

CHAPTER 3 – PERMITTING

SECTION 3.1 – ACKNOWLEDGEMENT OF DISTRICT RULES

RULE 3.1.1 – COMPLIANCE

- a) **Compliance with Rules** – Permits are granted in accordance with the provisions of the Rules of the District, and submittal of an administratively complete permit application constitutes acknowledgement of, and agreement to, comply with the Rules and all of the permit's terms, provisions, conditions, limitations, and restrictions and any emergency conditions assessed by the District. This permit confers only the right to operate the permit under the provisions of these Rules, and its terms may be modified or amended pursuant to the provisions of these Rules.
- b) **Statement of Terms and Rights** – Permits by the District to the applicant shall state the terms and provision prescribed by the District. The permitted right to produce shall be limited to the extent of and for stated purpose(s) in the permit.
- c) **Sworn Statement** – The applicant must submit a notarized declaration that the applicant will comply with the District's Rules and all groundwater use permits and plans promulgated pursuant to the District's Rules.

SECTION 3.2 – PERMIT CRITERIA

RULE 3.2.1 – TYPES OF PERMITS

- a) **Descriptions** – All permits described in these Rules shall be classified as being one of the following types: operating; existing and historic use; transport; or, test well. These rules do not have a category for drilling permit. The right to drill is inherent in the operating or test well permit. A new, non-exempt well shall not be drilled without first obtaining the appropriate operating or test well permit.

RULE 3.2.2 – WELLS EXEMPTED FROM REQUIRING A PERMIT

- a) **Rights of the District** – The District has the right to exempt wells from the requirement of obtaining an operating permit or any other permit represented in this chapter, as listed in this Rule.
- b) **Domestic and Livestock Usage** – All domestic and livestock wells drilled, completed, or equipped so that they are incapable of producing more than 50,000 gallons per day are exempt from requiring a permit.
- c) **Mining Usage** – All wells permitted by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a chapter 134 well, to the extent the withdrawals are required for mining activities, shall be considered exempt from the requirement of obtaining an operating permit. An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code shall report monthly to the District the following: (i) the total amount of water withdrawn during the month; (ii) the quantity of water necessary for mining activities; and (iii) the quantity of water withdrawn for other purposes. If the usage of the well changes, the well may become subject to requiring a permit. Water usage in support of gravel mining operations is not regulated by the Railroad Commission of Texas and therefore does not require a permit.
- d) **Rig Supply** – All wells used solely to supply water for a rig actively engaged in exploration or drilling operations for oil or gas permitted by the Texas Railroad Commission under Title 3 of the Natural Resources Code shall be considered exempt from the requirement of obtaining an operating permit. If the ownership or usage of the well changes, the well may become subject to requiring a permit with spacing requirements as designated in 4.2.1.b.
- e) **Capped Wells** – Non-deteriorated wells that have been capped do not require a permit.
- f) **Other Wells** – All other Class A wells except those listed in 3.2.2.b-e above, that have a casing size of four inches or less are exempt from requiring a permit unless well owners or operators are seeking to use more than 50 ac-ft in a three year period in which case they will require a permit.

RULE 3.2.3 – ALTERATION OF EXEMPT WELLS

- a) **Change in Usage** – The District may require an exempted well to obtain an operating permit and comply with District Rules regarding that permit if a well previously exempted under Rule 3.2.2 is: (i) substantially altered in a way that would render the well non-exempt; or, (ii) used in such a way that would render the well non-exempt.

RULE 3.2.4 – DRILLING AND/OR OPERATION OF EXEMPT WELLS

- a) **Registration and Maintenance** – Water wells exempted as described in Rule 3.2.2 shall: (i) be registered in accordance with rules promulgated by the District, (ii) be equipped and maintained so as to conform to the District’s Rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.
- b) **Well Spacing for Exempt Wells** – Exempt wells as described in Rule 3.2.2 shall adhere to District rules regarding spacing from property boundaries and septic systems, but are not constrained from spacing to other adjacent water wells except as designated in 4.2.1.b.
- c) **Filing of State Reports** – All water well drillers, including those that drill wells exempt from requiring a permit, shall file with the District the State Well Report within 60 days of completion of the well.

RULE 3.2.5 – WELLS NOT EXEMPTED FROM REQUIRING A PERMIT

- a) **Requirements** – Unless specifically designated in Rule 3.2.2 of these rules, all wells will require a permit from the District.

SECTION 3.3 – OPERATING PERMITS

RULE 3.3.1 – OPERATING PERMIT CLASSIFICATIONS

- a) **Permit Differentiation** – Any well that is non-exempt from permitting will require one of the following classifications of an operating permit, if and to the extent the applicant’s desired withdrawals from that well are not authorized by an existing and historic use permit.
 - i. **Operating Permit Class A** – Any well that has a maximum pumping rate of 200 gpm or less will require an operating permit of this class. The General Manager will have full authority to grant or deny these permit applications.
 - ii. **Operating Permit Class B** – Any well that is capable of pumping more than 200 gpm but less than 600 gpm will require an operating permit of this class. Authority to grant or deny these permit applications lies with the Board of Directors. Action on an operating permit of this class must be included as an agenda item and posted as part of the Notice of Open Meeting of the CCGCD Board of Directors. Any applicant or affected party may appeal the Board’s ruling by filing, within twenty (20) calendar days of the ruling, a written request for hearing. The District will issue written notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
 - iii. **Operating Permit Class C** – Any well that is capable of pumping 600 gpm or more will require an operating permit of this class. This permit will require a public hearing.
- b) **Application** – Applications shall be made for the specific class of operating permit on a District-approved form.

RULE 3.3.2 – APPLICATION INFORMATION

- a) **Applicant and Landowner** – Applications for an operating permit shall be made in the name of the well owner or property owner on a form(s) approved by the District. The original permit application must be submitted, signed, and notarized by the owner or an owner’s authorized agent. The owner’s authorized agent may be required to provide the District with a notarized authorization from the owner. This agent may be the well driller, lessee, or renter of the property or well, power of attorney, or other appropriate agent. The application should include the name, mailing address, and telephone number of the applicant and the owner of the land on which the well will be located. If the applicant is someone other than the landowner, then documentation must be included that establishes that the applicant has the authority from the landowner to construct and operate a well for the proposed use.
- b) **Location** – The application should include a map that shows the location of the proposed well(s). The map should also include any other structure or location that is or may be connected to the proposed well and associated activities. The map shall depict the boundaries of the tract of land owned or to be used by the applicant. The location may be shown on a topographic map, an ownership map, or a map prepared by a registered professional engineer or registered surveyor. In addition to the map, the location of the well(s) shall be identified by Global Positional System (GPS) latitude and longitude or from latitude-longitude coordinates taken from Google Earth.
- c) **Well Specifications** – The permit application should include the proposed well depth, casing size, pump size, pump capacity and the estimated production rate. For a proposed aggregate system, a description of the system and the estimated annual pumpage for the system should be included.
- d) **Statement of Expected Use** – The permit applicant shall indicate the nature and purpose of the proposed use and submit to the District evidence that authenticates the actual intended beneficial use. If applicable, the

crop type and the number of cultivated acres being irrigated should be designated for each year of the expected permit cycle. The permit application should include the annual total amount of groundwater requested to be withdrawn and the annual amount of water to be used for each purpose specified. Any alternative water sources being used by the applicant should also be stated.

