well and contains the casing, pump, and pump column in good condition;
- (2) the Well is not a Deteriorated Well and has been Capped;
- (3) the water from the Well has been put to an authorized Beneficial Use, as defined by the Texas Water Code and District Rule;
- (4) the Well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or
- (5) the Well Owner is participating in the Conservation Reserve Program authorized by Sections 1231 - 1236, Food Security Act of 1985 (16 U.S.C. §§3831 - 3836), or a similar governmental program.

Administratively Complete - An Application that contains the information required by Texas Water Code Sections 36.113 and 36.1131 and District Rule 3. In the case of a Transport Permit, an Application that contains the information required by Texas Water Code Section 36.122 and District Rule 14.

Agent - one who is authorized to act for or in place of another; a representative. For purposes of these Rules, this includes a Person who reasonably appears to have authority to act for another, regardless of whether actual authority has been conferred.

Aggrieved Party - for purposes of District Rule 7.1 and Texas Water Code Section 36.119, a Landowner or other Person who has a right to produce Groundwater from land that is adjacent to the land on which the Well subject to a complaint is located, or who owns or otherwise has a right to produce Groundwater from land that lies within one-half mile of the subject Well.

Agricultural Use or Purpose - the use of Groundwater for:

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

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

Alter a Well - The process of changing the original design or intent of a Completed Well.

Annual Water Production Report for Non-Exempt Wells - a District form regarding production from a Non-Exempt Well required to be completed and submitted under Rule 5.2.

Annual Water Production Report for Registered Oil and Gas Water Supply Wells - a District form required to be completed and submitted under Rule 5.4.

Applicant – the Person who submits the paperwork and information required by the District to request authorization for the specified action.

Application – the paperwork and information required by the District to be submitted on or with a District form obtained from the District or on its website to request authorization for the specified action.

Application to Participate in the Well Plugging Reimbursement Program – a District form described in District Rule 6.2.B (1), to be submitted to the

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

District by a Person desiring to participate in the District's Well Plugging Reimbursement Program under District Rule 6.2.

Aquifer Exemption – approval by the U.S. Environmental Protection Agency required in conjunction with approving a Class III Underground Injection Control (UIC) permit under the Safe Drinking Water Act and Texas Water Code Chapter 27, finding under 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13 that an underground aquifer is not suitable for or used for drinking water purposes.

Area Permit – a Class III Underground Injection Control Well Permit issued pursuant to Texas Water Code Section 27.011 and 30 Texas Administrative Code Chapter 331 for In Situ Mining of Uranium that authorizes the construction and operation of production and Monitoring Wells used in operations and restoration associated with In Situ Mining of Uranium. It may authorize two or more similar Class III Injection Wells within a specified area for In Situ Mining of Uranium.

Area Permit Application - an Application submitted to the Texas Commission on Environmental Quality to obtain an Area Permit for In Situ Mining of Uranium under Texas Water Code Chapter 27 and 30 Texas Administrative Code Chapter 331.

Area Permit Registered Well – a Well that is used during the development of an Area Permit Application to obtain required pre-mining geologic, hydrologic, and water quality information. The Well must be registered with the Texas Commission on Environmental Quality under Texas Water Code Section 27.023(b) and 30 Texas Administrative Code 331.221.

Area Permit Registered Well Production Report - a report required under Texas Water Code 27.024(a) (4), 30 Texas Administrative Code 331.223, and District Rule 9.2.B.

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

Artesian Well – a Well in which the water will rise in the Well casing or drilled hole above the bottom of the confining bed overlying the aquifer due to pressure in a confined aquifer.

Assignment of Reimbursement – a District form to be submitted to the District by a Well Owner participating in the District's Well Plugging Reimbursement Program under Rule 6.2, which authorizes the District to pay any approved

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

reimbursement monies to the Well Plugging Contractor identified in the form.

Beneficial Use or Purpose - the use of Groundwater for:

- (1) Agricultural, gardening, Domestic, Livestock, municipal, mining, manufacturing, Industrial, Commercial, recreational, or pleasure purposes;
- (2) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- (3) any other Purpose that is useful and Beneficial to the user.

Board – the Board of Directors of the Duval County Groundwater Conservation District.

Capability or Capacity – when referring to production or withdrawal of Groundwater from a Well or to a Well Pump, the Volume over time or the Rate of production or withdrawal.

Capping a Well – placing on a Well covering that is capable of preventing surface Pollutants from entering the Well and sustaining a weight of at least 400 pounds per square inch and constructed in such a way that the covering cannot be easily removed by hand.

Cased Exploration Well Completion Report - Railroad Commission Form SMRD-38U.

Cased Uranium Exploration Well – a cased Well subject to a Uranium Exploration Permit.

Cased Well Production Report - a monthly report required under District Rule 9.1.B that includes the total Volume of water produced by each Cased Uranium Exploration Well used for Monitoring or for Rig Supply and that is located in the area subject to the Uranium Exploration Permit.

Class III Injection Well – Underground Injection Wells authorized under the UIC program to be used for the extraction of minerals, including solution mining of uranium.

Commercial Use or Purpose - the use of Groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use water in those

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

processes, or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering). Does not include Agricultural, Livestock, Industrial, Oil and Gas, temporary rig supply, Oil or Gas secondary recovery supply, or Irrigation Uses.

Complaint Under Texas Water Code Section 36.119 – a written complaint filed pursuant to Rule 7.1 by an Aggrieved Party citing to Texas Water Code Section 36.119 alleging drilling or operating a Well without the required District authorization or producing Groundwater in violation of a District Rule adopted under Texas Water Code Section 36.116(a) (2).

Completion of a Well – when construction of a Water Well is finished, excluding setting the pump. Includes drilling, setting casing, cementing, and constructing the surface pad.

Conservation – see definition of **Water Conservation**.

Contested Case Hearing – an Operating Permit or Transport Permit hearing requested as authorized by Rule 8.6.A, which is noticed and conducted according to the procedures of Rule 8.6 and as applicable, Rule 8.7.

Contested Case Hearing Fee Deposit - Under Texas Water Code 36.416(c) and District Rule 8.7.C, the amount required to be provided to the District by a Person who submits a SOAH Hearing Request.

Contested Case Hearing Request - A written request under Rule 8.6.A asking that the District convene a Contested Case Hearing, made within 20 days of issuance of an order or resolution under Rule 8.5.H ruling on an Operating or Transport Permit or Amendment Application.

Desired Future Condition - a quantitative description, adopted in accordance with Texas Water Code Section 36.108, of the desired condition of the Groundwater resources in a Groundwater Management Area at one or more specified future times.

Deteriorated Well – a Well that, because of its condition, will cause or is likely to cause Pollution of any water in the State, including Groundwater.

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

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

DFC – see definition of Desired Future Condition.

DFC Explanatory Report - the report prepared by the GCDs in GMA-16 after final adoption of the DFC, as required by Texas Water Code Section 36.108(d-4).

DFC Hearing Summary Report - the report required by Texas Water Code Section 36.108(d-2), which includes a summary of relevant comments received on GMA-16's proposed DFC, any suggested revisions to the proposed DFC, and the basis for the revisions.

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

District – the Duval County Groundwater Conservation District or one of its authorized representatives.

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

District Operating Permit Number – a unique number assigned by the District to an Operating Permit for identification purposes.

District Representative – a District Director, employee, or outside consultant acting as an Agent for the District.

District Well Number – a unique number assigned by the District to a Registered Well for identification purposes.

Domestic Use or Purpose - the use of Groundwater by an individual or 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 orchard; for watering domestic animals; and for water recreation including aquatic and wildlife enjoyment. This includes non-Commercial temporary lodging for purposes of recreational enjoyment. Domestic use does not include water used to support activities for which a Person is being paid or for which the product of the activity is sold.

Drillers' Log - see definition of State of Texas Well Report.

Electric Log - a record of certain electrical characteristics (such as resistivity and conductivity) of formations traversed by the borehole. It is made to identify the formations, determine the nature and Volume of fluids they contain, and estimate their depth. It is a type of Geophysical Log.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Emergency Rule – a rule adopted under Rule 8.3.

Emergency Temporary Order – an order issued under Rule 12.5 when the District finds that an imminent peril to public health, safety, or welfare requires the immediate entry of an order to prohibit Waste or Pollution.

Enabling Legislation – special law enactment that created the District, as summarized in Rule 1.1.A, and as may be amended from time to time. Sometimes referred to as the District's organic law.

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

Enforcement Hearing – see definition under Show Cause Hearing.

Environmental Soil Borings - an artificial excavation constructed to measure or Monitor the quality and quantity or movement of substances, elements, chemicals or fluids beneath the surface of the ground. The term does not include any Well that is used in conjunction with the production of oil, gas, or any other minerals.

Exempt Oil and Gas Water Supply Well - a Water Well associated with Oil and Gas Activities that is Incapable of producing more than 25,000 gallons per day, including an Injection Water Supply Well drilled for hydrocarbon activities associated with an Oil or Gas Well that does not penetrate the base of usable quality water.

Exempt Well – a well that is not required to obtain an Operating Permit, as described in Rule 3.1.A.

Existing Well – a Well that has already been drilled and Completed.

Exploration Groundwater Quality Information –information and data about the quality characteristics of Groundwater collected or obtained by a Uranium Exploration Permittee pursuant to Texas Natural Resources Code Section 131.357 and 16 Texas Administrative Code Section 11.141 and Rule 9.1.C.

Export of Groundwater – see definition of Transport of Groundwater.

Fee – a monetary charge imposed by the District pursuant to Texas Water Code Chapter 36.

GCD – see definition of Groundwater Conservation District.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Geophysical log – physical measurements of various geophysical properties of subsurface rock formations. The log is made by instruments lowered into the borehole and can be open borehole or closed borehole. An Electric Log is one category of Geophysical log.

GMA – see definition of Groundwater Management Area.

GMA-16 Joint Planning Committee - the group comprised of all GCDs in GMA-16 organized for the purposes required under Texas Water Code Section 36.108, including adoption of a DFC.

GMA Joint Planning – see definition of Joint Planning.

Groundwater Conservation District - a governmental entity formed by special legislation or through a petition to the Texas Commission on Environmental Quality having the power and duties to manage Groundwater resources within its boundaries.

Groundwater Management Area or GMA - an area designated and delineated by the Texas Water Development Board as an area suitable for management of groundwater resources under Texas Water Code Chapter 35.

Groundwater Management Plan – see definition of Management Plan.

Groundwater or Underground Water – water percolating beneath the earth's surface, except the underflow of rivers, streams and lakes, which is considered State water under Texas Water Code Section 11.021(a).

Hearings Examiner – a Person, other than a District Director, appointed by the Board to conduct a hearing on a Permit, Rule, or Enforcement Action.

In Situ Mining of Uranium - the use of a Class III Injection Well for recovery of uranium.

Inactive Well - a Well that must be Capped or Plugged under District Rule 6.

Industrial Use or Purpose - Groundwater used in processes designed to convert materials of a lower order of value into forms having greater usability and Commercial value, including Commercial fish and shellfish production, aquaculture, and the development of power by means other than hydroelectric, but does not include Agricultural Use. Water used in the Oil and Gas industry, other than for Temporary Rig Supply or Secondary

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Recovery Supply as defined in this District Rule 2, is considered Industrial Use or Purpose.

Injection Water Supply Well: a Well that is used to supply water to Oil and Gas Activities utilizing injection of water into a formation for hydrocarbon production.

Injurious Water – water that is harmful to vegetation, land, or other water.

Investigation Report – a report prepared under Rule 7.1 summarizing the District's investigation of a complaint or possible violation of law and making a recommendation to the Board regarding any further action.

Involuntary Amendment - the Amendment of an Operating Permit initiated by the District under Rule 3.12 or Rule 20.10.B.

Irrigation Use or Purpose - the use of Groundwater for watering crops, trees, and pasture land and golf courses and parks that do not receive water through a municipal distribution system. Watering crops or pasture for Livestock Use is considered an Irrigation Use, except to the extent it falls within the definition of Domestic Use.

Joint Planning or GMA Joint Planning- the process required under Texas Water Code Section 36.108 during which Groundwater Conservation Districts wholly or partially within GMA-16 conduct Groundwater resource planning, including adopting a DFC.

Landowner – a Person owning in fee simple, property on which a Well is or is proposed to be located.

Lithological Well Log – a graphic representation of geological formations being drilled through and drawn on a log called a mud log. As cuttings are circulated out of the borehole, they are sampled and examined to create the mud log or lithological log.

Livestock Use or Purpose – the use of water for the watering of Livestock, poultry, or wildlife, including exotic Livestock, game animals, fur-bearing animals, birds, or waterfowl and for maintaining aquatic life. Aquaculture is not Livestock Use, but is Industrial Use. Livestock Use includes watering Livestock that are kept for pleasure, recreational use, or Commercial Use, but does not include the use of water at confined animal feeding operations permitted by the Texas Commission on Environmental Quality. Such use is considered Industrial or Commercial Use.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

MAG – see definition of Modeled Available Groundwater.

Major Amendment – a change made to an Operating Permit or a Transport Permit as described in Rules 3.9.D and Rule 14.9.C(3).

Management Plan – a management plan developed by the District pursuant to Texas Water Code Section 36.1071. Formerly referred to as Groundwater Management Plan.

Minor Amendment – a change made to an Operating Permit or a Transport Permit as described in Rules 3.9.C or Rule 14.9.C(4).

Modeled Available Groundwater - the Volume of water that the Texas Water Development Board executive administrator determines may be produced on an average annual basis to achieve a Desired Future Condition established under Texas Water Code Section 36.108.

Monitoring Use or Purpose - to measure the level, quality, quantity, or movement of subsurface water.

Monitoring Well – a Well used to measure or Monitor the level, quality, quantity, or movement of subsurface water.

New Well – a Well that is proposed to be drilled. Same as a Proposed Well.

NOD – see definition of Notice of Deficiency.

Non-Exempt Well – a Well defined under Rule 3.1.B.

Notice of Deficiency – a written communication by the District notifying an Applicant of deficiencies in his Application.

Notice of Violation – written correspondence under Rule 7.2 notifying a person that they are in violation of law, including violation of a District Rule, Order, or Permit, or other law within the District's enforcement authority.

NOV – see definition of Notice of Violation.

Oil and Gas Activities, Uses, or Purposes: enhanced recovery of petroleum resources; drilling and Completion of an Oil or Gas well; and workover of an Oil or Gas well. Enhanced recovery includes secondary recovery and hydraulic fracturing, among other methods.

Open Meetings Act – Texas Government Code Chapter 551, as amended.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Open or Uncovered Well - a non-Deteriorated Well that is open at the surface. This includes a Well that is left unattended without a pump installed or with the pump removed.

Operating Permit – an authorization issued by the District under Rule 3, which allows a Non-Exempt Well to be drilled and operated, producing Groundwater.

Operating Permit Application Fee – the non-refundable Fee required to be submitted with an Operating Permit Application and an Operating Permit Major Amendment Application.

P-13 - Railroad Commission form, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," used to comply with Railroad Commission Rule 3.14.

Party in a Contested Case Hearing – the Applicant and any other Person designated as having legal standing in a Contested Case Hearing.

Permit Holder - a Person authorized to undertake the activities reflected in a Permit issued by the District or other regulatory body.

Permittee – see definition of Permit Holder.

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

Piezometer Well – a Well of a temporary nature constructed to monitor-Well standards used to measure water levels or used to install a piezometer to determine the appropriate location and Depth of permanent Monitor Well.

Plugged Well or Plugged and Abandoned Well – an Inactive Well that has been permanently closed in accordance with approved State and District standards.