- e) **Assigned Acreage** – The applicant shall supply the total acreage affiliated with or serviced by the proposed well.
- f) **Adjacent Landowners** – The applicant is responsible for providing the names of the adjacent landowners and if possible, their addresses.
- g) **Waivers** – Any waivers from District rules that require signatures from other parties, including affected landowners, must be included with the application for it to be considered administratively complete. This includes, but is not limited to, waivers to the District’s minimum spacing requirements.
- h) **Other Information** – The applicant will submit any other information deemed necessary by the District for the evaluation of the application.
- i) **Closure Plan** – The application should include a water well closure plan or a declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures to the District.
- j) **Fees** – The District will make available to District constituents a fee schedule containing all fees associated with application and operation of an operating permit. Any fee imposed by the District for processing an application shall be delivered to the District with the permit application. This fee is non-refundable. Well owners are also responsible for any production fees associated with a well that has an operating permit.
- k) **Attestation** – All permit applications must be notarized. Applications that fail to be notarized will be considered not administratively complete and will not be considered for permit approval by the Board or General Manager.
- l) **Completeness** – An application may be rejected as not administratively complete if the District finds that substantive information required by the application or District staff is missing, false, or incorrect. District staff will determine if an application is administratively complete and no action will be taken on an application that is not administratively complete or that has not proceeded in a manner consistent with District Rules. Applicants submitting applications will be notified by the District if an application is deemed incomplete. After the applicant has been notified, the applicant must submit to the District the information requested within thirty (30) calendar days, or the application shall be deemed to have expired.

RULE 3.3.3 – AGGREGATION OF WITHDRAWAL

- a) **Development of a Well System** – In issuing an operating permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. The geographic location of each well and integrated distribution systems will be considered in determining whether or not to allow aggregation of withdrawal of groundwater. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate, rather than allocating to each well its pro rata share of estimated production. Hence, a well owner, with a number of water wells that supply a single well system, may apply for an operating permit for the well system and will not be required to apply for a separate operating permit for each individual well.

RULE 3.3.4 – SUPPORTING REPORTS AND PLANS

- a) **Criteria** – Permits for existing wells, pending board approval, may exceed an average of 1000 ac-ft/yr without the need for the additional reports below. If a new well or new aggregate well system requires more than 1000 ac-ft/yr of water, then the following reports will be required as part of the operating permit or permit amendment approval process:
 - i. **Hydrogeological Report** – This report must be prepared by a qualified person licensed in the State of Texas to prepare such a report. The applicant has the option to have a District hydrologist perform the study at applicant’s cost or to commission and pay for their own hydrogeological report. If the applicant chooses to commission their own study, then the applicant will also incur a reasonable associated cost for the District to study that report. The report must be completed in a manner that complies with the guidelines adopted by the District for this purpose and the applicant must not rely solely on reports previously filed with or prepared by the District. Hydrogeological reports required for permit applications shall include the following information as it relates to the well for which an operating permit is being requested: (A) the results of a pumping test; (B) an assessment of the

geology at the site of the well; (C) a description of the aquifer that will supply water to the well; (D) an assessment of the area of influence, drawdown, and other pertinent information requested by the District; and, (E) the ultimate planned use of the well and the impacts of that use. The Board shall make the final determination of whether a hydrogeological assessment meets the requirements of this subsection. An application will not be considered administratively complete unless the assessment is approved by the Board.

- ii. **Mitigation Plan** – This plan shall include but is not limited to the actions and procedures to be taken by the holder of the well permit in the event of the following: (A) pumping causes the water level in any other registered or permitted well to drop to an unacceptable level; (B) pumping from the permitted well causes the water to become objectionable or renders the water unusable to any other registered or permitted well owner; (C) pumping causes the well casing or equipment to be damaged so that the recorded quality or quantity of water cannot be produced by any other registered or permitted well owner; (D) pumping causes springs or any other artesian wells used for beneficial purposes to stop flowing; and, (E) the reduction of artesian pressure causes an emergency to arise that may threaten human or animal health, safety or welfare. The cost for this study and for District review shall be the responsibility of the applicant.
 - iii. **Water Conservation Plan** – The conservation plan should include the following: (A) promotion and encouragement of voluntary conservation measures; (B) promotion and encouragement, installation, and use of water saving devices; (C) promotion and encouragement of water efficient landscape practices; (D) implementation of a conservation-oriented rate structure; (E) financial measures that encourage conservation; (F) distribution of conservation information and other education efforts; (G) provisions for ordinances, regulations or contractual requirements necessary for the permittee to enforce the Conservation Plan; and, (H) other conservation criteria that may be set by the Board (Section 36.1131b). The permittee may revise or amend the conservation plan as necessary with approval by the District. Water irrigation or water management plans that are required by other agencies or government bodies should be submitted to the District as well. The cost for any new study and for District review shall be the responsibility of the applicant.
 - iv. **Drought Contingency Plan (DCP)** – Drought contingency plans that are required by other agencies or governmental bodies should be submitted to the district as well. The cost for this study and for District review shall be the responsibility of the applicant.
- b) **Aquifer Tests** – An aquifer test may be required by the District if it is deemed that data from this test is essential to determining possible impacts on aquifer conditions. If an aquifer test is conducted, the results of that test shall be submitted to the District for review.
 - c) **Replacement Well Reports** – If the original well that is to be replaced already has the required reports as described in 3.3.4.a above, then such reports will not be required for the replacement well.

RULE3.3.5 – CONSIDERATION OF OPERATING PERMITS

- a) **General Manager Authority on Class A Permits** – The General Manager of the District has the authority to grant or deny a Class A operating permit without the need for public hearing. Any applicant may appeal the General Manager's ruling by filing, within twenty (20) calendar days of the ruling, a written request for hearing. The District will issue notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
- b) **Board Authority on Class B Permits** – The Board of Directors of the District has authority to grant or deny a Class B operating permit without the need for public hearing. Action on an operating permit must be included as an agenda item and posted as part of the Notice of Open Meeting of the CCGCD Board of Directors. Any applicant or affected party may appeal the Board's ruling by filing, within twenty (20) calendar days of the ruling, a written request for hearing. The District will issue notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
- c) **Action on Class C Permits** – Once the District has received an administratively complete original application for a Class C operating permit, the District will issue notice indicating a date and time for a public hearing on the application in accordance with the Rules as set forth in Chapter 8.