Plugging a Well – an absolute Sealing of the Well bore, resulting in the permanent closure of a Well in accordance with approved State and District standards.

Pollution – the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

Preliminary Hearing - the hearing held under Rules 8.6.B through 8.6.G to consider issues relevant to a Contested Case Hearing Request. It is considered to be the beginning of a Contested Case Hearing unless it results in a finding that no person requesting a Contested Case Hearing has standing or that no justiciable issue related to the Application has been raised.

Presiding Officer - either the President of the Board, a Director, a Hearings Examiner, or an administrative law judge with the State Office of Administrative Hearings designated to conduct a Contested Case Hearing or a Show Cause Hearing.

Production Capability or Capacity - the Volume of water a Well can produce as determined by either the rated Pumping Capability of the installed pump or as reasonably determined by the District. Used interchangeably with Pumping Capacity and Well Capacity.

Production Limit - the maximum allowed Volume of withdrawal of Groundwater authorized by a District Operating Permit and set according to the standards of District Rule 11. A Production Limit may also include a Production Rate.

Production - Limit - Acreage - the amount of land required to support a Production Limit as provided in Rule 11.2.C.

Production Rate - a type of Production Limit whereby the Rate of Groundwater withdrawal is regulated.

Proposed Well - Same as a New Well.

Public Hearing - a District Board Meeting that, at a minimum, has been noticed under the Open Meetings Act, at which the District Board considers a matter and provides an opportunity for the public to comment on that matter.

Public Water Supply Well - a Well used as the source of water for a public water system as defined in 30 Texas Administrative Code Section 290.38(69).

Recharge - the Volume of water that infiltrates to the water table of an aquifer.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

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

Region N Water Plan – Region N is the Regional Water Planning Area in which the District is located.

Regional Water Plan - under Texas Water Code Section 16.053, which is generated every five years.

Regional Water Planning Areas – areas established by the Texas Water Development Board under Texas Water Code Section 16.053.

Regional Water Planning Groups in these areas generate **Regional Water Plans** every five years as required by Texas Water Code Section 16.053, which must be approved by the Texas Water Development Board.

Registered Oil and Gas Water Supply Well: a Water Well associated with Oil and Gas Activities having a Production Capacity of 25,000 gallons per day or more.

Registration Certificate – a document issued by the District identifying a Well as being Registered with the District and assigning the Well a District Well Number.

Registration of a Well or Well Registration - the process required for all Wells in the District under Rule 3.2 whereby the District maintains an inventory of Wells and determines if a Well requires an Operating Permit.

Replacement well – a well designed to replace a Registered or Permitted Well that fulfills the requirements of Rule 3.13.

Request for Reimbursement - a District form described in District Rule 6.2.B (3), to be submitted to the District by a Person who has been approved to participate in the District Well Plugging Reimbursement Program and who is seeking reimbursement under District Rule 6.2.

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

Rig Supply Use or Purpose - supplying water to a rig actively engaged in drilling or exploration operations for minerals or oil or gas.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Rig Supply Well - a Water Well used as a water supply for a Rig Supply Use or Purpose.

Rules – standards and regulations promulgated by the District.

Sealing a Well – placing an official seal, tag, or label on a Well or its equipment, to indicate that further pumping of Groundwater, or operation of the Well is unauthorized and will be in violation of District Rules.

Show Cause Hearing or Enforcement Hearing – a hearing held under Rule 8.8.

SOAH Contested Case Hearing - a Contested Case Hearing administered by the State Office of Administrative Hearings because of a request made under Texas Water Code Section 36.416(b).

State of Texas Well Report – the report that every Water Well Driller who drills, Completes, deepens, or Alters a Well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.70. Also commonly referred to as the Driller’s Log or Well Log.

State Office of Administrative Hearings (SOAH) - the executive branch State agency with jurisdiction to hold Contested Case Hearings for administrative agencies and for Groundwater Conservation Districts as provided in Texas Water Code Chapter 36 and District Rule 8.7 and 8.9.

Test Well – A Well drilled to explore for Groundwater.

Transfer of Groundwater – see definition of Transport of Groundwater.

Transport of Groundwater - Transferring or moving Groundwater produced inside the District to be used outside the District regardless of the manner the water is Transported or moved, including but not limited to discharges into watercourses. Same as Transfer or Export of Groundwater.

Transport Facilities - pipeline, vehicle, channel, ditch, watercourse or other natural or artificial facilities, or any combination used to move Groundwater from a Well located within the District for use outside the District.

Transport Fee – the money assessed under District Rule 14.6 based on the Volume of Groundwater being Transported.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Transport Permit – an authorization under Rule 14 for a specified maximum Volume of Groundwater to be Transferred at a specified maximum Rate of Production from an authorized Non-Exempt Well or Well system to a place of use outside the District boundaries.

Transport Permit Application Fee – the non-refundable Fee required to be submitted with a Transport Permit Application and a Transport Permit Major Amendment Application.

Transport Project – all aspects of the planned movement of Groundwater produced within the District to be used outside the District, including physical, engineering, and financial.

Uncontested Matter or Uncontested Permit Application - an Application under District Rule 8.4 that (1) is decided by the District's General Manager or (2) is referred to the Board of Directors for consideration under Rule 8.5 and for which no Request for Contested Case Hearing is submitted under Rule 8.6.A.

Underground Water – see definition of Groundwater.

Uranium Exploration Activities – the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a uranium deposit.

Uranium Exploration Permit – a Permit issued by the Railroad Commission of Texas pursuant to Texas Natural Resources Code Chapter 131, Subchapter I, as amended, and 16 Texas Administrative Code, Chapter 11, Subchapter C, as amended, authorizing the exploration for uranium.

Uranium Exploration Permit Year - the initial year during which a Uranium Exploration Permit is in effect and every additional year it remains in effect under a renewal.

Variance – an authorized exception to requirements or provisions of the Rules granted by the District in accordance with Rule 1.7.

Waste –

- (1) The withdrawal of Groundwater from a Groundwater reservoir at a Rate and in a Volume that causes or threatens to cause intrusion into the reservoir of water unsuitable for Agricultural, gardening, Domestic, or Livestock raising purposes.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) The flowing or producing of Wells from a Groundwater reservoir if the water produced is not used for a Beneficial Purpose.
- (3) The escape of Groundwater from one Groundwater reservoir to any other reservoir or geologic strata that does not contain Groundwater.
- (4) The Pollution or harmful alteration of Groundwater in a Groundwater reservoir by saltwater or by other deleterious 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 Landowner or Well Owner unless such discharge is authorized by Permit, Rule, or order issued by the Texas Commission on Environmental Quality under Texas Water Code Chapter 26 "Water Quality Control."
- (6) Groundwater pumped for Irrigation that escapes as Irrigation tailwater onto land other than that of the Landowner or Well Owner unless permission has been granted by the occupant of the land receiving the discharge.
- (7) With regard to water from an Artesian Well, the following also is considered Waste. Unless the water from an Artesian Well is used for a purpose and in a manner in which it may be lawfully used on the Landowner or Well Owner's land, it is Waste and unlawful to willfully cause or knowingly permit the water to run off the Owner's land or to percolate through the stratum above which the water is found.
- (8) Drilling or operating a Well or Wells without a required Registration or Permit or producing Groundwater in violation of a District Rule adopted under Texas Water Code Section 36.116(a)(2).
- (9) Transporting Groundwater for a distance greater than ¼ mile in an open ditch, canal or other water course.

Water Conservation or Conservation – those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or Waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Water Pollution Event - the discovery of a spill or release of contaminants into the environment that is required by State or federal law to be reported to a State or federal governmental agency because of its potential or actual Pollution of surface water or Groundwater.

Water Well or Well – an artificial excavation constructed to explore for or produce Groundwater or test or Monitor Groundwater quality. This term also includes an Abandoned Oil or Gas Well that can be conditioned for usable quality Groundwater production. This term does not include a test or blast hole in a quarry or mine or a Well or excavation constructed to explore for or produce Oil, Gas, or other minerals or an Injection Water Supply Well associated with Oil and Gas Activities that penetrates the base of usable quality water.

Water Wells Associated with Uranium Exploration and Mining - Water Wells subject to District Rule 9.

Well – see definition of Water Well.

Well Depth - Distance from the surface to the bottom of the borehole, expressed in feet.

Well Log - see definition of State of Texas Well Report.

Well Operator – a Person who has the right to produce Groundwater, but who does not own the Well or the land on which the Well is located.

Well Owner – a Person who has the right to drill a Well on a tract of land or to produce Groundwater from the land, either by ownership, contract, lease, easement, or any other estate in the land. The Well Owner and Landowner may be the same Person.

Well Plugging Contractor – the licensed Water Well Driller or well service company hired by a Person participating in the Well Plugging Reimbursement Program under Rule 6.2 to Plug the subject Well.

Well Plugging Reimbursement Program – A District program under Rule 6.2 in which a Person may be reimbursed for costs incurred in Plugging a Well.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 3: REGISTRATION AND PERMITTING

3.1 Wells Subject to Operating Permits and Exemptions

A. Wells Exempt From Operating Permit (Exempt Wells)

- (1) A Well that it is Incapable of producing more than 25,000 gallons of groundwater a day and production from the Well is used for Domestic and Livestock Purposes, as defined in Rule 2.
- (2) A Well under Rule 9: Water Wells Associated With Uranium Exploration and Mining.
- (3) An Exempt Oil and Gas Water Supply Well under Rule 13.2.A(1).
- (4) A Registered Oil and Gas Water Supply Well under Rule 13.2.A(2).

B. Wells Requiring an Operating Permit (Non-Exempt Wells)

- (1) A Well that requires an Operating Permit under this Rule 3.1.B is referred to as a Non-Exempt Well.
- (2) An Operating Permit must be obtained under Rule 3.4 for a Well that does not qualify for an exemption under Rule 3.1.A.
- (3) An Operating Permit must be obtained under rule 3.4 for a Well that would otherwise qualify for an exemption under Rule 3.1.A. but the water to be produced will be used outside the District

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.2 Required Registration of Wells

A. All Water Wells must be registered with the District regardless of when they were drilled or whether they have been plugged and abandoned.

B. No Water Well shall be drilled or operated without first registering the Proposed Well with the District.

C. At the time of Registration, the District will determine whether the Water Well is a Non-Exempt Well. An Operating Permit must be obtained for a Non-Exempt Well. A Non-Exempt Well shall not be drilled prior to District approval of an Operating Permit, except as stated in Rule 3.4.D.

D. Responsibility for Compliance

The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with this Rule 3.2.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.3 Registration Applications

A. To Register a Well, a Well Registration Application form must be submitted to the District. The form is available at the District Office and on the District website. Some Registration requirements differ for Proposed Wells and for Existing Wells, as set out in this Rule 3.3.

B. The following information is required to register a Well. For Registration of an Existing Well, as much of the following information as is reasonably available must be provided.

- (1) Name, address, phone number, facsimile number, and e-mail address of the Well Owner.
- (2) Name, mailing address, phone number, facsimile number, and e-mail of the Person submitting the Operating Permit Application, if different from the Well Owner. This Person will be considered to be the Well Owner's Agent and the Applicant.
- (3) Name, mailing address, phone number, facsimile number, and e-mail of the Owner of the land on which the Well is located, if different from the Well Owner.
- (4) The Well location in WGS 84 Decimal Degrees co-ordinate system and a signed statement by the Applicant that the location complies with the spacing requirements of District Rules 10.4 and 10.5, or that a Variance under Rule 10.6 has been granted for the location of the Well. No statement is required for an Existing Well.
- (5) Casing size, estimated Well Depth, Depth to the Bottom of the Screen, pump size, and Production Capability.
- (6) The type of use or purpose for water from the Well based on the definitions in Rule 2.
- (7) For a Proposed Well, the approximate date drilling is to begin.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (8) For a Proposed Well, a signed acknowledgement that a State of Texas Well Report must be submitted to the District within 60 days, as required by District Rule 5.1.A.
- (9) For a Proposed Well, the Registration Fee, if one has been established under Rule 1.8.

C. For a Proposed Well, the District shall approve Registration of the Well if the District determines the following:

- (1) the information in the Registration Application is complete;
- (2) the Application shows that the location of the Proposed Well complies with Rule 10.4 and 10.5 spacing requirements, or that a Variance under Rule 10.6 or a waiver under Rule 10.6.E has been granted;
- (3) all Wells owned or operated by the Well Owner or Well Operator, and all Wells located on the same property as the Well have been Registered with the District; and
- (4) there are no unresolved District Enforcement Actions against the Well Owner, the Well Operator, the Landowner, or the Agent.

D. The Registration will serve as authorization to drill and operate the Well as described in the Registration unless the District has determined that the Well will require an Operating Permit. The District will issue a Well Registration Certificate.

E. For Existing Wells, the District shall approve Registration of the Well if the District determines the following:

- (1) the essential information in the Registration Application is complete;
- (2) there are no unresolved District Enforcement Actions against the Well Owner, the Well Operator, the Landowner, or the Agent.

F. Existing Wells are not required to comply with Rule 10 spacing requirements

G. If no Operating Permit is required, upon approval of the Registration the Well may be drilled. A copy of the approved Well Registration Application and Well Registration Certificate must be on-site while the Well is being drilled.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

H. If the Well has not been drilled within 180 days of approval of the Registration and issuance of the Well Registration Certificate, the Registration and Certificate will be void.

I. If the District determines that a Proposed Well is a Non-Exempt Well, an Operating Permit under Rule 3.4 must be obtained prior to drilling the Well. If the District determines that an Existing Well is a Non-Exempt Well, an Application for an Operating Permit under Rule 3.4 must be submitted within 90 days of District approval of the Registration Application.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.4 Required Operating Permit for Non-Exempt Wells

A. Operating Permits are required for all Non-Exempt Wells. This requirement applies to Proposed and Existing Wells.

B. Operating Permits generally are issued for a period of five years. All Operating Permits are subject to District Rules as they may be amended from time to time, which may include changes to permit terms based on changing Groundwater conditions in the District.

C. A Proposed Non-Exempt Well shall not be drilled, be operated, or produce water unless an Operating Permit has been obtained from the District.

D. Responsibility for Compliance

The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with this Rule 3.4.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.5 Information Required in an Operating Permit Application

A. An Application for an Operating Permit **must** be submitted on a form obtained from the District and must be signed and sworn to by the Applicant as required by Texas Water Code Section 36.113(b). Generally, a separate Application is required for each Well, unless more than one Well will be covered by the same Production Limit. An Application for Operating Permit for a New Well shall include all of the information listed in this Rule 3.5. An Application for an Operating Permit for an Existing Well shall include as much of the following information as possible.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (1) Name, mailing address, phone number, facsimile number, and e-mail address of the Well Owner.
- (2) Name, mailing address, phone number, facsimile number, and e-mail of the Person submitting the Operating Permit Application, if different from the Well Owner. This Person will be considered to be the Well Owner's Agent and the Applicant.
- (3) Name, mailing address, phone number, facsimile number, and e-mail of the Owner of the land on which the Well is located, if different from the Well Owner.
- (4) Location and property description of the proposed project, including a location map or property plat. The map or plat must include the name of the county, must have a direction indicator, and must identify the scale of the map. The map or plat must be drawn on a scale that adequately details the Well site and a 500-foot radius around the Well. The map shall show within that 500-foot radius, the property lines, the location of other Wells, any existing or proposed wastewater systems, and any potential sources of contamination.
- (5) If the Production Limit is based on Rule 11.1.B(3) or 11.2.C , the legal description of Production-Limit-Acreage and documentation that the Applicant has the authority to tie the land to the Operating Permit when issued.
- (6) A copy of the approved Well Registration Application and the Well Registration Certificate.
- (7) The annual maximum production requested (in gallons per year or acre-feet per year). For an Existing Well, include documentation showing the annual production from the Well during each of the previous five years. For a New Well, provide documentation relating the requested Production Volume to contiguous acreage owned by the Applicant or for which the Applicant has Groundwater production rights, also referred to as the Production-Limit-Acreage.
- (8) A water Conservation plan.
- (9) The Operating Permit Application Fee of \$100.00, which is non-refundable.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (10) A sworn statement that the Production- Limit-Acreage is not subject to a permit for uranium mining or an Aquifer Exemption under 40 Code of Federal Regulations Section 144.7 and 30 Texas Administrative Code Section 331.13 and that the Applicant agrees to notify the District 60 days prior to any changes that would require a change in this sworn statement.
- (11) A sworn statement that the Applicant agrees to notify the District of any changes in Well condition or operations as required by Rule 3.9 and to Plug or Cap the Well according to Rules 6.1 and 6.3 if the operation or condition of the Well so warrants.
- (12) Any other information deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36, the District's Enabling Statute, and general law.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.6 Processing an Operating Permit Application and Issuance of Permit

A. Administrative Completeness of an Application

- (1) In order to adequately address the purposes and requirements of Texas Water Code Chapter 36, the District's Enabling Statute, general law, and District Rules, the District may require further clarification or additional documentation from the Applicant. Any such requirement shall be in writing and provided to the Applicant by mail or email and will be referred to as a Notice of Deficiency.
- (2) The Applicant shall be notified in writing when the Application has been reviewed and deemed Administratively Complete. No Application shall be deemed Administratively Complete if there are unresolved District Enforcement Actions against the Applicant or involving the Well. If an Application remains Administratively Incomplete for more than 180 days following either the original Application date or the date that the District notified the Applicant of the need to submit additional clarification or documentation, whichever is later, the Application will expire.
- (3) If the Application is subject to newspaper notice under Rule 8.5.D, the Applicant must pay for the notice. The District will call the Applicant and tell them what the charge will be. This amount will also be mentioned in the written communication to the Applicant

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

saying that the Application has been deemed Administratively Complete. Before an Operating Permit can be approved, the District must receive payment from the Applicant.

B. Decision on an Operating Permit Application

Within 60 days of the date on which the Application is deemed Administratively Complete, the District will act according to Rule 8.4. The decision whether to approve the Operating Permit as requested in the Application, approve the Operating Permit with terms other than those requested in the Application, or deny the Application shall be made using the process described in Rule 8.5. The Board or its designee shall make this decision based on the considerations in Rule 3.7.

C. Contents of an Operating Permit

An Operating Permit will include the following, in addition to any other conditions set by the District:

- (1) A requirement that a meter or other reliable water measuring device under Rule 5.2, be installed within 60 days after the effective date of the Permit and that the District be notified within 30 days of installation.
- (2) An approved map or drawing showing the Well site and the following features, if any, within 500 feet of the Well: the property lines, the location of other Wells, existing or proposed wastewater systems, and other potential sources of contamination.
- (3) The authorized annual maximum Groundwater production from the Well as provided by Rule 11.
- (4) If the authorized annual maximum Groundwater production from the Well is based on Rule 11.1.B(3) or 11.2.C, an approved legal description of the Production-Limit-Acreage.
- (5) An approved Conservation Plan.
- (6) Special permit conditions.
- (7) Permit expiration date.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.7 Considerations for Issuing an Operating Permit

A. The District shall be guided by these Rules and Chapter 36, Texas Water Code in considering each Application and will manage total Groundwater production on a long-term basis to achieve the applicable Desired Future Condition that has been adopted for the District. The District shall consider the following, which include the considerations required by Texas Water Code Section 36.113(d) and 36.1132(b):

- (1) Does the Application conform to the requirements of Texas Water Code Chapter 36 and these Rules?
- (2) Does or will the production from the Well unreasonably affect existing Groundwater and surface water resources or existing Permit Holders? A Permit establishing the Production Limits required under Rule 11 will fulfill this requirement.
- (3) Is the use of water considered Beneficial Use, as defined by Texas Water Code Section 36.001(9) and District Rule 2?
- (4) Is the use of water consistent with the District's approved Management Plan?
- (5) Has the Applicant agreed to avoid Waste and achieve water Conservation?
- (6) Will the conditions and limitations in the Permit prevent Waste, achieve water Conservation, minimize as far as practicable the drawdown of the water table or the reduction of Artesian Pressure, or lessen interference between Wells?
- (7) Does the Application include an acceptable water Conservation plan?
- (8) Has the Applicant agreed to use reasonable diligence to protect Groundwater quality? For a Proposed Well, if the location complies with spacing Rule 10.4 and the Well will be constructed according to the construction standards of Rule 4, this requirement is fulfilled. For an Existing Well, the District will evaluate the location based on Rule 10.4 and evaluate the Well construction based on Rule 4 and may impose additional requirements designed to protect Groundwater quality.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (9) Has the Applicant agreed to follow the District's Rules on Well Plugging at the time of Well closure?
- (10) Does the Application provide sufficient documentation to support the requested Production Limit, including required information about In Situ Uranium Mining, if applicable?
- (11) Are there any unresolved District Enforcement Actions against the Applicant or involving the Well?
- (12) Is the requested Production Volume, when considered in conjunction with the Modeled Available Groundwater, consistent with achieving the Desired Future Condition applicable to the Well location and production zone?
- (13) Is the requested Production Volume, when considered in conjunction with the Texas Water Development Board's estimate of current and projected Volume of Groundwater produced under exemptions granted by District Rules and Texas Water Code section 36.117, consistent with achieving the Desired Future Condition applicable to the Well location and production zone?
- (14) Is the requested Production Volume, when considered in conjunction with the Volume of Groundwater production authorized under Operating Permits previously issued by the District, consistent with achieving the Desired Future Condition applicable to the Well location and production zone?
- (15) Is the requested production Volume, when considered in conjunction with the Volume of Groundwater actually being produced under Operating Permits previously issued by the District, consistent with achieving the Desired Future Condition applicable to the Well location and production zone?
- (16) Is the requested Production Volume, when considered in conjunction with yearly precipitation and production patterns, consistent with achieving the Desired Future Condition applicable to the Well location and production zone?

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.8 Change in Well Conditions or Operations

A. No Person may take any of the following actions related to an Exempt Well without notifying the District in writing 14 days prior to making the change by submitting a Change in Exempt Well Conditions or Operations form, which is available at the District Office and on the District website. This Rule 3.8.A does not apply to an Exempt Oil and Gas Water Supply Well as defined in Rule 13.2.A(1).

- (1) Alter the size or depth of a well.
- (2) Alter the depth of the bottom of the screen.
- (3) Change the Well pump or its Pumping Capacity.
- (4) Change the purpose of use of water produced from a Well.
- (5) Change the status of a Well to or from being Inactive, including Plugging a Well.

B. A change in the Pumping Capacity that would change the spacing from property lines authorized under Rule 10.5 requires District authorization prior to making the change. Such a change will be denied unless a Variance is obtained under Rule 10.6 or a waiver is obtained under Rule 10.6.E.

C. A change in the purpose of use of water produced from a Well from Domestic and Livestock or Oil and Gas Activities to another purpose of use requires District authorization prior to making the change. An Exempt Well will lose its exemption and will require an Operating Permit if its use or conditions change in such a way that it no longer falls into an Exempt Well category under Rule 3.1.A. It is the responsibility of the Person named on the Well Registration Certificate to apply for an Operating Permit no later than 90 days prior to making the changes that render the Well subject to this Rule.

D. With regard to an Exempt Oil and Gas Water Supply Well, no Person may change the Well pump size or its Pumping Capacity without notifying the District in writing 14 days prior to making the change by submitting a Change in Exempt Well Conditions or Operations form, which is available at the District Office and on the District website. A change in Well pump size or its Pumping Capacity may change the status of an Exempt Oil and Gas Water Supply Well into a Registered Oil and Gas Water Supply Well, which must comply with the requirements of Rule 13.2.B.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.9 *Change in Non-Exempt Well Conditions or Operations*

A. An Amendment to an Operating Permit is required for any change to the operation, use, or condition of a Non-Exempt Well, including changing the Production Limit, the Type of Use of the Well, the size or Depth of a Well, Depth to the Bottom of the Screen, a Well pump, or its Pumping Capacity, and any change in the status of the Production-Limit-Capacity, including a change in conditions related to In Situ Uranium Mining described in Rule 11.2.C(3).

B. Amendments are characterized as Minor or Major according to the requirements of this Rule 3.9. Such characterization will determine the process involved for consideration and approval of an Amendment.

C. Minor Amendment

- (1) A Minor Amendment to an Operating Permit for a Non-Exempt Well is required to change the Type of Use of a Well; to alter the size or Depth of a Well or Depth to the Bottom of the Screen, the Well pump, or its Pumping Capacity that does not increase the Production Volume or Capability; or a change in the approved Water Conservation plan.
- (2) An Application for a Minor Amendment, on a form obtained from the District, must be submitted at least 14 days prior to the date the change is to take place.
- (3) The General Manager may process and approve a Minor Amendment.
- (4) No pump installer or Water Well Driller shall make changes to a Well if the appropriate authorization under this Rule has not been obtained.

D. Major Amendment

- (1) A Major Amendment to an Operating Permit for a Non-Exempt Well is required to increase the production of Groundwater or to increase the Capability of a Well to produce Groundwater.
- (2) A Major Amendment is also required when a change in the status of the Production-Limit-Acreage, including a change in conditions related to In Situ Uranium Mining described in Rule 11.2.C(3), requires a change in Production Limit.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (3) An Application for a Major Amendment, on a form obtained from the District, must be submitted at least 90 days prior to the date the change is to take place. An Operating Permit Application Fee of \$100.00 must also be submitted.
- (4) The Major Amendment Application will be processed according to Rule 3.6.
- (5) No pump installer or Water Well driller shall make changes to a Well if the appropriate authorization under this Rule has not been obtained.

E. Current Permit to Remain in Effect

If an Application for an Amendment to an Operating Permit is timely filed, the Permit as it exists at the time the Application is filed remains in effect until the conclusion of the Permit Amendment process or final settlement or adjudication on the matter of whether the change to the Permit requires an Amendment, whichever is later.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.10 Change in Well Ownership, Transfer of Well Registration Certificate or Operating Permit

A. Any change in ownership of a Well or transfer of the Well Registration Certificate or Operating Permit shall be reported by submitting a Change in Ownership form to the District within 60 days after the change. The form is available at the District office and on the District website.

B. The form must be signed by the original Well Owner, Registrant, or Permit Holder and the Person to whom ownership of the Well, Well Registration Certificate or Operating Permit is being transferred and must be submitted by the Person to whom ownership of the Well, Well Registration Certificate or Operating Permit is being transferred. For a Well with an Operating Permit, failure to timely notify the District may result in the Permit being revoked. The District will issue an amended Certificate of Registration and, if applicable, an amended Operating Permit.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.11 Operating Permit Term and Renewal

A. Operating Permits issued by the District are for a term of five years unless otherwise specified by the District as a special permit condition. Such a special permit condition may include the need for additional data regarding the impact of the Well on the aquifer or surrounding Wells.

B. If an Operating Permit has been issued with an expiration date as authorized under District Rule 3.11.A, renewal of the Permit is required as follows:

- (1) The District shall renew or approve an Application to renew if the Application is submitted at least 90 days prior to the expiration date and the Permittee is not requesting a change that would require an Amendment under 3.8.E, however,
- (2) The District is not required to renew an Operating Permit under this Rule 3.11.B if
 - (a) the Applicant is delinquent paying a fee required by the District,
 - (b) is subject to a pending enforcement action for a substantive violation of a District Permit, Order or Rule, or
 - (c) has not paid a civil penalty or otherwise failed to comply with an order resulting from a final adjudication of a violation of a District Permit, Order or Rule.
- (3) If a District is not required to renew an Operating Permit under Rule 3.11.B, the Permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.12 Involuntary Amendment of Revocation of an Operating Permit

A. An Operating Permit is subject to Involuntary Amendment or revocation for violation of District Rules; violation of the Permit, including special permit conditions; violation of the provisions of Texas Water Code Chapter 36; Waste of Groundwater; or other actions that the District determines to be detrimental to the Groundwater resources within the District. An Involuntary Amendment or

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

revocation under this provision shall be approved by the District only after notice and hearing as provided in Rules 7 and 8.8.

B. An Operating Permit is subject to Involuntary Amendment if the Board finds that changes in the law or in the Groundwater resources within the District necessitate such an Amendment. An Involuntary Amendment under this provision shall be approved by the District only after the procedure provided in Rules 7 and 8.8.

C. If the District initiates an amendment to an Operating Permit, the Permit as it existed before the Involuntary Amendment process remains in effect until the conclusion of the process under Rules 8.4 and 8.5.

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.13 Replacing a Well

A. In order to qualify as a Replacement Well, the Well that is being replaced must be properly Registered and have an Operating Permit, if it is a Non-Exempt Well, and be in compliance with District Rules.

B. The Replacement Well must be no nearer to adjoining property lines than the Well it is replacing unless the Replacement Well is an Exempt Well and a Variance under Rule 10.5 or a waiver under Rule 10.6.E is obtained.

C. The Replacement Well must not have the Capability of producing more water than the Well it is replacing unless the Replacement Well is an Exempt Well and a Variance under Rule 10.5 or a waiver under Rule 10.6.E is obtained.

D. Prior to drilling a Replacement Well, a Replacement Well Application must be submitted to the District. The Replacement Well Application form is available at the District Office and on the District website. If the General Manager determines that the Well is a Replacement Well as described in this Rule 3.13, the District will make changes in the approved Registration and, as applicable, Operating Permit, authorizing drilling and operation of the Replacement Well.

E. In case of emergency with the potential to affect human or Livestock health or safety, a Replacement Well may be drilled and the required Replacement Well Application must be submitted within 2 business days.

F. A Well that has been replaced under this Rule 3.13 must be Plugged within 30 days and the Plugging Report must be submitted to the District as required under Rule 5.3.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Adopted _____, 2016, by Board Order; effective _____, 2016.

3.14 Responsibility for Compliance

The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with Rules 3.8 through 3.13.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 4: WELL CONSTRUCTION STANDARDS

4.1 State Standards Applicable

A. All construction of Wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended, and the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended, and additional standards as required in this Rule 4 and distance requirements of Rule 10, whichever are more stringent.

B. All Public Water Supply Wells must be Completed using the engineer-designed criteria approved by the Texas Commission on Environmental Quality under 30 Texas Administrative Code Chapter 290, as amended.

Adopted _____, 2016, by Board Order; effective _____, 2016.

4.2 Additional Well Construction Standards

All Non-Exempt Wells that are not Public Water Supply Wells must be pressure cemented or grouted from the top of the production zone back to the surface. A Geophysical or Lithological Well Log must be run during Well construction.

Adopted _____, 2016, by Board Order; effective _____, 2016.

4.3 Watertight Sanitary Seal

To prevent pollutants from entering the wellhead, all Wells shall be completed with a watertight sanitary seal. Any Well not meeting this requirement is required to comply with this Rule at the time the Well head is next removed. Wells with odd-sized casing or those having Well heads for which there is no factory made watertight sanitary seal available shall be Completed or modified in such a manner that shall meet the intent of this Rule.

Adopted _____, 2016, by Board Order; effective _____, 2016.