RULE 3.3.6 – PERMIT PROVISIONS

- a) **Specified Withdrawal** – The maximum annual quantity of groundwater that may be withdrawn under an operating permit issued by the District shall be no greater than the amount specified in the permit or the amended permit.

- b) **Restrictions on Permit Conditions** – In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider: (1) the modeled available groundwater determined by the Texas Water Development Board; (2) the Texas Water Development Board’s estimate of the current and projected amount of groundwater produced under exemptions granted by District rules and Section 36.117; (3) the amount of groundwater authorized under permits previously issued by the District; (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and (5) yearly precipitation and production patterns. If at any time the District receives evidence that an operating well or well system is causing harm to the aquifer or neighboring properties, the Board may, on its own motion, reopen the permit for additional hearings. At the conclusion of the hearing, the Board may revoke, suspend, terminate, cancel, modify or amend the permit in whole or in part as needed to alleviate the harm. If the District determines that the total amount of production from an aquifer is greater than the annual sustainable amount available for withdrawal, production amounts may be decreased proportionally among all permit holders producing from that aquifer, with any necessary reductions being applied first to operating permits and, subsequently, if production is still greater than availability after reducing operating permits by twenty percent (20%), then to historic or existing use permits. The District has authority to amend a permit in order to prevent waste, minimize as far as practicable the drawdown on the water table or the reduction of artesian pressure, or lessen interference between wells. Any such amendment may be applied on new permit applications and on increased use by existing and historic users.
- c) **Permit Duration** – Operating permits are generally effective for a term of three (3) years, unless otherwise stated on the permit. The Board may issue an operating permit with a term longer than three (3) years, but not to exceed five (5) years, when doing so aids the District in the performance of its duties and accomplishing the goals of the Act. The Board may issue an operating permit with a term of less than three (3) years for the purpose of causing the permit to align with a renewal schedule established by the Board or if special circumstances warrant granting a permit of shorter duration. In special circumstances, the Board may issue a one-year permit as a way to determine the possible impact to the aquifer of the permitted well or wells. Operating permits may be renewed by the Board as per Rule 3.3.8 of these Rules.
- d) **Cancellation** – If the well for which a permit was granted has not been drilled within six (6) months after a permit was granted, the permit shall be cancelled, unless the permit holder can provide a reasonable explanation for the delay and an estimated completion date. If a permit has been granted for a non-operational well, the permittee must re-establish operation of the well within six (6) months after the permit was granted, or the permit shall be cancelled. If a permit is cancelled for this reason, the well owner, well operator, or any other person acting on behalf of the well owner, must file a new completed application for an operating permit.
- e) **Revocation** – The application pursuant to which a permit is issued is incorporated in the permit, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false or inaccurate information has been supplied is grounds for immediate revocation of the permit.
- f) **Access to Site** – The well site and meter, if applicable, must be available to District representatives for inspection, as put forth in Chapter 9 of these Rules, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

RULE 3.3.7 – PERMIT AMENDMENTS AND CHANGES

- a) **Change in Ownership** – Operating permits are granted conditionally, and are granted to a specific owner and type of water use. A permit may not be transferred by the holder. Within ninety (90) calendar days after the date of change in ownership of a well or well system, a permit holder must notify the District in writing of the name of the new owner. Failure to provide written notice in the appropriate time-frame will cause the permit to lapse and a new permit application will need to be submitted to the District for approval. Provided that the new owner or operator maintains the same type of use of the well, makes no substantive changes to the well and fulfills any applicable requirements to the District, the General Manager may issue an operating permit without Board approval or need for public hearing for the duration of the original permit at a prorated application fee, if any.
- b) **Minor Amendments** – Minor amendments include a request to: (i) change the name or address of the well owner without any change in use or ownership; (ii) decrease the maximum authorized withdrawal; (iii) convert two or more wells individually permitted by the same permittee into an aggregate system; or, (iv) add domestic or livestock use as an additional use to a permitted well, if beneficial use exists for the additional

use, and the maximum authorized withdrawal amount or rate is not increased. All other amendments are considered major amendments. Minor amendment applications do not need to be notarized and may be granted by the General Manager without notice, hearing or further action by the Board.

- c) **Major Amendments** – Any amendment not defined above as a Minor Amendment is considered to be a Major Amendment and shall be subject to all the requirements and procedures applicable to issuance of a new permit for a new well. This includes, but is not limited to a change in qualifying information such as repair or reworking of a well such that it results in an increase in pump capacity, a change in the boundaries of the property, a change in the type of use of the water produced, or an increase in the permitted amount. An application for a major amendment shall be made on a form(s) approved by the District. Applications for a major amendment must be notarized.
- d) **District-Initiated Amendments** – The District may initiate a permit amendment(s) to permits with reference to the drilling, equipping, completion, alteration, or operation of, or production of groundwater from, wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, including enforcement of the adopted desired future conditions of the aquifer(s) and modeled available groundwater. District-initiated permit amendments are subject to notice and hearing under Section 8.2 of these Rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.
- e) **Processing Fees** – A processing fee may, if applicable, be required to accompany the amendment application. The processing fee will be published on the District's fee schedule.
- f) **Appeal of Decision** – Any applicant may appeal the General Manager's ruling by filing, within twenty (20) business days of the ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting, provided sufficient notice can be given prior to the meeting. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager. The General Manager may authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under proportional adjustment regulations, these Rules, or the District's Management Plan, for any period in which the renewal application is the subject of a contested case hearing. All permit amendment activities will be reported to the Board by the General Manager at regular Board meetings.
- g) **Replacement Wells** – A permittee may apply to re-equip, re-drill, or replace a currently permitted well by filing an application to amend such permit and providing such information as may be required by the General Manager under the following conditions: (i) the replacement well must be drilled on the same tract of land as the original well as defined by the legal description filed with the County Clerk; (ii) the re-equipped, re-drilled, or replacement well complies with all applicable District Rules and Regulations, including issuance of permits and authorizations and payments of all fees and charges; (iii) if a replacement well is drilled, the permittee shall cease production from the well being replaced and immediately comply with any and all well closure and abandonment requirements pursuant to District Rules; (iv) a replacement well should not be drilled more than one hundred (100) feet from the original well unless circumstances approved by the General Manager warrant a greater distance; and, (v) unless conditions preclude it, the replacement well should not be drilled any closer to an existing well if the replacement well might reasonably interfere with said well.

RULE 3.3.8 – PERMIT RENEWAL

- a) **Application Deadline** – An administratively complete application to renew permits must be received by the District prior to fourteen (14) calendar days of the expiration of the permit. If an application to renew a permit is not received during this time, the renewal may be delayed beyond the expiration of the original permit and the permittee may risk operating the well without an approved permit. Any permit renewal received after the expiration date of the permit will not be considered for renewal. The renewal application supplied will be considered a new permit application and will be acted upon by the District as such.
- b) **Attestation** – Permit renewals are not required to be notarized, but those seeking permit renewals must attest on the form that the information is true and correct.
- c) **Duration of Permit** – All operating permit renewals are effective for a term of three (3) years from the date a permit is granted, unless otherwise stated on the permit, as stated in Rule 3.3.6(c) herein.
- d) **Processing Fee** – The application to renew a permit shall be accompanied by payment of the application processing fee established by the Board, if any.
- e) **Decision on Renewal Application** – Except as provided by Section 3.3.8.f, the District shall without a hearing renew or approve an application to renew an operating permit before the date on which the permit expires,

provided that: (i) the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and, (ii) the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.

- f) **Factors Impacting Renewal Decision** – The District is not required to renew a permit under this section if the applicant: (i) is delinquent in paying a fee required by the District; (ii) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or, (iii) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule. If the District is not required to renew a permit under Section 3.3.8.f (ii), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.
- g) **Renewals Requesting or Requiring an Amendment** – If the holder of an Operating Permit, in connection with the renewal of a permit or otherwise requests a change that requires an amendment to the permit under District Rules, the permit as it existed before the permit amendment process remains in effect until the later of: (i) the conclusion of the permit amendment or renewal process, as applicable, or (ii) the final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment. If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under the Texas Water Code Section 36.114 without penalty, unless Subsection (b) of that section applies to the applicant. The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District’s rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

RULE 3.3.9 – REPORTING, MONITORING AND INSPECTIONS

- a) **Well Data, Tests, and State Well Report** – Records shall be kept and reports shall be made to the District regarding drilling, equipping, and completing of water wells and of the production capability and use of groundwater by the well owner. The State Well Report and all well logs, pump test data, water level data, water quality data, or any other data pertinent to a non-exempt well shall be submitted to the District office within sixty (60) calendar days after completion of the well or well project.
- b) **Annual Reporting for Metered Wells** – On or before January 31st of each year, a permittee authorized to produce groundwater and required to meter the permitted wells under District Rule 5.1.1 shall file an annual report on a form approved by the District, that contains the following: (i) the name of the permittee; (ii) the permit number; (iii) the well numbers of each well that the permittee holds a permit; (iv) the total amount of groundwater produced by each well and well system during each month of the immediately preceding calendar year; (v) the purposes for which the water was used; and, (vi) any other information requested by the District.
- c) **Reporting for Non-Metered Wells** – Permittees authorized to produce groundwater who are not required to meter the permitted wells under District Rule 5.1.1, and who are permitted for amounts more than or equal to 100 ac-ft, are required to submit an estimated annual usage on or before January 31st of each year. The report should indicate their best estimate of usage and the technique for that estimation. Permittees who are not required to meter the permitted wells under District Rule 5.1.1, and who are permitted for amounts less than 100 ac-ft, are not required to submit an annual usage to the District.
- d) **Inspections** – District employees, Board members, consultants, or other agents of the District may conduct random or periodic inspections of permitted wells for any District purpose. The District shall coordinate and schedule such inspections with the well owner.

RULE 3.3.10 – VIOLATIONS AND PENALTIES

- a) **Non-Adherence to Rules** – It is a violation of these Rules for a well owner or well operator to drill any well without an approved operating permit, to produce in excess of the specified withdrawal designated on the permit, or to produce beyond the designated duration of the permit. Violations of these Rules subjects the well owner or well operator to revocation of the permit and/or civil penalties as specified in Section 36.102 of the Texas Water Code and Chapter 9 of these rules. A violation of this Rule occurs on the first day the drilling, equipping, completion, or alteration without the appropriate permit begins and continues each day thereafter until the appropriate permit is issued.
- b) **Permit Revocation** – Permits issued under these Rules are subject to penalty or revocation due to waste, deviation from the purposes and terms of the permit, or damage caused to the groundwater or aquifer. After notice and an opportunity for hearing is given, a permit may be revoked, suspended, terminated, cancelled,

modified, or amended in whole or in part for cause including, but not limited to the following: violation of terms or conditions of the permit; (ii) obtaining the permit by misrepresentation or failure to disclose relevant facts; (iii) a finding that false or misleading information has been supplied on the application, or, (iv) failure to comply with any applicable Rules, regulations, fee schedule, special provisions, requirements, or orders of the District.

- c) **Notification** – The permittee shall furnish to the District, upon request and within ninety (90) calendar days, any information to determine whether cause exists for revoking, suspending, terminating, canceling, modifying, or amending a permit. In event of noncompliance, the District will notify the permit owner of the conditions that may cause revocation of the permit and allow the owner an opportunity to correct any noncompliance.

SECTION 3.4 – EXISTING AND HISTORIC USE PERMITS

RULE 3.4.1 – ELIGIBILITY

- a) **Requirements** – All owners of existing registered, non-exempt wells that were completed and operational prior to the original effective date of these Rules and that produced and used groundwater in any year during the existing and historic use period may apply to the District for an existing and historic use permit.
- b) **Existing Wells That Do Not Apply for Existing and Historic Use Status** – Wells that were present prior to the original adoption date of these rules, but that cannot demonstrate sufficient proof of production during the existing and historic use period are not eligible for an existing and historic use permit. These wells may maintain their existing status, but shall apply for an operating permit. This includes, but is not limited to wells that were drilled and produced prior to adoption of the original rules, but ceased production prior to the designated existing and historic period.
- c) **Deadline for Application** – An existing and historic use permit application was required to be submitted to the District within fifteen (15) months from the initial adoption of these Rules, which was September 15, 2010, for all existing non-exempt well systems that were drilled and completed prior to the original effective date of these Rules, and that wish to claim beneficial use of water during the Existing and Historic Use Period. Applications for Existing and Historic Use Permits will not be accepted nor granted by the District after December 15, 2011, other than for a replacement well for a well that has been granted an Existing and Historic Use Permit, subject to Rule 3.4.10, herein.

RULE 3.4.2 – EXISTING AND HISTORIC USE PERMIT CLASSIFICATIONS

- a) **Permit Differentiation** – Any well that is non-exempt from permitting will require one of the following classifications of existing and historic use permit.
 - i. **Existing and Historic Use Permit Class A** – Any well that has a maximum pumping rate of 200 gpm or less will require an existing and historic use permit of this class. The General Manager will have full authority to grant or deny these permit applications.
 - ii. **Existing and Historic Use Permit Class B** – Any well that is capable of pumping more than 200 gpm but less than 600 gpm will require an existing and historic use permit of this class. Authority to grant or deny these permit applications lies with the Board of Directors. Action on an existing and historic use permit of this class must be included as an agenda item and posted as part of the Notice of Open Meeting of the CCGCD Board of Directors. Any applicant or affected party may appeal the Board's ruling by filing, within twenty (20) calendar days of the ruling, a written request for hearing. The District will issue written notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
 - iii. **Existing and Historic Use Permit Class C** – Any well that is capable of pumping 600 gpm or more will require an existing and historic use permit of this class. This permit will require a public hearing.
- b) **Application** – Applications shall be made for the specific type of existing and historic use permit on a District-approved form.