4.4 Access for Testing

All Wells must allow access to the Water Table for the purposes of measuring water levels or disinfecting the Well. All New Wells shall be equipped with a faucet or hose bib at the wellhead.

Adopted _____, 2016, by Board Order; effective _____, 2016.

4.5 Responsibility for Compliance

The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with Rule 4.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 5: REPORTING AND RECORDKEEPING

5.1 Well Drilling, Completion, and Water Data Reporting

- A.** Within 60 days from: (1) the cessation of drilling, for a Well that will not be completed; (2) Completion; (3) deepening; or (4) otherwise Altering a Well, a copy of the State of Texas Well Report shall be submitted to the District by the Water Well Driller.
- B.** All Geophysical or Lithological Well Logs required under District Rules or State law shall be submitted to the District within 60 days from the date the Log is run.
- C.** If raw water quality data are collected on water from any Water Well, the data shall be submitted to the District within 60 days from the date the data are collected.
- D.** A Railroad Commission Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," shall be submitted to the District within 30 days of receipt of Railroad Commission approval of the Application. This must be submitted by either the Well Owner or Operator, whichever has received the Railroad Commission approval notice.
- E.** The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with Rule 5.1.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.2 Annual Water Production Report for Non-Exempt Wells

The production from all Wells required under Rule 3.4 to obtain an Operating Permit shall be recorded using a totalizing flow meter or other reliable water measuring device, installed at the Permit Holder's expense. The Permit Holder shall keep a record of monthly water production. The monthly water production records shall be submitted to the District on an annual basis on January 31st of each year for the previous 12 months, unless the District imposes alternate recordkeeping and reporting requirements in the Operating Permit for the Well.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.3 Plugging Report

Within 30 days after Plugging a Well, the Person Plugging the Well shall submit to the District a copy of the State of Texas Plugging Report. The Well Owner and

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with Rule 5.3.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.4 Annual Water Production Report for Exempt Oil and Gas Water Wells

A. A Water Well associated with Oil and Gas Activities having a Production Capacity of 25,000 gallons per day or more must be Registered, records of the production from the Well must be kept, and production reporting requirements for the Well must be complied with. These Wells are referred to in these Rules as Registered Oil and Gas Water Supply Wells.

B. The production from a Registered Oil and Gas Water Supply Well shall be recorded using a meter or other reliable water measuring device. The meter or device shall be installed at the Well Operator's expense.

C. Submittal of Report

- (1) The Well Operator, as defined in Rule 13.2.B(3) shall keep a record of water production from Registered Oil and Gas Water Supply Wells.
- (2) The Well Operator must submit a report to the District containing the information at the earlier of two dates: either January 31st of each year for the prior year, or within 30 days of discontinuation of the Well for this use. The report is the Annual Water Production Report for Registered Oil and Gas Water Supply Wells.
- (3) The Report must be submitted as long as the Well is reflected in District records as being used as a Registered Oil and Gas Water Supply Well, even if no production for this purpose has occurred during the previous year. In such a case the Report would show no production for this purpose during that year.
- (4) The reporting form is available at the District Office and on the District website.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.5 Water Wells Associated with Uranium Exploration and Mining

A Person who applies for or obtains authorization for Uranium Exploration, Mining, or related activities, including an Aquifer Exemption, shall comply with the reporting and recordkeeping requirements of Rule 9.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.6 Water Pollution Event Reporting

A. Any Person required under State law to report a Water Pollution Event to the Texas Commission on Environmental Quality or to the Railroad Commission of Texas shall send a copy of the initial written report regarding the event to the District and to the surface landowner at the same time that they send the report to the State agency.

B. If the Texas Commission on Environmental Quality or the Railroad Commission of Texas requires further action regarding a Water Pollution Event, the Person described in Rule 5.6.A, above, shall send a copy of all related reports to the District at the same time that they send the reports to the State agency.

Adopted _____, 2016, by Board Order; effective _____, 2016.

5.7 Annual Transport Water Report

A. The Holder of a Transport Permit shall file with the District annual reports describing the Volume of water Transported and used for the authorized purpose.

B. The Transport Permit Holder shall keep a record of the Volume of water Transported monthly. The monthly water Transport records shall be submitted to the District on an annual basis on January 31st of each year for the previous 12 months, unless the District imposes alternate recordkeeping and reporting requirements in the Transport Permit. This is referred to as the Annual Transport Water Report in these Rules.

C. The Annual Transport Water Report is in addition to and does not take the place of the Annual Water Production Report for Non-Exempt Wells required under Rule 5.2.

D. The Annual Transport Water Report must be accompanied by payment of the Annual Transport Fee required by Rule 14.6.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 6: PLUGGING, CAPPING, AND SEALING OF WELLS

6.1 *Plugging Water Wells*

A. Not later than the 180th day after the date a Landowner learns of the condition and location of a Deteriorated or Abandoned Water Well located on his land, or a Water Well Driller, or Well Owner or Well Owner's Agent learns of a Well's Deteriorated condition, the Well must be Plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. It is the responsibility of the Landowner and the Well Owner or Well Owner's Agent to ensure that such a Well is Plugged in order to prevent Pollution of the Groundwater and to prevent injury to Persons. Not later than the 30th day after the date the Well is Plugged, a State of Texas Plugging Report shall be submitted to the District as required by Rule 5.3.

B. If the Well is not Plugged in compliance with State law, the District may take action under Rule 7 as authorized by Texas Occupations Code, Section 1901.256, or otherwise enforce Texas Occupations Code Section 1901.255 related to a Landowner or Well Owner possessing an Abandoned or Deteriorated Well.

Adopted _____, 2016, by Board Order; effective _____, 2016.

6.2 *Well Plugging Reimbursement Program*

A. Purpose and Funding

- (1) The purpose of this Rule is to establish the requirements of the District Well Plugging Reimbursement Program.
- (2) Applications to Participate in the District's Well Plugging Reimbursement Program will only be accepted during fiscal years in which the Board of Directors has funded the Program by approving by resolution a budget for the Program. Funding and approval of such a resolution is solely within the discretion of the Board of Directors.
- (3) Once the budgeted funding for the Program for a fiscal year has been disbursed, no further Applications to Participate in the Well Plugging Program will be accepted or approved during that fiscal year.

B. Participation in the Program.

Participation in the Program involves a two-step process. The first step is submittal and approval of an Application to Participate in the Well Plugging Reimbursement Program. The second step is submittal and approval of a Request for Reimbursement.

- (1) **Application to Participate in the Well Plugging Reimbursement Program**
 - (a) An Application to Participate in the Well Plugging Reimbursement Program must be submitted by a Well Owner on a form approved by the District and available on the District website or at the District Office.
 - (b) If the Well Owner does not own the property on which the Well is located, the Well Owner and the Landowner must both sign the Application. The term "Applicant" when used in this Rule 6.2 refers to the Person who submits an Application to Participate in the Well Plugging Reimbursement Program.
 - (c) The Application must be accompanied by a copy of a deed or lease for the property on which the Well is located, evidencing the Applicant's authority to have the Well Plugged.
 - (d) Applications are considered in the order in which they are received during each fiscal year. Any Application not approved during the fiscal year in which it is submitted must be re-submitted to be considered during a subsequent fiscal year.
 - (e) A Well Owner may qualify for reimbursement under this program for Plugging one well per year.
 - (f) In order to participate in the Program, all Wells owned by the Applicant or located on land owned by the Applicant must be Registered as required by Rule 3.2, and all Non-Exempt Wells owned by the Applicant or located on land owned by the Applicant must obtain an Operating Permit, if required under Rule 3.1.B.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (g) The Applicant must acknowledge in writing that all photographs, data, and reports from the Plugging operation become part of the District public records.
- (h) The Applicant must acknowledge in writing that filing an Application to Participate in the Well Plugging Reimbursement Program:
 - (i) does not ensure approval to participate in the Program;
 - (ii) does not give the Applicant any right or entitlement; and
 - (iii) reimbursement is solely within the discretion of the Board of Directors at the time a Request for Reimbursement is made either by the Applicant or the Well Plugging Contractor.

(2) **Qualifying for Reimbursement**

- (a) an Application to Participate in the Well Plugging Program must be approved by the District prior to Well Plugging;
- (b) the Well must be Plugged by a Licensed Water Well Driller; and
- (c) a District representative must be present during the Plugging operations.

(3) **Request for Reimbursement.** A Request for Reimbursement must be submitted to the District within 30 days of the date the Well is Plugged and must include the following information on a District-approved form, which is available on the District website or at the District Office.

- (a) An invoice and paid receipt from the Well Plugging Contractor showing the amount the Applicant was invoiced and the date and amount the Applicant paid to the Well Plugging Contractor; or an Assignment of Reimbursement executed by the Applicant authorizing the District to pay up to \$3,000.00 directly to the Well Plugging Contractor.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (b) A copy of the Well Plugging Contractor's invoice showing the itemized cost of materials used and services provided.
- (c) The Well Plugging Contractor's State Water Well Driller license number and expiration date.
- (d) The State of Texas Plugging Report as required by Rule 5.3.
- (e) A W-9 form provided by the District and completed by the Person who will receive the reimbursement so that the District can send the required federal 1099 form at the end of the tax year.

C. Approval of Reimbursement

- (1) Reimbursement shall be made by the District upon receipt of documents described in Rule 6.2.B (3) and a determination by the District that the requirements of this Rule 6.2 have been fulfilled.
- (2) Only Wells Plugged by a Licensed Water Well Driller are available for reimbursement. Water Wells Plugged by a Well Owner or Landowner are not available for reimbursement.
- (3) Only the amount expended for Plugging a Well as documented to the District's satisfaction in the Request for Reimbursement, to a maximum amount of \$3,000.00, will be approved for reimbursement.
- (4) Only one reimbursement per Well Owner will be approved per fiscal year.

Adopted _____, 2016, by Board Order; effective _____, 2016.

6.3 Capping Water Wells

An Open or Uncovered Well that is in a non-Deteriorated condition must be Capped to prevent Waste, Pollution, or prevent Deterioration. The Well shall remain Capped until conditions that led to the Capping are eliminated. If the Well Owner fails to Cap the Well in compliance with District Rules, the District may do so after first taking action under Rule 7. Reasonable expenses incurred by the District in Capping a Well constitute a lien on the land on which the Well is located pursuant to Texas Water Code Section 36.118.

Adopted _____, 2016, by Board Order; effective _____, 2016.

6.4 Sealing Wells

- A.** Following the procedure of Rule 7, the District may require the Sealing of a Well that is in violation of District Rules or that the District has prohibited from producing Groundwater.
- B.** If the District believes that continued operation of a Well may cause a threat of imminent endangerment to human health, safety, or the environment, the District may require the Sealing of a Well on an emergency basis. In such a case, the District shall provide an opportunity for notice and hearing under Rule 8.8 no later than the next regularly scheduled Board meeting.
- C.** If the District requires the Sealing of a Well and the Well Owner fails to Seal the Well, the District may Seal the Well following the procedures of Texas Water Code Section 36.123 and Rule 7.5.
- D.** A Well shall be Sealed by physical means and tagged to indicate that the Well has been Sealed as required by the District. The Seal is intended to preclude operation of the Well and identify unauthorized operation of the Well.
- E.** Tampering with, altering, damaging, removing, or violating the Seal of a Sealed Well in any way, or pumping Groundwater from a Well that has been Sealed constitutes a violation of District Rules and subjects the Person who performs that action, as well as the Well Owner, to Enforcement under District Rules.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 7: ENFORCEMENT

7.1 *Complaints and Investigations*

A. All complaints shall be reflected on a District complaint form. These forms are available at the District Office and on its website. If a complaint is made verbally, by telephone, or in Person, a District representative will ensure that the information is memorialized on a District Complaint Form. The complainant must inform the District if they want to qualify as an Aggrieved Party under the citizen suit provision of Texas Water Code Section 36.119. The District may initiate an investigation without receiving a complaint and shall follow the procedures of this Rule 7 for such investigation.

B. For purposes of this Rule 7.1 and Texas Water Code Section 36.119, an Aggrieved Party is a landowner or other Person who has a right to produce Groundwater from land that is adjacent to the land on which the Well subject to the complaint is located, or who owns or otherwise has a right to produce Groundwater from land that lies within one-half mile of the subject Well.

C. A complainant may ask to remain anonymous, unless they want to qualify as an Aggrieved Party under the citizen suit provision of Texas Water Code Section 36.119.

D. A District representative will investigate the complaint promptly and will memorialize his findings in a written Investigation Report.

E. A copy of the Investigation Report will be sent to the Person about whom the complaint was made. If the complainant has provided his name and address, a copy of the Investigation Report will be sent to the complainant.

F. Board Consideration of Investigation Reports

- (1) An Investigation Report for a complaint must be presented to the Board for consideration not later than 90 days from the date of receipt of the complaint or from initiation of the investigation if the District initiates an investigation without a complaint being made.
- (2) Notice of the date, time, and location of the Board meeting at which the Investigation Report will be considered and a copy of the Investigation Report shall be mailed to the Person about whom the complaint was made and to the complainant, if the complainant has provided his name and address, by certified mail, return receipt requested, at least 20 days prior to the scheduled Board meeting.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (3) At the Board meeting, the Board may decide that there was no violation and close the complaint file. If the Board decides that there has been a violation, it may direct the General Manager to issue a Notice of Violation under Rule 7.2 or initiate civil enforcement under Rule 7.6.

Adopted _____, 2016, by Board Order; effective _____, 2016.

7.2 Notice of Violation

- A.** If directed by the Board, the General Manager will send a Notice of Violation to a Person who is believed to be in violation of law, including violation of a District Rule, order, or permit. Such Person is considered the Respondent.
- B.** The Notice of Violation shall include a copy of the Investigation Report.
- C.** The Notice of Violation shall summarize the actions that the District believes show violation of law, including of a District Rule, order, or permit and shall state which law, including District Rule, order, or permit provision, has allegedly been violated.
- D.** The Notice of Violation shall state the remedy required by the District. Such remedy may include remedial action, assessment of a penalty, revocation, suspension, or involuntary amendment of a permit, capping, sealing, or plugging of a well, or any other action within the District's authority designed to end the violation and deter future violations.
- E.** A Respondent will be provided the opportunity to meet with the District regarding the alleged violation to attempt to settle the matter. The Notice of Violation shall include instructions for any required remedial action and for scheduling such a meeting.
- F.** The Respondent will also be provided an opportunity for a Show Cause Hearing under Rule 8.8 and the Notice of Violation will give instructions for requesting such a hearing.

Adopted _____, 2016, by Board Order; effective _____, 2016.

7.3 Penalty Schedule

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

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

be assessed in accordance with the following schedule, and each day of a continuing violation constitutes a separate violation. In a successful Enforcement Action, penalties may include reimbursement to the District of the District's actual reasonable expenses.

Schedule of Penalties for Non-Compliance

Non-Compliant Action	Minimum Penalty
Drilling a Well without District authorization	\$1,000.00
Producing water from a Non-Exempt Well without an Operating Permit	\$1,000.00
Violating a District Rule or Permit requirement	\$250.00
Exceeding Production Rate or Volume specified in an Operating Permit	\$1,000.00
Making changes to an Existing Well or its Operation prior to obtaining pre-authorization required by Rule 3.8 and 3.9	\$500.00

Adopted _____, 2016, by Board Order; effective _____, 2016.

7.4 Suspension of Transport Permits

In addition to any other remedy provided by law, the District may enforce payment of the Annual Water Transport Fees under District Rule 14.6 required by a Transport Permit, by suspending the Transport Permit and prohibiting further exports until all fees due are paid in full.