RULE 3.4.3 – APPLICATION INFORMATION

- a) **Basic Information** – Information that would be supplied on an operating permit as specified in Rule 3.3.2 should be included on an application for an existing or historic use permit to the extent the information exists and is available to the applicant through the exercise of reasonable diligence. For wells drilled as replacements for wells that have an Existing and Historic Use permit, the application requirements should include the information that would be supplied on an operating permit as specified in Rule 3.3.2.

- b) **Historic Information** – To the extent the information exists and is available to the applicant through the exercise of reasonable diligence, the following additional information should be provided:
 - i. **Production History** – the application should include the total amount of groundwater that has been withdrawn and the amount of water that has been used for each specified purpose. A table and/or chart should be included in the application that shows the annual water production history of the well system for at least one year during the existing and historic use period.
 - ii. **Alternative Sources of Water** – the application should include a listing of any records regarding any alternative water sources that were used by the applicant including but not limited to surface water. If surface water is being supplied by a source, including by not limited to the Lower Colorado River Authority (LCRA), water records should be provided to indicate how much historic use has occurred, including any water records submitted to the Texas Commission on Environmental Quality (TCEQ).
 - iii. **Maximum Historic Use** – the maximum amount of annual use during the existing and historic use period.
 - iv. **Crop Information** – crop type and acreage of crop irrigated by the well for at least one year during the existing and historic use period, dead and legal description of land previously irrigated by the well including the year irrigated and the deed and legal description for land on which the well is located during the existing and historic use period.
 - v. **Special Programs** – documentation regarding enrollment of each tract of land in the United States Department of Agriculture, Farm Service Agency, Conservation Reserve Program, or other such program or service, for which an existing and historic use permit is sought pursuant to these Rules. If landowner is enrolled in a government agency program, including but not limited to the United States Department of Agriculture’s Farm Service Agency, the landowner must provide certified copies of any pertinent crop records during the existing and historic use period.
 - vi. **Well Information** – information including but not necessarily limited to pump capacity and casing diameter should be supplied regarding the well that has been responsible for the historic use.
 - vii. **Assigned Acreage** – The applicant shall supply the total acreage affiliated with or serviced by the proposed well.
- c) **Adjacent Landowners** – The applicant is responsible for supplying the names of the adjacent landowners and if possible, their addresses.
- d) **Fees** – The District will make available to District constituents a fee schedule containing all fees associated with application and operation of an existing and historic use permit. Any fee imposed by the District for processing an application shall be delivered to the District with the permit application. This fee is non-refundable. Well owners are also responsible for any production fees associated with a well that has an existing and historic use permit.
- e) **Attestation** – All permit applications must be notarized. Applications that fail to be notarized will be considered not administratively complete and will not be considered for permit approval by the Board or General Manager.
- f) **Completeness** – An application may be rejected as not administratively complete if the District finds that substantive information required by the application or District staff is missing, false, or incorrect. District staff will determine if an application is administratively complete and no action will be taken on an application that is not administratively complete or that has not proceeded in a manner consistent with District Rules. Applicants submitting applications will be notified by the District in writing if an application is deemed incomplete. After the applicant has been notified in writing, the applicant must submit to the District the information requested within thirty (30) calendar days, or the application shall be deemed to have expired.
- g) **Verification** – The District reserves the right to verify the extent of maximum beneficial use of groundwater prior to the effective date of these rules, claimed by each applicant for an existing or historic use permit. The General Manager shall either recommend the granting of a proposed existing and historic use permit or a denial, in whole or in part, based on the application and information obtained by the District in relation to the use of groundwater by the applicant. The District shall obtain the information on which to base a recommendation either from the applicant or other credible sources. Such credible sources may include, but is not limited to, federal, state or other local agencies or governmental entities.
- h) **Other Information** – The District may ask for any other information that is deemed necessary in order to properly complete and evaluate the application.

RULE 3.4.4 – AGGREGATION OF WITHDRAWAL

- a) **Existing Well Systems** – A permittee having a well or wells, each well having an existing and historic use permit, may be aggregated or combined with additional wells while still retaining an existing and historic use

permit for the aggregated system if all of the following provisions are satisfied: (i) the total aggregate withdrawal of groundwater assigned to the aggregated system shall be equal to or less than the combined total of all individual pumpage permits comprising the entire aggregated system; (ii) all individual pumpage permits have an historic use designation; and, (iii) all individual pumpage permits are in compliance with any and all applicable District rules and regulations.

- b) **Adding a New Well** – A new well may be aggregated with existing wells under an aggregated existing and historic use permit, as long as the applicant can provide compelling reason to do so and the permit does not increase the total usage of the original existing and historic use aggregate permit. Any desired increase in production will require a separate operating permit.

RULE 3.4.5 – SUPPORTING REPORTS AND PLANS

- a) **Prior Reports and Plans** – The District requires access to all hydrogeological reports, aquifer tests, mitigation plans, drought contingency plans, water conservation plans, closure plans, or any other reports that were previously prepared for the well at the time the existing and historic use permit is approved.

RULE 3.4.6 – CONSIDERATION OF EXISTING AND HISTORIC USE PERMITS

- a) **General Manager Authority on Class A Permits** – The General Manager of the District has the authority to grant or deny a Class A existing and historic use permit without need for a public hearing. Any applicant may appeal the General Manager's ruling by filing, within twenty (20) calendar days of the ruling, a written request for a hearing. The District will issue notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
- b) **Board Authority on Class B Permits** – The Board of Directors of the District has authority to grant or deny a Class B existing and historic use permit without the need for public hearing. Action on an existing and historic use permit must be included as an agenda item and posted as part of the Notice of Open Meeting of the CCGCD Board of Directors. Any applicant or affected party may appeal the Board's ruling by filing, within twenty (20) calendar days of the ruling, a written request for hearing. The District will issue notice indicating a date and time for a hearing on the application in accordance with the Rules as set forth in Chapter 8.
- c) **Action on Class C Permits** – Once the District has received an administratively complete application for a Class C existing and historic use permit, the District will issue notice indicating a date and time for a public hearing on the application in accordance with the Rules as set forth in Chapter 8.
- d) **Lack of Beneficial Use** – The District shall not issue existing and historic use permits for wells or lands for which the General Manager or the Board determines the well owner or operator did not beneficially use groundwater during the existing and historic use permit as set forth in these rules.