Adopted _____, 2016, by Board Order; effective _____, 2016.

7.5 Notice and Access to Property

A. The District has authority under Texas Water Code Section 36.123 for its representatives to enter any public or private property located within the District at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, Wells, or compliance with District Rules, regulations, permits, or orders.

B. Prior to entry, the District will attempt to notify the land owner. The District will also attempt to notify the Well Owner and the Well Operator, in instances where the conditions being inspected and investigated involve a Well.

C. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

E. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business.

- (1) The District shall notify, coordinate, and schedule Well and property access in advance with the property and Well Owner, his Agent, tenant, or other local contact.
- (2) Notice is not required if prior written permission to enter land or access Wells has been granted by the property or Well owner, his Agent, tenant, or other local contact.
- (3) District representatives accessing public or private property or Wells shall exhibit proper credentials upon request.
- (4) District representatives acting under this authority shall observe all the Owner's applicable Rules and regulations concerning safety, internal security, and fire protection.

Adopted _____, 2016, by Board Order; effective _____, 2016.

7.6 Civil Enforcement

A. As authorized by Texas Water Code Section 36.102, the violation of any District Rule may be subject to a civil penalty.

B. If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Act or any Board order, rule or permit, the Board may authorize the General Manager to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty of up to ten thousand dollars (\$10,000) for each violation and for each day a violation continues, or for both injunctive relief and civil penalties.

C. If the District prevails in any suit to enforce its Rules, including an action against any Person that is a governmental entity, the District may seek, and the court shall grant, in the interests of justice and as provided in subsection E of this Rule, recovery of attorney fees, costs for expert witnesses, and any other costs incurred by the District before the court.

D. In an Enforcement Action by the District against any Person that is a governmental entity for a violation of District Rules, the District is limited to

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

recovering the amount of fees, costs, and penalties authorized under Texas Water Code Sections 36.102, 36.122, or 36.205.

E. If the District prevails on some, but not all, of the issues in a suit described in subsection C of this Rule, the court shall award attorney fees and costs only for those issues on which the District prevails and the District has the burden of segregating the attorney fees and costs in order for the court to make an award.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 8: PROCEDURAL RULES

8.1 Actions on Budget, Management Plan, Bylaws, and Fee Schedules

- A.** Once the District has developed a proposal involving its budget, Management Plan, bylaws, or administrative fee schedule, the District will decide at which Board meeting the Board will consider the matter. The Board meeting at which the matter is considered under this Rule 8.1 shall be considered the Public Hearing on the proposal and fulfills the requirement, if any, for a Public Hearing.
- B.** Notice required by the Open Meetings Act shall be provided for the meeting.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.2 Hearing on Rules (Other Than Emergency Rules)

- A.** All proposed changes to District Rules must comply with District Rule 1.5. Once the District has developed a proposal involving its Rules, the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule shall be considered the Public Hearing on the proposal and fulfills the requirement, if any, for a Public Hearing.
- B.** Notice required by the Open Meetings Act shall be provided for the hearing.
- C.** In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:
- (1) Post notice in a place readily accessible to the public at the District Office;
 - (2) Provide notice to the county clerk of Duval County;
 - (3) Publish notice in one or more newspapers of general circulation in Duval County; and
 - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 8.2.F. Failure to provide notice under this Rule 8.2.C(4) does not invalidate an action taken by the District at a rulemaking hearing.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

D. Notice of the Public Hearing on the proposal required by Rule 8.2.C shall include:

- (1) A brief explanation of the subject of the proposal, including a statement that the District's Board of Directors will consider changes to the District Rules at the Board meeting, which will serve as the Public Hearing on the matter.
- (2) The time, date, and location of the hearing.
- (3) The agenda of the hearing.
- (4) A statement that the proposal is available to be reviewed or copied at the District Office prior to the hearing.
- (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
- (6) A statement that oral public comment will be taken at the hearing.

E. Copies of the proposal shall be available at the District Office during normal business hours at least 20 days prior to the hearing.

F. A Person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a Person must submit a new request.

G. To ensure that written comments about the proposal will be considered by the Board, such written comments should be submitted to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.

H. Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.

I. The District shall make and keep in its files an audio recording of the hearing.

J. The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

K. The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

L. If in the course of the deliberation during the meeting, the Board decides it wants to substantially change the proposal, the Board shall "continue" or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposal, the District shall provide notice and opportunity for comment and hold a hearing on the substantially changed proposal under this Rule. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.3 Adoption of Emergency Rules

A. The District may adopt an Emergency Rule, consistent with District Rule 1.5, without following the notice and hearing provisions of Rule 8.2, if the Board:

- (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and
- (2) Prepares a written statement of the reasons for its finding under Rule 8.3.A(1).

B. An Emergency Rule under this Rule 8.3 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.

C. Except as provided by Rule 8.3.D., a rule adopted under this Rule may not be effective for longer than 90 days.

D. If notice of a hearing under Rule 8.2 is given before the Emergency Rule expires under Rule 8.3.C., the Emergency Rule is effective for an additional 90 days.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.4 Actions On Operating Permits

- A.** Within 60 days after the date it is deemed Administratively Complete by the District, an Application for an Operating Permit or an Application for a Transport Permit shall be acted on by the District's General Manager or set on a specific date for action at a meeting of the District Board, which is considered a Public Hearing under Texas Water Code sections 36.402 and 36.403, whichever action is authorized under this Rule 8.4.
- B.** Any Application for an Operating Permit for a Non-Exempt Well and any Application for a Transport Permit, shall be referred to the Board for action under Rule 8.5.
- C.** An Application for a Minor Amendment to an Operating Permit under Rule 3.9.C or to a Transport Permit under Rule 14.9.C(4), or an Application for a Replacement Well under Rule 3.13 may be approved by the District's General Manager without further Board action. This will be considered an Uncontested Matter. Denial of such Applications shall be referred to the Board for action under Rule 8.5.
- D.** An Application for a Major Amendment to an Operating Permit under Rule 3.9.D or to a Transport Permit under Rule 14.9.C(3) and an Involuntary Amendment proposed by the General Manager under Rules 3.12 shall be referred to the Board for action under Rule 8.5.
- E.** An Application to renew an Operating Permit or a Transport Permit may be approved by the District's General Manager without further Board action. This will be considered an Uncontested Matter. Denial of a renewal shall be referred to the Board for action under Rule 8.5.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.5 Public Hearing on Operating and Transport Permit and Amendment Applications

- A.** In this Rule, "Applications" refers to Applications referred to the Board for action under the requirements of Rule 8.4. These will be considered Uncontested Applications unless a Request for a Contested Case under Rule 8.6.A is timely submitted.
- B.** Within 60 days of the date on which the District determines that an Application is Administratively Complete, it shall be set on the agenda for a Public Hearing at a Board meeting. This setting serves to fulfill the requirement of

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Texas Water Code 36.114(e). Such setting shall be no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by Rule 8.5.C. This Public Hearing must be held within 35 days after the setting of the date.

C. Notice of the Public Hearing on the Application shall include the following:

- (1) The name of the Applicant;
- (2) The address or approximate location of the Well or proposed Well;
- (3) A brief explanation of the proposed Permit or Permit Amendment, including any requested amount of Groundwater, the purpose of the proposed Use, and any change in Use;
- (4) For a Transport Permit or Permit Amendment, a brief explanation of the proposal including identifying the underlying Wells that will produce the Groundwater, the end user of the Groundwater, if known, and its location;
- (5) The time, date and location of the Public Hearing; and
- (6) Any other information the District considers relevant and appropriate.

D. In addition to the notice required by the Open Meetings Act, not later than the 10th day before the date of the Public Hearing, notice shall be provided as follows:

- (1) Post notice in a place readily accessible to the public at the District Office;
- (2) Provide notice to the county clerk of each county in the District;
- (3) Mail notice to the Applicant by regular mail;
- (4) Publish notice in a newspaper of general circulation in the county in which the District is located;
- (5) Provide notice by mail, facsimile, or electronic mail to any Person who has requested notice under Rule 8.5.E. Failure to provide notice under this Rule 8.5.D(5) does not invalidate an action taken by the District at the Public Hearing.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

E. A Person may submit to the District a written request for notice of a Public Hearing on a Permit or Permit Amendment. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a Public Hearing in a later year, a Person must submit a new request.

F. Anyone interested in the Application may attend the meeting and make oral comments at the time designated for comments.

G. The Board, at its sole discretion, may administer an oath to the staff, the Applicant, and anyone who makes oral comments on the Application.

H. The Board shall issue a written order or resolution reflecting its decision on the Application. It may grant the Application, grant the Application with special conditions, or deny the Application. If the Board approves the Operating or Transport Permit or Permit Amendment, the Permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the Board meeting at which the Application was considered.

I. The effective date of the Board's written order or resolution reflecting its decision on the Application under Rule 8.5.H shall be 21 days after the date on which the President of the District signs the order or resolution, if no Contested Case Hearing Request under Rule 8.6.A is received by the District or if the Contested Case Hearing Fee Deposit described in Rule 8.7.C is not submitted to the District by the deadline prescribed in the Board order under Rule 8.7.C. The order or resolution shall include a statement that the order or resolution and its attachment become effective and final within 21 days of that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final, unless there is a Contested Case Hearing Request.

J. If after a Preliminary Hearing the Board determines that there will be no Contested Case Hearing, the effective date of the Board's written order or resolution reflecting its decision on the Application under Rule 8.5.H shall be the date on which the Board signs a written order or resolution under 8.6.F denying the Contested Case Hearing Request. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.6 Contested Case Hearings on Permitting Actions

A. A Request for Contested Case Hearing on the Board's decision on an Application under Rule 8.5.H must be in writing and must be received by the District not later than 20 days after the date on which the President of the District signs the order or resolution under Rule 8.5.H. If a Contested Case Hearing requester intends to request that the Hearing be sent to the State Office of Administrative Hearings, as authorized by Texas Water Code 36.416(b) and District Rule 8.7, the request must be included in the Request for Contested Case Hearing, or it is waived.

B. The following individuals who submit a Contested Case Hearing Request may be named Parties at the Preliminary Hearing:

- (1) The Applicant; or
- (2) A Person who
 - (a) has a Personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority that is not merely an interest common to members of the public; and
 - (b) is affected by the Board's action on the Application under Rule 8.5.H.

C. If the District receives a written Contested Case Hearing Request during the period required under District Rule 8.6.A the District shall schedule a Preliminary Hearing no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by this Rule 8.6.

D. If the Preliminary Hearing is conducted by a quorum of the Board, notice required by the Open Meetings Act shall be provided. Additionally, at least 10 days prior to the Preliminary Hearing, the District shall mail notice to the Applicant and to all persons requesting a Contested Case Hearing.

E. The Preliminary Hearing may be conducted by a quorum of the Board; an individual to whom the Board has delegated in writing the responsibility to preside as a Hearings Examiner over the hearing or matters related to the hearing; or an administrative law judge at the State Office of Administrative Hearings under Texas Water Code § 36.416 and District Rule 8.7. In any event, the Board shall make the final determination as to whether any person

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

requesting the Contested Case Hearing has standing to make that request and whether a justiciable issue related to the Application has been raised.

F. At the Preliminary Hearing any matter that may expedite the hearing or otherwise facilitate the hearing process may be considered, including,

- (1) whether a valid Contested Case Hearing Request has been submitted and if so, the designation of Parties. If the District's decision on an Application is opposed by one or more individuals requesting a Contested Case Hearing, the General Manager is automatically a Party.
- (2) if a request under District Rule 8.6.A has been made to send the Contested Case Hearing to the State Office of Administrative Hearings, the amount of the Contested Case Hearing Fee Deposit under Texas Water Code section 36.416(c).
- (3) if a request under District Rule 8.6.A has been made to send the Contested Case Hearing to the State Office of Administrative Hearings, the location of the hearing either in Travis County, Texas, or as described in Texas Water Code 36.403(c).
- (4) formulation and simplification of issues.
- (5) the hearing schedule, including any necessary discovery.

G. The Board's decisions made during the Preliminary Hearing will be in the form of a written order. If the Board determines that there will be a Contested Case Hearing, the written order shall also specify, if applicable, a ten (10) day deadline to submit to the District the required Contested Case Hearing Fee Deposit under Texas Water Code section 36.416(c). The ten day deadline shall run from the date of the written order. If the Contested Case Hearing Fee Deposit is not submitted to the District by the deadline, the Contested Case Hearing Request is considered withdrawn and the Board's decision on the Application under Rule 8.5.H becomes final under the terms of Rule 8.5.I.

H. The Contested Case Hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside at and conduct the hearing on the Application. In the alternative, a hearing may be held by the State Office of Administrative Hearings under District Rule 8.7. The appointment of a Hearings Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- I. The Presiding Officer has the following authority and obligations:
- (1) May convene the hearing at the time and place specified in the notice;
 - (2) May set any necessary additional hearing dates;
 - (3) May designate the parties regarding a contested Application;
 - (4) May establish the order for presentation of evidence;
 - (5) May administer oaths to all Persons presenting testimony;
 - (6) May examine Persons presenting testimony;
 - (7) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any Party;
 - (8) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
 - (9) May prescribe reasonable time limits for testimony and the presentation of evidence.
 - (10) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a Party to the hearing, the Presiding Officer may exclude written testimony if the Person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
 - (11) May refer Parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third Party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and
 - (12) May continue a hearing from time to time and from place. If the continuance is not announced on the record at the hearing, the Presiding Officer shall provide notice of the continued hearing by regular mail to the parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings notice shall be provided.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (13) May exercise the procedural rules under District Rules 8.5 and 8.6;
- (14) May apportion among the Parties the costs related to:
 - (a) a contract for the services of a Presiding Officer; and
 - (b) the preparation of the official hearing record.

J. The Presiding Officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a Party to the Contested Case Hearing and payment of an appropriate deposit, as set by the Presiding Officer, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the Party requesting it or among the parties to the hearing. The Presiding Officer may exclude a Party from further participation in the hearing for failure to pay in a timely manner costs assessed against that Party under this Rule 8.6.J.

K. If the Board has appointed a Hearings Examiner to be the Presiding Officer at the hearing, the Hearings Examiner shall submit a Proposal for Decision to the Board not later than the 30th day after the date the evidentiary hearing is concluded. A copy shall be provided to the Applicant and each Party to the hearing. The Applicant and other parties to the hearing may submit to the Board written exceptions to the Proposal for Decision within 10 days of issuance of the Proposal for Decision. The Proposal for Decision shall include:

- (1) A summary of the subject matter of the hearing;
- (2) A summary of the evidence received; and
- (3) The Hearings Examiner's recommendations for Board action on the subject matter of the hearing.

L. The Board shall consider the Proposal for Decision at a Board meeting held after the deadline for written exceptions to the Proposal for Decision has passed. This Board meeting shall be the final hearing as contemplated by Texas Water Code section 36.410(f). Additional evidence may not be presented during the final hearing. The Parties may present oral argument at the final hearing to summarize the evidence, present legal argument, or argue an exception to the Proposal for Decision. A final hearing may be continued as provided by Texas Water Code section 36.409 and Rule 8.6.I(12).