RULE 3.4.7 – PERMIT PROVISIONS

- a) **Specified Withdrawal** – Existing and historic use permits are recognition by the District of historic use and shall entitle the permittees to produce or withdraw groundwater in accordance with the production regulations set forth in these Rules. The quantity that may be withdrawn shall not exceed the maximum historic use demonstrated by the applicant and that approved by the Board. This maximum historic use shall be quantified in the existing and historic use permit or amended permit and this production shall not exceed the specified amount, unless such additional production is authorized by an additional operating permit for the well or wells covered by the existing and historic use permit.
- b) **Reductions** – If at any time the District receives evidence that an operating well or well system is causing harm to the aquifer or other existing wells, the Board may, on its own motion, reopen the permit for additional hearings. At the conclusion of the hearing the Board may revoke, suspend, terminate, cancel, modify or amend the permit in whole or in part as needed to alleviate the harm. If the District determines that the total amount of production from an aquifer is greater than the annual sustainable amount available for withdrawal, production amounts may be decreased proportionally among all permit holders producing from that aquifer, with any necessary reductions being applied first to operating permits and, subsequently, if production is still greater than availability after reducing operating permits by twenty percent (20%), then to existing and historic use permits.
- c) **Permit Duration** – Existing and historic use permits are effective for a term of three (3) years, unless otherwise stated on the permit. The Board may issue an existing and historic use permit with a term longer than three (3) years, but not to exceed five (5) years, when doing so aids the District in the performance of its duties and accomplishing the goals of the Act. The Board may issue an existing and historic use permit with a term of

less than three (3) years for the purpose of causing the permit to align with a renewal schedule established by the Board. Existing and historic use permits may be renewed as per Rule 3.4.9 of these Rules.

- d) **Revocation** – The application pursuant to which a permit is issued is incorporated in the permit, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false or inaccurate information has been supplied is grounds for immediate revocation of the permit. Existing and historic user status may be revoked by the Board for violation of any terms or conditions of the permit, obtaining the permit by misrepresentation or failure to disclose relevant facts, or failure to comply with any applicable rules, regulations, fee schedule, special provisions, requirements, or orders of the District.
- e) **Access to Site** – The well site must be available to District representatives for inspection, as put forth in Chapter 9 of these Rules, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

RULE 3.4.8 – PERMIT CHANGES AND AMENDMENTS

- a) **Change of Ownership** – Existing and historic use permits are granted conditionally, and are granted to a specific owner and type of water use. An existing and historic use permit is not a vested right of the permittee and may not be transferred by the permittee. Within ninety (90) calendar days after the date of change in ownership of a well or well system, a permit holder must notify the District in writing of the name of the new owner. Failure to provide written notice in the appropriate time-frame will cause the permit to lapse and a new permit application will need to be submitted to the District for approval. The well owner may lose Existing and Historic Use status for this new permit. Provided that the new owner or operator maintains the same type of use of the well, makes no substantive changes to the well and fulfills any applicable requirements of the District, the General Manager may issue an existing and historic use permit without Board approval or need for public hearing for the duration of the original permit at a prorated application fee, if any.
- b) **Minor Amendments** – Minor amendments include a request to: i) change the name or address of the well owner without any change in use; (ii) decrease the maximum authorized withdrawal; (iii) convert two or more wells individually permitted by the same permittee into an aggregate system; or, (iv) add domestic or livestock use as an additional use to a permitted well, if beneficial use exists for the additional use, and the maximum authorized withdrawal amount or rate is not increased. All other amendments are considered major amendments. Minor amendments may be granted by the General Manager without notice, hearing or further action by the Board.
- c) **Major Amendments** – Any amendment not defined above as a Minor Amendment is considered to be a Major Amendment and shall be subject to all the requirements and procedures applicable to issuance of a new permit for a new well. If an applicant for a permit amendment is requesting a change of use of the well, the General Manager has the authority to immediately reject the amendment request since any change in purpose of use requires an operating permit if there is a request to increase production of the well. The General Manager has the authority to immediately reject the amendment request. Any increase in production of the well requires an approved operating permit for the incremental amount above what has been approved for the original existing and historic use permit. If the new permit is approved, the well will retain existing well status and its historic use status for the amount originally approved in the existing and historic use permit. An application for a major amendment shall be made on a form(s) approved by the District.
- d) **District-Initiated Amendments** -- The District may initiate a permit amendment(s) to Permits with reference to the drilling, equipping, completion, alteration, or operation of, or production of groundwater from, wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, including but not limited to enforce the adopted desired future conditions of the aquifer(s), lessen interference between wells, or control and prevent subsidence. District-initiated permit amendments are subject to notice and hearing under Rule 14. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.
- e) **Processing Fees** – A processing fee may, if applicable, be required to accompany the amendment application. The processing fee will be published on the District's fee schedule.
- f) **Appeal of Decision** – Any applicant may appeal the General Manager's ruling by filing, within twenty (20) calendar days of the ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager. The General

Manager may authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under proportional adjustment regulations, these Rules, or the District's Management Plan, for any period in which the renewal application is the subject of a contested case hearing. All permit amendment activities will be reported to the Board by the General Manager at regular Board meetings.

- f) **Replacement Wells** – A permittee may apply to re-equip, re-drill, or replace a currently permitted well while preserving its existing and historic use designation by filing an application to amend such permit and providing such information as may be required by the General Manager under the following conditions: (i) the replacement well must be drilled on the same tract of land as the original well as defined by the legal description filed with the County Clerk; (ii) the re-equipped, re-drilled, or replacement well complies with all applicable District Rules and Regulations, including issuance of permits and authorizations and payments of all fees and charges; (iii) if a replacement well is drilled, the permittee shall cease production from the well being replaced and immediately comply with any and all well closure and abandonment requirements pursuant to District Rules; (iv) unless there is compelling reason demonstrated to the General Manager to extend the distance from the original well, a replacement well should not be drilled more than one hundred (100) from the original well; and, (v) unless conditions preclude it, the replacement well should not be drilled any closer to an existing well if the replacement well might reasonably interfere with said well.