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

M. The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the Application is concluded.

N. Request for rehearing or findings and conclusions shall be considered as follows:

- (1) Not later than the 20th day after the date of the Board's decision, an Applicant or a Party to a Contested Hearing may administratively appeal a decision of the Board on an Application by requesting written findings and conclusions or a rehearing before the Board.
- (2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an Application. The Board shall provide certified copies of the findings and conclusions to the Person who requested them, and to each designated Party, not later than the 35th day after the date the Board receives the request. The Applicant or a Party to the Contested Case Hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- (3) A request for rehearing must be filed in the District Office and must state the grounds for the request. The Person requesting a rehearing must provide copies of the request to all parties to the hearing.
- (4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- (5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

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

- (1) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) A request for rehearing is filed on time, on the date:
- (a) the Board denies the request for rehearing; or
 - (b) the Board renders a written decision after rehearing.

P. An Applicant or a Party to a Contested Hearing may file a suit against the District under Texas Water Code Section 36.251 to appeal a decision on an Application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.7 Contested Case Hearing Referred to SOAH

A. If the Board determines that a Contested Case Hearing will be held, a request by the Applicant or other Party was timely filed under District Rule 8.6.A, and the Contested Case Hearing Deposit Fee was timely received by the District under District Rule 8.6.F, the District shall contract with the State Office of Administrative Hearings to conduct the hearing.

B. The Contested Case Hearing shall be conducted in Travis County or at the District Office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location.

C. The Party requesting the hearing before SOAH shall pay all costs associated with the contract for the hearing and shall deposit with the District an amount sufficient to pay the contract amount. This Contested Case Hearing Fee Deposit shall be received by the District within 10 days of issuance of the order or resolution under District Rule 8.6.G. At the conclusion of the Contested Case Hearing, the District shall refund any excess money to the paying Party. All other costs may be assessed as authorized by Texas Water Code Chapter 36 or District Rules.

D. The hearing shall be conducted as provided in District Rule 8.6, to the extent District Rule 8.6 does not conflict with subchapters C, D, and F of the Texas Government Code, Chapter 2011 and the procedural rules of the State Office of Administrative Hearings.

E. An administrative law judge who conducts a contested case hearing shall consider applicable District Rules or policies in conducting the hearing, which shall be provided to the judge by the District.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

F. The District order or resolution under District Rule 8.6.G shall control on the issues addressed in that order.

G. The District Board has the authority to make a final decision on consideration of a Proposal for Decision issued by an administrative law judge from the State Office of Administrative Hearings. The Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the judge, only if the Board determines:

- (1) that the judge did not properly apply or interpret applicable law, District Rules, or written policies provided under Rule 8.7.E, or prior District administrative decisions;
- (2) that a prior District administrative decision on which the judge relied is incorrect or should be changed; or
- (3) that a technical error in a finding of fact should be changed.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.8 Show Cause Hearing

A. If the District receives a timely filed written request for hearing from a Respondent who has received a Notice of Violation from the District, the District shall decide at which Board meeting the Enforcement Action will be considered. The Board meeting at which the Enforcement Action is considered under this Rule shall be considered the Public Hearing on the matter and fulfills the requirement, if any, for a Public Hearing, and shall serve as a Show Cause Hearing.

B. Notice required by the Open Meetings Act shall be provided for the meeting.

C. Notice of the Show Cause Hearing shall be mailed to the Respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

D. Anyone attending the Show Cause Hearing may make oral comments at the time designated for comments.

E. The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the Enforcement Action.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

F. The District has the burden of proving any alleged violation and the Respondent shall have the opportunity to show cause why the penalty or remedial action proposed by the District for the alleged violations should not be imposed, including showing that no violation occurred or that mitigating circumstances existed.

G. The Show Cause Hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside at and conduct the Show Cause Hearing. Appointment of a Hearings Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside. If the matter is referred to a Hearings Examiner, upon completion of the hearing the Hearings Examiner shall submit a written recommendation to the Board of Directors.

H. At the close of the Show Cause Hearing, the Board of Directors shall make a decision on the issues before it. If a Hearings Examiner conducts the Show Cause Hearing, the Board of Directors is not required to approve the written recommendation submitted by the Hearings Examiner. The Board of Directors shall issue a written order or resolution reflecting its decision. If the Respondent is found to have committed a violation, the order or resolution shall include actions that the Respondent is required to take in order to come into compliance, assessment of penalties under Rule 7.3, and reimbursement to the District of the costs incurred in investigating and prosecuting the violation.

I. The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.

Adopted _____, 2016, by Board Order; effective _____, 2016.

8.9 Procedures for Joint Planning

A. Notice and Public Hearing on Proposed Relevant DFCs

- (1) When the GMA-16 Joint Planning Committee mails a copy of the proposed Desired Future Conditions proposed under Texas Water Code 36.108(d), a 90-day comment period begins.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) During the public comment period, the District shall post notice and hold a Public Hearing on any proposed DFCs relevant to the District.
- (3) During the public comment period, the District shall make available in the District Office a copy of the proposed DFC and any supporting materials, such as the documentation of factors considered under Texas Water Code 36.108(d) and Groundwater availability model run results.
- (4) At least 10 days before a hearing on the proposed Desired Future Conditions proposed by the GMA-16 Joint Planning Committee under Texas Water Code 36.108(d), the District must post notice of Public Hearing on the proposed DFC that includes the following:
 - (a) the proposed Desired Future Conditions and a list of any other agenda items;
 - (b) the date, time, and location of the Public Hearing;
 - (c) the name, telephone number, and address of the Person to whom questions or requests for additional information may be submitted;
 - (d) the names of the other districts in GMA-16; and
 - (e) information on how the public may submit comments
- (5) The notice must be:
 - (a) posted in a place readily accessible to the public at the District Office;
 - (b) provided to the county clerk of each county in the District;
 - (c) published in one or more newspapers of general circulation in the counties in which the District is located;
 - (d) provided by mail, facsimile, or electronic mail to any Person who has requested notice under District Rule 8.2.F;
 - (e) make available a copy of the proposed Desired Future Conditions at a place accessible to the public during normal business hours and on the District website.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (6) Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.
- (7) Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.
- (8) The District shall make and keep in its files an audio recording of the hearing.
- (9) The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
- (10) After the Public Hearing, the District shall compile for consideration at the next GMA-16 Joint Planning Committee meeting a summary of relevant comments received, any suggested revisions to the proposed Desired Future Conditions, and the basis for the revisions.
- (11) The District shall submit the DFC Hearing Summary Report to GMA-16 no later than the end of the 90-day public comment period.

B. District Adoption of the DFCs

- (1) As soon as possible after the District receives the DFC Resolution and Explanatory Report, the District shall adopt the DFCs in the Resolution and Report that apply to the District.
- (2) The notice and hearing provisions of District Rule .8.9.A(2) - (9) apply to the District's adoption of the DFCs.

C. Appeal of a DFC

- (1) If the District receives, within 120 days from the District's adoption of a DFC under District Rule 8.9.B, a petition from an affected person appealing the reasonableness of a DFC, the District shall take the following actions.
 - (a) Submit a copy of the petition to the Texas Water Development Board within 10 days of receipt.
 - (b) Within 60 days of receipt, submit a copy of the petition to SOAH and contract with SOAH to conduct a contested case

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

hearing on the petition, as provided by Texas Water Code section 36.1083.

- (2) During the period between receipt of a petition described in subsection (1) of this Rule 8.9.C and receipt of the Texas Water Development Board study required under Texas Water Code section 36.1083(e), the District may enter into mediation with the petitioner to resolve the issues raised in the petition.
- (3) If there is no resolution of the petition, the District shall provide at least 10 days prior to the SOAH hearing:
 - (a) general notice of the SOAH hearing following the requirements of District Rule 8.9.A; and
 - (b) notice of the SOAH hearing mailed to the petitioner; any person who has requested notice; each nonparty groundwater conservation district and Regional Water Planning Group located in the same Groundwater Management Area as the District; the Texas Water Development Board; and the Texas Commission on Environmental Quality.
 - (c) notice under District Rule 8.9.C.(3)(a) and (b) shall include the following information:
 - (i) a statement of the time, place, and nature of the hearing;
 - (ii) a statement of the legal authority and jurisdiction under which the hearing is to be held, citing specifically to 1 Texas Administrative Code Chapter 155;
 - (iii) a reference to the particular sections of the statutes and rules involved; and
 - (iv) a short, plain statement of the matters asserted.
- (4) The petitioner shall pay the costs associated with the SOAH contract and prior to the beginning of the SOAH hearing shall deposit with the District an amount sufficient to pay the contract amount, such amount to be set by the District on a case-by-case basis depending on the SOAH contract for each petition hearing.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (5) SOAH may apportion costs among the parties to the petition hearing and the District will implement such apportionment, including refund of any excess deposit money to the petitioner.
- (6) On receipt of SOAH's findings of fact and conclusions of law in a proposal for decision on the petition, the District shall issue a final order stating the District's decision on the petition, including findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by SOAH, or may vacate or modify an order issued by SOAH, as provided by District Rule 8.7.G.
- (7) If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with SOAH's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the District's decision.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 9: WATER WELLS ASSOCIATED WITH URANIUM EXPLORATION AND MINING

9.1 Uranium Exploration Activities

A. GCD Jurisdiction:

- (1) Except as provided in Texas Natural Resources Code Section 131.354, 16 Texas Administrative Code Section 11.140, and these Rules, the Texas Railroad Commission has exclusive jurisdiction and is solely responsible for regulation of all Uranium Exploration Activities.
- (2) Cased Uranium Exploration Wells subject to a Uranium Exploration Permit used for exploration or for Rig Supply Purposes are exempt from District regulation except as described in Rule 9.1.A(3).
- (3) If the cumulative amount of water produced from the Cased Uranium Exploration Wells located inside the area subject to the Uranium Exploration Permit and completed under the Uranium Exploration Permit exceeds 40 acre-feet in one year:
 - a. All Wells described in Rule 9.1.A(3) used for Monitoring Purposes are subject to District Rules regarding Registration of Wells.
 - b. All Wells described in Rule 9.1.A(3) used for Rig Supply Purposes are subject to District Rules regarding production and reporting.

(4) Production Limits

With regard to a Rig Supply Well subject to the District's production Rules pursuant to Texas Natural Resources Code 131.354(c), 16 Texas Administrative Code 11.140(d), and Rule 9.1.A(3)(b), the District shall use the number of acres described in the Uranium Exploration Permit in calculating Production Limits under District Rule 11.

B. Cased Well Production Report

A Uranium Exploration Permittee shall submit a monthly Cased Well Production Report to the District as described in this Rule 9.1.B. The Report shall include the total amount of water produced by each Cased

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Uranium Exploration Well used for Monitoring or for Rig Supply and that is located inside the area subject to the Uranium Exploration Permit. The report shall be submitted within 30 days from the end of each month showing production during the previous month. The monthly reports are required until the end of the Uranium Exploration Permit Year, even if production temporarily ceases. The Cased Well Production Report form is available at the District Office and on the District website. The following information must be provided:

- (1) Well identification to correspond with information provided to the Railroad Commission on Form SMRD-38U (Cased Exploration Well Completion Report);
- (2) amount of water produced reported in gallons and acre-feet; and
- (3) monthly production data and cumulative data for the Uranium Exploration Permit Year.

C. Groundwater Quality and Well Information

- (1) At least 15 days prior to commencement of drilling, a Uranium Exploration Permittee shall obtain Groundwater samples for analysis in accordance with this subsection. Within 90 days of receiving the laboratory analysis data, the Permittee shall provide to the District Exploration Groundwater Quality Information as follows:
 - (a) from each Water Well located in the District that is tested by the Permittee before exploration; and
 - (b) from the following Wells, as applicable:
 - (i) if there are fewer than 10 Water Wells located inside the area subject to the Uranium Exploration Permit, from each Well located inside that area; or
 - (ii) if there are at least 10 Water Wells located inside the area subject to the Uranium Exploration Permit, from 10 Water Wells that are distributed as evenly as possible throughout that area.
- (2) Within 90 days of receiving the laboratory analysis data, a Permittee shall provide to the District Exploration Groundwater Quality Information obtained during exploration within the District as follows:

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (a) from each Water Well that the Permittee tests during exploration; and
 - (b) from each Cased Uranium Exploration Well completed under the Uranium Exploration Permit.
- (3) Each Permittee shall conform the Exploration Groundwater Quality Information required under subsections (1) and (2) of this Rule 9.1.C to the requirements of 16 Texas Administrative Code section 11.142.
- (4) Each Uranium Exploration Permittee that installs Cased Uranium Exploration Wells shall provide to the District, within 60 days of the installation, the following information:
- (a) the Permittee's name, address, and telephone number; and
 - (b) the following information for each Cased Uranium Exploration Well in the District:
 - (i) Well Completion information;
 - (ii) the State of Texas Well Report, and all Geophysical and Lithological Well Logs, except any Confidential Information as defined in these Rules;
 - (iii) the location of the Well in WGS 84 Coordinates, including a legal description and the acreage of the property where the Well is located;
 - (iv) verification that the Well will be used for an Industrial Purpose; and
 - (v) the type and Capacity of the Pump used in the Well.

Adopted _____, 2016, by Board Order; effective _____, 2016.

9.2 Injection Well Area Permit for In Situ Uranium Mining

A. Reporting Data to District

If in an Area Permit Application, the proposed Area Permit Boundary is wholly or partially within the District, the Area Permit Applicant shall provide to the District

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

the information required by this Rule 9.2.A. This information must be provided to the District no later than 90 days after the Area Permit Applicant receives the final information.

- (1) The Area Permit Applicant shall provide Information regarding Water Wells that are not recorded in the public record when such Water Wells are encountered during the development of the Area Permit Application, including:
 - (a) the location of each Water Well in WGS 84 Coordinates;
 - (b) the name, address, telephone number, and email address of the Water Well Owner; and
 - (c) any other available information for the Water Well that the Area Permit Applicant has included in its Area Permit Application.
- (2) A map showing the locations, including the WGS 84 Coordinates, of all Water Wells that are recorded in the public record and that are inside the proposed Area Permit Boundary and within one-quarter mile outside of the proposed Area Permit Boundary;
- (3) Pre-Mining Water Quality Information collected from Area Permit Registered Wells; and
- (4) a record of strata as described in 30 Texas Administrative Code 331.224 for each Area Permit Registered Well, except for Confidential Information, as defined in these Rules.

B. Area Permit Registered Well Production Report

An Area Permit Applicant shall submit a monthly Area Permit Registered Well Production Report to the District as follows. The Report shall include the total amount of water produced by each Area Permit Registered Well. The Report shall be submitted within 30 days of the end of each month showing production during the previous month. The Area Permit Registered Well Production Report form is available at the District Office and on the District website.

C. Reporting an Excursion in a Designated Monitor Well

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

A copy of the written notification of an excursion in a designated Monitoring Well, required under 30 Texas Administrative Code 331.106(1), shall be submitted to the District at the same time it is sent to the Texas Commission on Environmental Quality.

Adopted _____, 2016, by Board Order; effective _____, 2016.

9.3 Aquifer Exemption Boundaries Reporting Requirement

The holder of an Aquifer Exemption shall submit to the District a map or legal description of any portion of the aquifer that becomes off limits for use as a drinking water source under the Safe Drinking Water Act and Texas Water Code Chapter 27 Aquifer Exemption process of 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13. A submittal is due within 30 days of approval, amendment, and removal of the Aquifer Exemption by the U.S. Environmental Protection Agency. The holder of the Aquifer Exemption is responsible for submitting this documentation. Additionally, because under Rule 11.2.C(1) an Aquifer Exemption affects the Landowner's Groundwater allocation, the Landowner is also responsible.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 10: WELL LOCATION AND SPACING

10.1 Purpose

The purpose of these Well spacing requirements is to promote Groundwater Conservation, provide for long-term availability of Groundwater resources, reduce localized depletion of Groundwater, prevent interference between Wells, and prevent the degradation of Groundwater quality.