RULE 3.4.9 – PERMIT RENEWAL

- a) **Application Deadline** – An administratively complete application to renew permits must be received by the District prior to fourteen (14) calendar days of the expiration of the permit. If an application to renew a permit is not received during this time, the renewal may be delayed beyond the expiration of the original permit and the permittee may risk operating the well without an approved permit. Any permit renewal received after the expiration date of the permit will not be considered for renewal. This shall result in loss of Existing and Historic Use status. The renewal application supplied will be considered a new Operating Permit application and will be acted upon by the District as such.
- b) **Attestation** – Permit renewals are not required to be notarized, but those seeking permit renewals must attest on the form that the information is true and correct.
- c) **Duration of Permit** – Existing and historic use renewals are effective for a term of three (3) years, unless otherwise stated on the permit. The Board may issue an existing or historic use permit with a term longer than three (3) years, but not to exceed five (5) years, when doing so aids the District in the performance of its duties and accomplishing the goals of the Act. The Board may issue an existing or historic use permit with a term of less than three (3) years for the purpose of causing the permit to align with a renewal schedule established by the Board. The permit term will be shown on the permit.
- d) **Processing Fee** – The application to renew an existing or historic use permit shall be accompanied by payment of the application processing fee established by the Board, if any.
- e) **Change in Purpose of Use** – If an applicant for renewal of an existing and historic use permit is requesting a change in the use of all or any portion of the water authorized under the permit, then a new operating permit will be required for the amount of water sought for the new purpose before production of the well for the new purpose can commence. If a change in purpose of use is granted for all of the water authorized under the existing and historic use permit, the well will lose its historic use status, but will keep its existing well status. If a change in purpose of use is granted for only a portion of water authorized under the existing and historic use permit, the well will retain existing well status and its historic use status for the amount that continues to be authorized for the original purpose.
- f) **Change in Production** – If there is a request to increase production of the well, an operating permit must be acquired for the incremental increase above what has been approved for the original existing and historic use permit. If the new permit is approved, the well will retain existing well status and its historic use status for the amount originally approved in the existing and historic use permit.
- g) **Decision on Renewal Application** – Except as provided by Section 3.4.8.h, the District shall without a hearing renew or approve an application to renew an existing and historic use permit before the date on which the permit expires, provided that: (i) the application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and, (ii) the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.
- h) **Factors Impacting Renewal Decision** – The District is not required to renew a permit under this section if the applicant: (i) is delinquent in paying a fee required by the District; (ii) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with

the District for a final adjudication; or (iii) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule. If the District is not required to renew a permit under Section 3.4.9.h (ii), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

- i) **Renewals Requesting or Requiring an Amendment** – If the holder of an Existing and Historic Use Permit, in connection with the renewal of a permit or otherwise requests a change that requires an amendment to the permit under District Rules, the permit as it existed before the permit amendment process remains in effect until the later of: (i) the conclusion of the permit amendment or renewal process, as applicable, or (ii) the final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment. If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under the Texas Water Code Section 36.114 without penalty, unless Subsection (b) of that section applies to the applicant. The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District's rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

RULE 3.4.10 – REPLACEMENT

- a) **Status** – If a well with an existing and historic use permit becomes non-operational, the well owner or operator may apply for an existing and historic use permit for a replacement well. This permit application will only be considered if the type of expected water usage is the same. Other than spacing requirements, the replacement well must adhere to District rules including screening and well construction requirements.
- b) **Permit Amount** – The well will only be permitted for an amount equal to or less than the original existing and historic use permit. If permittee wants additional water, then the well owner or operator will need to apply for an additional operating permit for the excess amount.
- c) **Original Well** – An existing and historic use permit will only be granted under the condition that the original well is permanently plugged. Before the application for a replacement well will be considered, the well owner or operator must show evidence that the well has been plugged or provide a notarized attestation that the well will be plugged within 60 days of permit approval. Failure to do so will void the permit.

RULE 3.4.11 – REPORTING, MONITORING AND INSPECTIONS

- a) **Well Data, Tests, and State Well Report** – Records shall be kept and reports shall be made to the District regarding drilling, equipping, and completing of water wells and of the production capability and use of groundwater by the well owner. The State Well Report and all well logs, pump test data, water level data, water quality data, or any other data pertinent to a non-exempt well shall be submitted to the District office within sixty (60) calendar days after completion of the well or well project.
- b) **Annual Reporting for Metered Wells** – On or before January 31st of each year, each existing and historic use permit holder must submit a water use report to the District, on a form provided by the District, that contains the following: (i) the name of the permittee; (ii) the permit number; (iii) the well numbers of each well for which the permittee holds a permit; (iv) the total amount of groundwater produced by each well and well system during each month of the immediately preceding calendar year; (v) the purposes for which the water was used; and, (vi) any other information requested by the District.
- c) **Reporting for Non-Metered Wells** – Permittees authorized to produce groundwater who are not required to meter the permitted wells under District Rule 5.1.1, and who are permitted for amounts more than or equal to 100 ac-ft are required to submit an estimated annual usage on or before January 31st of each year. The report should indicate their best estimate of usage and the technique for that estimation. Permittees who are not required to meter the permitted well under District Rule 5.1.1, and who are permitted for amounts less than 100 ac-ft, are not required to submit an annual usage to the District.
- d) **Inspections** – District employees, Board members, consultants, or other agents of the District may conduct random or periodic inspections of permitted wells for any District purpose. The District shall coordinate and schedule such inspections with the well owner.

RULE 3.4.12 – VIOLATIONS AND PENALTIES

- a) **Non-Adherence to Rules** – It is a violation of these Rules for a well owner or well operator to produce in excess of the specified withdrawal designated on the permit or to produce beyond the designated duration of the permit. Violation of these Rules is subject to revocation of the permit and / or civil penalties as specified in

Section 36.102 of the Texas Water Code and Chapter 9 of these Rules. A violation of this Rule occurs on the first day the drilling, equipping, completion, or alteration without the appropriate permit begins and continues each day thereafter until the appropriate permit is issued.

- b) **Failure to File** – It is a violation for an owner of an existing well to fail to file an application for an existing and historic use permit within twelve (12) months of the adoption of these Rules. A violation of this rule shall preclude the owner from making any future claim or application to the District for existing and historic use under these Rules. The well owner or operator shall then not operate the well or well system unless such owner or operator obtains an operating permit as set out under current Rules.
- c) **Additional Penalties** – In addition to the loss of existing and historic use status, a violation of this rule will make the owner liable to penalties as outlined in Chapter 9 of these Rules.
- d) **Use of Licensed Services** – Only a licensed well driller or licensed pump installer may install, service or alter a well within the boundaries of the CCGCD, unless a person drills or constructs a water well on his property for his own use. All persons drilling a well or having a well drilled, deepened, or altered shall adhere to the provisions of Chapter 76 of the Texas Administrative Code, prescribing the location of wells and proper drilling, completion, capping and plugging. It is a violation of these Rules to knowingly employ someone who is not a licensed well driller or pump installer for the purposes stated above.
- d) **Notification** – The permittee shall furnish to the District, upon request and within ninety (90) calendar days, any information to determine whether cause exists for revoking, suspending, terminating, canceling, modifying, or amending a permit. In event of noncompliance, the District will notify the permit owner of the conditions that may cause revocation of the permit and allow the owner an opportunity to correct any non-compliance.

SECTION 3.5 – TRANSPORT PERMITS

RULE 3.5.1 – REQUIREMENTS

- a) **Tie to Operating Permit** – The District shall not issue a transport permit, unless the well(s) that the transport permit applicant seeks to transport from has an underlying operating permit(s), or amendment thereto, that authorizes the transport permit applicant to produce or withdraw the quantity of groundwater to be transferred outside of the boundaries of the District. The application for a transport permit shall identify the operating permit(s) issued by the District that the applicant requests the District include in the transport permit and for which the maximum quantity of water available for transfer outside of the boundaries of the District shall be determined.
- b) **Restrictions on Denial of Permit** – The District shall not deny a permit under this Section based on the fact that the applicant seeks to transfer groundwater outside the boundaries of the District, but shall restrict a transport permit by limiting the annual production of groundwater for transport outside of the boundaries of the District to a quantity of water based on the ability to maintain the desired future condition of the aquifer from which the groundwater will be withdrawn.
- c) **Standards not Specified** – Except for exceptions stated in Rule 3.4.3 of these Rules, groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner or operator a transport permit. The CCGCD has the right to issue permits that authorize the withdrawal of a specified amount of groundwater from a water-well for a specific use and a designated period for transportation out of the District. The requirements of this Rule are applicable without regard to the manner the water is transferred out of the District. Transport permits must meet the same standards as for an operating permit as described in Section 3.2 of these District Rules unless otherwise specified, the District may not impose more restrictive permit conditions on transporters than the District imposes on existing in-District users.