Adopted _____, 2016, by Board Order; effective _____, 2016.

10.2 Applicability

A. The requirements of Rule 10.3, 10.4, and 10.5 apply to all Proposed Wells drilled within the District, except Wells subject to Rule 9 and 13.2.C or unless specifically noted in this Rule 10. As authorized by Texas Water Code Section 36.116, some of the required distances are more stringent than those required by 16 Texas Administrative Code Section 76.100, as amended.

B. When an Application for Registration or for an Operating Permit for an Existing Well is filed, the District will determine whether it complies with the requirements of Rule 10.4 establishing distances from potential sources of pollution. If the Well does not, the District may impose requirements designed to protect the Groundwater and the Aquifer.

C. All Water 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.

Adopted _____, 2016, by Board Order; effective _____, 2016.

10.3 Well Location Requested in Application

After an Application for Registration or for an Operating Permit has been approved, the Well must be located within thirty (30) feet of the location specified in the Certificate of Registration or the Operating Permit. If the Well is drilled at a different location, the operation of such Well may be enjoined by the Board, following the procedures of Rule 7.

Adopted _____, 2016, by Board Order; effective _____, 2016.

10.4 Spacing from Potential Sources of Pollution

- A.** All Proposed Wells must comply with the location standards of 16 Texas Administrative Code Section 76.100, which dictate horizontal distance from potential sources of Pollution. Section 76.100 excludes Monitoring Wells, Environmental Soil Borings, Dewatering Wells, Piezometer Wells, and Recovery Wells from these requirements. Such Wells may be located where necessity dictates.
- B.** Public Water Supply Wells also must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.

Adopted _____, 2016, by Board Order; effective _____, 2016.

10.5 Spacing From Property Lines

- A.** All Proposed Wells shall be located a minimum horizontal distance from property lines as required by 16 Texas Administrative Code Section 76.100 unless covered by the more stringent spacing requirements of this Rule 10.5.
- B.** Proposed Wells may not be drilled within one hundred (100) feet of any property line.
- C.** A Proposed Well must be located so that the distance to any other Well is at least one foot for each gallon-per-minute of Production Capacity of the Well. If the Capacity of the Well exceeds one-thousand (1,000) gallons-per-minute then the minimum spacing distance must be an additional one-half (1/2) foot for each gallon-per-minute in excess of one-thousand.

EXAMPLES:

500 gallons per minute=500 feet
750 gallons per minute=750 feet
1000 gallons per minute=1000 feet
1250 gallons per minute=1375 feet
1500 gallons per minute=1750 feet
1750 gallons per minute=2125 feet

- D.** For the purpose of preventing Waste, the Board reserves the right to enter special orders increasing or decreasing the spacing distances of Rule 10.5.C. in particular subterranean water zones or reservoirs.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

E. Any increase in Pumping Capacity must be approved by the District under Rule 3.8 for an Exempt Well and 3.9 for a Non-Exempt Well. A request to increase Pumping Capacity will only be granted if the Well location will comply with the spacing requirements of this Rule 10.5 or if the Board approves an exception during the permit amendment process.

Adopted _____, 2016, by Board Order; effective _____, 2016.

10.6 Well Spacing Variance Procedures

A. Purpose

In order to protect the rights of owners of interests in Groundwater or to prevent Waste, the Board may grant exceptions to the spacing requirements of Rule 10.5.

B. Applicability

The procedure under this Rule 10.6 applies to a Well spacing Variance for a Proposed Exempt Well. An exception from the spacing requirements of Rules 10.4 and 10.5 for a Proposed Non-Exempt Well must be addressed during the Operating Permit and Amendment process under Rule 3. The procedure of this Rule 10.6 does not apply to those situations

C. A Variance Application shall be submitted to the District on a form obtained from the District. The Application, including the required attachments, shall be signed and sworn to by the Applicant. The Application shall explain the circumstances justifying the Variance. It shall be accompanied by a plat or sketch, drawn to scale with one inch equaling 2,000 feet, which shows the property lines of the lot where the well is located and the location of any wells within one-half (1/2) mile of the Proposed Well. The Application shall also include the names and mailing addresses of all property owners adjoining the tract on which the Well is to be located and the owners of the wells within one-half (1/2) mile of the well.

D. Notice and an opportunity for a hearing before the Board for such a Variance shall be as follows:

- (1) The District shall mail notice to the Applicant for the Variance and to all property owners adjoining the tract on which the Well is to be located and to Well Owners of any wells within one-half (1/2) mile of the proposed Well location at least 14 days prior to the Board meeting at which the Variance will be considered by the Board.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) The Applicant for the Variance shall pay for mailing the notice.
- (3) The notice shall provide the proposed location of the Well(s), the Applicant's name and address, and the date, time, and location of the Board meeting. It must state that the Proposed Well will not meet the spacing requirements of the District and an exception is requested by the Applicant.
- (4) The Board shall consider the Variance at a Board meeting, which shall serve as the hearing on the Variance. The requirements of Rule 8 do not apply to a hearing under this Rule 10.6.D.
- (5) In making its decision on the Variance, the Board shall consider comments, if any, from adjoining property owners or Well Owners with Wells located within ½ mile of the Proposed Well; the peculiarities of the property shape; the local geology or hydrology; and any information presented by the Applicant.

E. Waiver for Property Line Spacing

- (1) If the Applicant for a Variance to the distance from property lines requirement of Rule 10.5.B obtains a waiver or easement of the property line distances from adjoining, affected property owners, no public notice and opportunity for a public hearing is required.
- (2) The Applicant for the Variance shall prepare a plat and legal description of the affected property, and such plat shall be signed and sealed by a Registered Professional Land Surveyor.
- (3) The legal description, plat, and waiver shall be notarized and filed with the Duval County Clerk and copies shall be submitted with the Application for a Variance to the District office prior to drilling the Proposed Well, as part of the Application for Registration.
- (4) Such a waiver or easement will affect the property of the owner granting it by causing the distance requirements from property lines to be adjusted inward on the property for which the waiver is granted.

Adopted _____, 2016, by Board Order; effective _____, 2016

10.7 Responsibility for Compliance

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

The Well Owner and the Well Owner's Agent, the Well Operator, and the Person who performs work on the Well or pump is responsible for compliance with Rule 10.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 11: PRODUCTION LIMITS

11.1 Existing Non-Exempt Wells

- A.** An annual Production Limit will be included in the Operating Permit for an Existing Non-Exempt Well. This may include regulation Production Volume and/or Rate.
- B.** An Applicant for an Operating Permit for an Existing Non-Exempt Well has one of the following options for the annual Production Limit. The Applicant must provide information adequate to support the Production Limit and the District makes the final decision on the adequacy of the supporting information.
- (1) The highest annual Production Volume from the Well during the five years prior to **[DATE THESE RULES ARE ADOPTED]** plus 25 %; or
 - (2) A reasonable Volume for purpose of Beneficial Use of Groundwater without Waste plus 25 %; or
 - (3) Two (2) acre-feet/acre/year. If the Production Limit is based on this provision, the requirements of Rule 11.2.C apply.

Adopted _____, 2016, by Board Order; effective _____, 2016.

11.2 New Non-Exempt Wells

- A.** An annual Production Limit will be included in the Operating Permit for a New Non-Exempt Well. This may include regulation of Production Volume and/or Rate.
- B.** The Production Limits in effect at the time an Application for an Operating Permit is deemed Administratively Complete, are the applicable Production Limits for the permit.
- C.** The Production Limits for New Non-Exempt Wells, other than those for Retail Water Utility Wells, shall be 2 acre-feet/acre/year, effective **[DATE THESE RULES ARE ADOPTED]**.
- (1) For an Operating Permit with a Production Limit based on a number of contiguous acres, those contiguous acres must be either owned by the Well Owner or the Well Owner must have Groundwater production rights for those contiguous acres.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) The Operating Permit must specify the contiguous acres designated by the Applicant to support the Production Limit. The designated acreage shall be considered the Production-Limit-Acreage.
- (3) In determining the number of contiguous acres upon which the Production Limit will be based, the District shall consider the extent to which the property is subject to In Situ Uranium Mining and shall calculate as follows:
 - (a) If any portion of the aquifer becomes off limits for use as a drinking water source under the Safe Drinking Water Act and Texas Water Code Chapter 27 Aquifer Exemption process of 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13, the Production-Limit-Acreage shall be reduced by the surface acreage deemed off limits.
 - (b) The total Production Limit shall be reduced by 80 acre-feet per production area per year during any period of In Situ Uranium Mining on the Production-Limit-Acreage.

D. The Production Limit for a Water Supply Well for a Retail Water Utility will be based on the number of service connections, the utility's service area, and a reasonable Volume for purpose of Beneficial Use of Groundwater without Waste plus 25 %. In determining Beneficial Use, the District will require that the Retail Water Utility comply with its approved Drought Contingency Plan and that such Plan be filed with the District and its terms will be enforceable by the District.

E. If the cumulative Volume of water produced from Wells located inside the area subject to a Railroad Commission Uranium Exploration Permit issued under Texas Natural Resources Code, chapter 131, Subchapter I exceeds 40 acre-feet in one year, a Cased Exploration Well being used for rig supply purposes is subject to the Production Limits in Rule 11.1(b) or 11.2(c) based on whether it is considered an Existing Non-Exempt Well or a New Non-Exempt Well, respectively. In determining the number of contiguous acres upon which the Production Limit will be based, the District will use the number of acres described in the Uranium Exploration Permit.

Adopted _____, 2016, by Board Order; effective _____, 2016.

11.3 Effect of Drought on Production Limits

If any one of the three major municipal Retail Water Utilities triggers its drought contingency plan, the District may declare emergency drought conditions in all

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

or the part of the District that the Board decides is impacted by drought. The District may reduce Production Limits in the area affected by the drought on a pro rata basis during a period designated by the District. Any such reduction shall be established by resolution adopted at a Board meeting and the resolution will designate the effective period, which area is affected, the percent production reduction required, and under what conditions the period will end.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 12: PROHIBITION AGAINST WASTE AND POLLUTION

12.1 General Prohibition

No Person shall intentionally or negligently commit Waste or Pollution of the Groundwater resources within the District. Water Pollution Events must be reported to the District as required by Rule 5.6.

Adopted _____, 2016, by Board Order; effective _____, 2016.

12.2 Wasteful Use

Groundwater produced within the District shall not be used in such a manner or under such conditions as to constitute Waste as defined by District Rules.

Adopted _____, 2016, by Board Order; effective _____, 2016.

12.3 Wasteful Production

Any Person producing or using Groundwater shall exercise due care to stop and prevent Waste of Groundwater. Transporting Groundwater for a distance greater than 1/4 mile in an open ditch, canal or other water course is per se Waste and is prohibited.

Adopted _____, 2016, by Board Order; effective _____, 2016.

12.4 Groundwater Pollution

No Person shall Pollute or harmfully alter the character of the Groundwater within the District by causing or allowing the introduction of Injurious Water, Pollutants, or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a Well, unless authorized by State or federal law.

Adopted _____, 2016, by Board Order; effective _____, 2016.

12.5 Orders to Prevent Waste or Pollution

A. An order to prevent Waste or Pollution will generally be processed as an Enforcement matter under Rule 7.

B. If the District determines that an imminent peril to public health, safety, or welfare requires the immediate entry of an order to prohibit Waste or Pollution, the Board may issue an Emergency Temporary Order.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

C. An Emergency Temporary Order may not be effective for longer than 90 days without further action of the Board.

D. If the District has identified a Person responsible for the Waste or Pollution of Groundwater and an emergency exists, initiation of an Enforcement Action shall take place within 14 days of the effective date of the Emergency Temporary Order.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 13: WATER WELLS ASSOCIATED WITH OIL, GAS, AND MINING ACTIVITIES

13.1 District Jurisdiction over Water Wells Associated with Oil and Gas Activities

- A.** The District has authority over Water Wells used to supply water for activities related to the exploration or production of hydrocarbons.
- B.** The District has authority over Abandoned Oil or Gas Wells conditioned for usable quality water production.

Adopted _____, 2016, by Board Order; effective _____, 2016.

13.2 Water Wells Associated with Oil and Gas Activities

- A.** For purposes of these Rules, Water Wells associated with Oil and Gas Activities are divided into categories based on Production Capacity. The category determines the level of regulation by the District.
- (1) A Water Well associated with Oil and Gas Activities that is Incapable of producing more than 25,000 gallons per day, including an Injection Water Supply Well drilled for hydrocarbon activities associated with an Oil or Gas Well that does not penetrate the base of usable quality water, is exempt from Registration, permitting, location standards, recordkeeping, and reporting requirements. Such Wells are referred to in these Rules as Exempt Oil and Gas Water Supply Wells.
 - (2) A Water Well associated with Oil and Gas Activities having a Production Capacity of 25,000 gallons per day or more must be registered, must keep production records, and must comply with production reporting requirements. These Wells are referred to in these Rules as Registered Oil and Gas Water Supply Wells.
 - (3) If a Water Well associated with Oil and Gas Activities remains operational but is no longer used to supply water for Oil and Gas Activities, the Well falls within the requirements for other Water Wells regulated by the District.
- B. Registered Oil and Gas Water Supply Wells**

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (1) No Operating Permit is required to drill or operate a Registered Oil and Gas Water Supply Well.
- (2) Under District Rule 3.1.A(3) and (4) and this Rule 13.2, a Well is considered to be a Registered Oil and Gas Water Supply Well during any period that water from the Well is used solely or partially to supply water for Oil and Gas Activities.
- (3) For purposes of this Rule 13.2, the Well Operator is the Person holding the Railroad Commission Oil or Gas permit as described in Texas Water Code Section 36.117(b)(2).
- (4) The Well Operator must register a Registered Oil and Gas Water Supply Well with the District as provided in Rule 3.2. When registering a Well that will be used solely as a Registered Oil and Gas Water Supply Well, the use shall be indicated on the Registration Application and the Well Registration Certificate shall reflect that use.
- (5) The Well Operator as defined in this Rule 13.2, must notify the District of changes in use to or from a Registered Oil and Gas Water Supply Well, as provided in Rule 3.8.
- (6) A Registered Oil and Gas Water Supply Well must comply with the Well construction standards as provided in Rule 4 and the Well spacing requirements of Rule 10.
- (7) The driller of a Registered Oil and Gas Water Supply Well must submit to the District the Well Log as provided in Rule 5.1.A and the Geophysical, Electric, and Lithological Well Logs as provided in Rule 5.1.B.
- (8) The production from a Registered Oil and Gas Water Supply Well shall be recorded and reported as required in Rule 5.4.
- (9) Registered Oil and Gas Water Supply Well shall be plugged in accordance with Rule 6.1.

C. Injection Water Supply Well Permitted by the Railroad Commission

No District Operating Permit or Registration is required for an Injection Water Supply Well associated with Oil and Gas Activities that penetrates the base of usable quality water because such a Well is required to obtain a drilling permit

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

from the Railroad Commission and be Completed and Plugged according to Railroad Commission standards.

D. Abandoned Oil or Gas Wells Conditioned for Usable Quality Water Production

- (1) When an Abandoned Oil or Gas Well will be conditioned for usable quality water production, the Well Owner or Operator must register the Well with the District prior to submitting to the Railroad Commission, Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," as required by District Rule 3.2.
- (2) If the Water Well is not equipped to produce water, it will be Registered as an Inactive Well and must be Capped as required by District Rule 6.3. When the Inactive Well is equipped to produce water, the Well Owner must notify the District of the change in status as required by District Rule 3.8.
- (3) As required by Rule 5.1.D, a Railroad Commission Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," shall be submitted to the District within 30 days of receipt of Railroad Commission approval of the Application. This must be submitted by either the Well Owner or Operator, whichever has received the Railroad Commission approval notice.

Adopted _____, 2016, by Board Order; effective _____, 2016.

RULE 14: TRANSPORT OF WATER FOR USE OUT-OF-DISTRICT

14.1 Applicability

- A.** This Rule 14 applies to Non-Exempt Wells.
- B.** This Rule does not apply to Groundwater being Transported under a continuing agreement in effect before March 2, 1997, unless the Volume of Groundwater to be Transported has increased since that date.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.2 Required Transport Permit

- A.** A Transport Permit is required to Transport water produced from a Non-Exempt Well for use outside the District except as described in Rule 14.1.B.
- B.** Water produced from a Non-Exempt Well shall not be Transported for use outside the District unless a Transport Permit has been obtained from the District.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.3 Information Required in a Transport Permit Application

- A.** An Application for a Transport Permit must be submitted on a form obtained from the District and must be signed and sworn to by the Well Owner and the Transport Project Owner or their Agents as required by Texas Water Code Section 36.113(b).
- B.** An Applicant for a Transport Permit must meet with the District General Manager prior to preparing and submitting an Application. An Application will not be accepted unless such meeting has taken place.
- C.** If an Applicant for an Operating Permit for New Non-Exempt Well intends to Transport water for use outside the District, an Application for a Transport Permit must be combined with the Application for an Operating Permit and the Applications will be considered and processed together. If the Application for a Transport Permit covers an Existing Non-Exempt Well for which an Operating Permit has already been issued, the Transport Permit Application may be considered on its own.
- D.** An Application for a Transport Permit shall include the following:

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (1) Name, mailing address, phone number, facsimile number, and e-mail address of the Transport Project Owner.
- (2) Name, mailing address, phone number, facsimile number, and e-mail address of the Well Owner if different from the Transport Project Owner.
- (3) Name, mailing address, phone number, facsimile number, and e-mail of the Person submitting the Transport Permit Application, if different from the Transport Project Owner. This Person will be considered to be the Transport Project Owner's Agent and the Applicant.
- (4) Name, mailing address, phone number, facsimile number, and e-mail of the Owner of the land on which the Transport Project is located.
- (5) For Existing Non-Exempt Wells, a copy of the Operating Permit Application and the Operating Permit, for each Well from which the water to be Transported will be produced. This must include a copy of the Well Registration Application and Well Registration Certificate. For a New Non-Exempt Well, a Well Registration Application and an Operating Permit Application are required as part of the Transport Permit Application process. The requirements of those Applications are controlled by Rule 3.
- (6) The Transport Permit Application Fee of \$100.00, which is non-refundable.
- (7) A description of the proposed Transport Project and Facilities.
- (8) Location and property description of the proposed Transport Project, including a location map or property plat. All maps or plats must include the name of the county, must have a direction indicator, and must identify the scale of the map. At least one map or plat must be drawn to show the location relationship between the Non-Exempt Well from which the water will be produced and the Transport Facilities.
- (9) The date on which the construction of Transport infrastructure, if any, will begin.
- (10) If no infrastructure is needed for transport, the date on which Transport out of the District will begin.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (11) The nature and purposes of the proposed use and the Volume of water to be used for each purpose. For Existing Non-Exempt Wells, if the purpose of use differs from that authorized by the Operating Permit, an Application to Amend the Operating Permit is required as part of the Transport Permit Application process. The requirements of an Amendment Application is controlled by Rule 3.9.
- (12) if the water is to be resold to others, a description of the Applicant's service area, metering, leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each subsequent customer's water demands, including population and customer data, water use data, water supply system data, alternative water supply, water Conservation measures and goals, conjunctive use, and the means for implementation and enforcement of all applicable Rules, plans, and goals.
- (13) The period required for the proposed use of water.
- (14) The Volume of water to be Transported outside the District annually and over the life of the project.
- (15) Information comparing the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested.
- (16) The projected effect of the proposed Transfer on aquifer conditions, depletion, subsidence, and water quality and quantity.
- (17) The projected water quality and quantity effects on existing Operating Permit Holders or other Groundwater users within the District.
- (18) An explanation of how the project is reflected in the latest approved Region N Water Plan and Regional Water Plan covering the area where the water will be used.
- (19) An explanation of how the project is consistent with the latest approved Management Plan.
- (20) Identify, including quantity and quality of, any other possible sources of water that could be substituted for fresh Groundwater.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (21) Information showing what water Conservation measures the Applicant has adopted, what water Conservation goals the Applicant has established, and what measures and time frames are necessary to achieve the Applicant's established water Conservation goals.
- (22) Any other information deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36, the District's Enabling Legislation, and general law and to assist the District to make the findings required by Texas Water Code section 36.122.

Adopted _____, 2016, by Board Order; effective _____, 2016.!

14.4 Processing a Transport Permit Application and Issuing a Permit

- A.** An Application for a Transport Permit shall be considered and processed under the same procedures as an Application for an Operating Permit under Rule 3, as set out in this Rule 14.
- B.** The requirements of Rule 3.6.A regarding Administrative Completeness of an Application shall apply to an Application for a Transport Permit by changing all references to "Operating Permit" to read "Transport Permit."
- C. Decision on a Transport Permit Application.**

Within 60 days of the date on which the Application is deemed Administratively Complete, the District will act according to Rule 8.4. The decision whether to approve the Transport Permit as requested in the Application, approve the Transport Permit with terms other than those requested in the Application, or deny the Application shall be made using the process described in Rule 8.5. The Board or its designee shall make this decision based on the considerations in Rules 3.7 and 14.5.

- D. Contents of a Transport Permit.**

A Transport Permit will include the following, in addition to any other conditions set by the District:

- (1) A requirement that a meter or other reliable water measuring device under Rule 5.2, be installed on all permitted Transport Facilities, be approved by the District and be available for District inspection under Rule 7.5.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (2) A statement that the representations made in the Transport Application become an enforceable part of the Permit.
- (3) A statement that the Transport Permit shall become void if the Registration Certificate or Operating Permit for any Well from which the water will be produced is revoked or cancelled.
- (4) The authorized annual maximum Volume of Groundwater authorized to be Transported for use outside the District.
- (5) An approved Conservation Plan.
- (6) Special Permit conditions.
- (7) Permit expiration dates based on Rule 14.8.
- (8) Reporting and recordkeeping requirements based on Rule 5.7.
- (9) The Transport Fee expressed as dollars per thousand gallons of Groundwater Transported out of the District and the following statement, "The Permit Holder acknowledges that if the District's ad valorem tax rate increases during the life of the Permit, the Transport Fee shall be increased accordingly, but in no event will it be less than the amount shown here."
- (10) A requirement that each Annual Water Transport Report required by Rule 5.7 shall be accompanied by the Transport Fee payment.
- (11) The following statement: "Notwithstanding the period during which water may be transferred under this Transport Permit, every five years the District may review the Volume of water that may be transferred under this Transport Permit. This review will be under the requirements of District Rule 14.8.B through E."
- (12) The following statement: "Despite the term of duration listed in a transport permit, a Permittee is authorized to transport water under a transport permit only as long as the Permittee also holds a valid Registration Certificate or Operating Permit issued by the District, or has a contract with the holder of such certificate or permit to purchase produced groundwater authorized by such."
- (13) The date the original Application was filed.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (14) A requirement that the Groundwater Transported under the Permit be put to Beneficial Use at all times.
- (15) The conditions and restrictions, if any, placed on the rate and Volume of water Transported.
- (16) The use or purpose for which the water is to be Transported.
- (17) The maximum quantity of water to be Transported annually.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.5 Considerations for Issuing a Transport Permit

A. In reviewing an Application for a Transport Permit, the Board must consider the following:

- (1) The availability of water in the District and in the proposed receiving area during the period for which the water Transport is requested.
- (2) The projected effect of the proposed Transfer on aquifer conditions, depletion, subsidence, or effects on existing Operating Permit Holders or other Groundwater users within the District.
- (3) The most recent approved Region N Water Plan and Regional Water Plan for the receiving area.
- (4) The District's most recent approved Management Plan.
- (5) Whether the Applicant has an underlying Operating Permit issued or being considered by the District;
- (6) Whether the Applicant has a contract for the purchase of water from an Operating Permit Holder.

B. An Application for a Transport Permit may be approved if the Board of Directors finds:

- (1) That the Application conforms to the requirements of Texas Water Code Chapter 36 and these Rules.
- (2) That the Applicant has a legitimate need for the Volume of water to be Transported as evidenced by inclusion of the proposed project

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

in the approved Regional Water Plans and the current State Water Plan.

- (3) That the Permit will not have a substantial negative impact on the availability of Groundwater in the District;
- (4) That the Permit will not have a substantially negative impact on aquifer conditions or cause excessive aquifer depletion;
- (5) That the Permit will not have a substantially negative impact on existing Operating Permit Holders or other Groundwater users within the District; and
- (6) That the method of Transport will not result in Waste.

C. The District may restrict a Transport Permit by limiting the Volume of Groundwater for Transport. It may be limited to:

- (1) The Volume of water that is authorized to be produced by the underlying Operating Permit; or
- (2) Not to exceed the otherwise uncommitted Production Capacity of the Well or Well system that the Applicant has a contract right to purchase from the Operator of a Well authorized by an Operating Permit.

D. The District shall not issue a Transport Permit unless the Transport Permit Applicant has:

- (1) obtained an underlying Registration Certificate and Operating Permit, or an Amendment to an Operating Permit that authorizes the Transport Permit Applicant to produce the Groundwater that is sought to be Transported; or
- (2) a contract with an Operating Permit Holder that entitles the Applicant to purchase water from a Well or Well system.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.6 Transport Fee

A. The Holder of a Transport Permit must pay an annual Transport Fee.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

B. The Transport Fee shall be set at the time of issuance of the Transport Permit and shall be reflected in the Transport Permit.

- (1) The Transport Fee shall be at a rate not to exceed the equivalent of the District's tax rate per hundred dollars of valuation for each one thousand gallons of water Transported out of the District.
- (2) In no event will the Transport Fee be less than \$0.025 per one thousand gallons.

C. An increase in the District's tax rate per hundred dollars of valuation during the life of a Transfer Permit shall result in a an increase in Transport Fee to be paid by the Permit Holder, calculated as described in Rule 14.6.B(1).

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.7 Revocation of a Transport Permit

Any Transport Permit granted under this Rule 14 shall be subject to revocation for nonuse or Waste by the Permittee, or for substantial deviation from the purposes or other terms stated in the Permit. Revocation of a Permit for nonuse shall require that no water is transported under the Permit for a period of five years.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.8 Permit Term, Renewal, and Extension

A. A Transport Permit under this Rule 14 must specify the period during which the water may be Transported. The period must be at least three years if construction of a conveyance system has not been initiated prior to issuance of the Permit and must be at least 30 years if construction has been initiated. If construction begins during the initial 3-year term of the Permit, the term must be extended to 30 years.

B. Notwithstanding the period during which water may be transferred under a Transport Permit specified in Rule 14.8.A, the District may periodically review the Volume of water that may be Transported and may limit the Volume if factors considered in Rule 14.5 warrant the limitation, unless it would result in imposing more restrictive Permit conditions on Transporters than the District imposes on in-District users.

C. However, the District may impose more restrictive Permit conditions on new Permit Applications and Permit Amendment Applications to increase use by Existing Permit Holders if the limitations:

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (1) apply to all subsequent new Permit Applications and Permit Amendment Applications to increase use by Existing Permit Holders, regardless of type or location of use;
- (2) bear a reasonable relationship to the existing Management Plan; and
- (3) are reasonably necessary to protect existing use.

D. The review described by this Rule 14.8.B may take place not more frequently than every five years, which is the period provided for the review or renewal of District issued Operating Permits.

E. In determining whether to renew a Transfer Permit, the District shall consider relevant and current data for the Conservation of Groundwater resources and shall consider the Transport Permit in the same manner it would consider any other permit in the district.

F. A Permittee may apply for a renewal of or extension of the term of a Transport Permit. The District shall consider and grant or deny each such Application in the same manner as is provided in this Rule 14 for an Application for a Transport Permit.

G. Regardless of the term of duration of a Transport Permit, a Permittee is authorized to Transport water under a Transport Permit only as long as the Permittee also holds a valid Registration Certificate and Operating Permit, or has a contract with the Holder of such to purchase water that is produced under the those authorizations.

Adopted _____, 2016, by Board Order; effective _____, 2016.

14.9 Other Changes to a Transport Permit

All changes to a Transport Permit shall be processed as follows:

A. Change in Transport Facilities or Operations

- (1) No Person may make any changes in Transport Facilities or Operations authorized under a Transport Permit without notifying the District in writing 14 days prior to making the change. Some changes will require more extended notification as established in

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

Rule 14.9.C. The Transport Permit Holder must meet with the General Manager prior to this 14 day period to determine the information needed by the District.

- (2) The Person who submits the information required by the General Manager regarding the Change in Facilities or Operations will be notified by the District whether the change will be processed administratively or will require an Amendment to an existing Operating or Transport Permit.

B. Change in Transport Facility Ownership or Operator (Transfer of Transport Permit)

- (1) Any change in ownership of a Transport Facility or change in the Facility Operator shall be reported by submitting a Change in Ownership form to the District within 60 days after the change. The form is available at the District office and on the District website.
- (2) The form must be signed by the Transport Facility Owner noted in the Transport Permit and the Person to whom ownership is being transferred. If it is a change in Operator, the form must be signed by the Operator noted in the Transport Permit and by the new Operator. The new owner or the new Operator, as appropriate, must submit the form to the District. Failure to timely notify the District may result in the Permit being revoked. The District will issue an amended Transport Permit.

C. Changes That Require an Amendment to a Transport Permit

- (1) An Amendment to a Transport Permit is required for any change to the Transport Project covered by the Transport Permit.
- (2) Amendments are characterized as Major or Minor according to the requirements of this Rule 14.9.C. Such characterization will determine the process involved for consideration and approval of an Amendment.
- (3) Major Amendment
 - (a) A Major Amendment to a Transport Permit is required whenever a Major Amendment to the underlying Operating Permit is required under Rule 3.9.

Proposed Duval County Groundwater Conservation District Rules
September 28, 2016

- (b) A Major Amendment is also required when a change in the Transport Facilities or Operations will result in Transport of an increased Volume of Groundwater or increased Rate of Transport.
 - (c) An Application for a Major Amendment, on a form obtained from the District, must be submitted at least 90 days prior to the date the change is to take place. A Transport Permit Application Fee of \$100.00 must also be submitted.
 - (d) The Major Amendment Application will be processed according to Rule 14.4 and 14.5.
- (4) Minor Amendment
- (a) A Minor Amendment to a Transport Permit is required to make any changes to the Transport Facilities or Operations other than those covered by Rules 14.9.B and 14.9.C(3).
 - (b) An Application for a Minor Amendment, on a form obtained from the District, must be submitted at least 14 days prior to the date the change is to take place.
 - (c) The General Manager may process and approve a Minor Amendment. Denial of such Applications shall be referred to the Board for action under Rule 8.5.

(5) **Current Permit to Remain in Effect**

If an Application for an Amendment to a Transport Permit is timely filed, the Permit as it exists at the time the Application is filed remains in effect until the conclusion of the Permit Amendment process or final settlement or adjudication on the matter of whether the change to the Permit requires an Amendment, whichever is later.

Adopted _____, 2016, by Board Order; effective _____, 2016.