RULE 3.5.2 – RESTRICTIONS ON THE DISTRICT

- a) **Use of Export Revenues** – The District is prohibited from using revenues obtained through Rule 3.5.4e (fees or surcharges for export of water out of the District) to prohibit the transfer of groundwater outside of the District. The District is not prohibited from using the same revenues for paying expenses related to enforcement of District Rules and Chapter 36 of the Texas Water Code as amended.
- b) **Prohibition of Export** – The District shall adopt rules as necessary to implement this section but may not adopt rules expressly prohibiting the export of groundwater.

RULE 3.5.3 – EXCEPTIONS TO TRANSPORT PERMIT REQUIREMENTS

- a) **Incidental Use** – The export of groundwater from the District for incidental use is not considered to be an export of groundwater. Incidental use is considered to be beneficial use of water that is of a minor nature. Transport of water outside the District by a permittee, with a type of Permit other than a transport permit, which totals five percent (5%) or less, but in no case more than five (5) acre-feet of the permittee’s annual permitted pumpage is considered incidental use.
- b) **Boundary Situations** – The export of groundwater for an agricultural operation or domestic use, which would otherwise qualify as an exempt well under the definition of these Rules, that overlaps or is adjacent to the District boundary is not considered to be an export of groundwater.
- c) **Public Water Systems** – A transport permit is not required for the transportation of groundwater that is used within the existing contiguous service area of an existing retail public utility that straddles the District boundary line.
- d) **Manufacturing** – A transport permit is not required for the transportation of groundwater that is part of a manufactured product.

RULE 3.5.4 – APPLICATION INFORMATION

- a) **Reference to Operating Permits** – The application should reference the permitted wells that will provide the water to be transported outside the District boundaries.
- b) **Location of Facilities** – The application should include a legal description of the location of the proposed gathering and receiving areas for the water to be exported.
- c) **Notification** – The applicant should provide to the District all names and addresses of all landowners adjacent to the property where the wells or well systems are located and all well owners within one-half (½) mile of any proposed production well.
- d) **Usage** – The permittee must provide to the District evidence of the actual use of the water to be exported. This would entail a contract or agreement with an end user for the water. Unless this contract or agreement is provided, the application will not be considered administratively complete.
- e) **Fees** – The District may impose a reasonable fee for processing an application. The fee may not exceed fees that the District imposes for processing other applications. This fee shall be delivered to the District, made payable to the District and is non-refundable. A fee for transport of water out of the District may be imposed by using one of the following methods: i) a fee negotiated between the District and the transporter; ii) a rate not to exceed the equivalent of the District’s tax rate per hundred dollars of valuation for each thousand gallons of water transferred out of the District or 2.5 cents per thousand gallons of water, if the District assesses a tax rate of less than 2.5 cents per hundred dollars of valuation, or iii) a fee as designated in the District’s revised Enabling Act..
- f) **Completeness** – An application may be rejected as not administratively complete if the District finds that substantive information required by the application or District staff is missing, false, or incorrect. District staff will determine if an application is administratively complete and no action will be taken on an application that is not administratively complete or that has not proceeded in a manner consistent with District Rules. Applicants will be notified by the District in writing if an application is deemed incomplete. After the applicant has been notified in writing, the applicant must submit to the District the information requested within thirty (30) calendar days, or the application shall be deemed to have expired.

RULE 3.5.5 – SUPPORTING REPORTS AND PLANS

- a) **Hydrogeological Report** – If the transport permit specifies exporting more than 1000 ac-ft/yr of water out of the District, then a hydrogeological report must be prepared by a qualified person licensed in the State of Texas to prepare such a report. The applicant has the option to have a District hydrologist perform the study at applicant’s cost or to commission and pay for their own hydrogeological report. If the applicant chooses to commission their own study, then the applicant will also incur a reasonable associated cost for the District to study that report. The report must be completed in a manner that complies with the guidelines adopted by the District for this purpose and the applicant must not rely solely on reports previously filed with or prepared by the District. Hydrogeological reports required for a transport permit application shall include the following information: (i) an assessment of the geology at the site of the water withdrawal point(s); (ii) a description of the aquifer that will supply water to the well; (iii) an assessment of the area of influence, drawdown, and any other pertinent information requested by the District; (iv) impacts on subsidence; (v) impact of pumping on existing permit holders and other groundwater users within the District. The Board shall make the final determination of whether a hydrogeological assessment meets the requirements of this subsection. An

application for a transport permit will not be considered to be administratively complete unless the required hydrogeological assessment is approved by the Board.

- b) **Water Conservation Plan** – An applicant must submit a separate Water Conservation Plan that is applicable to the area and to the jurisdiction where the transported water will be delivered and put to beneficial use. The Water Conservation Plan should include as a minimum the items listed in Rule 3.3.4.
- c) **Mitigation Plan** – The submittal should include a proposed plan to mitigate any adverse impacts of the proposed export on groundwater users within the District.
- d) **Regional Water Plans** – If applicable, the submittal should include a description of how the proposed export is addressed in any approved regional water plan(s).

RULE 3.5.6 – HEARINGS AND DISTRICT CONSIDERATION

- a) **Hearing Procedures** – Applicants for transport permits are subject to the hearing procedures provided by the appropriate Rules of Chapter 8.
- b) **Decision on Application** – In determining whether to issue a permit to transfer groundwater out of the District, the Board shall consider the provisions and requirements of the Texas Water Code, as amended, and of these Rules, and the following information: (i) availability of groundwater in the District and in the proposed receiving area; (ii) availability of feasible and practicable alternative supplies to the applicant and in the proposed receiving area; (iii) the amount and purposes of use for which water is needed in the proposed receiving area; (iv) the projected effect of the proposed transfer on groundwater and aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; (v) the indirect costs and economic and social impacts associated with the proposed transfer of water from the District; (vi) the approved regional and state water plan, if one has been approved for the receiving area, and the certified District management plan, if one has been approved for the receiving area; (vii) other facts and considerations necessary by the District's Board for the protection of the public health and welfare and conservation and management of groundwater resources in the District; (viii) the applicant's water conservation plan and whether the applicant has agreed to prevent waste and achieve water conservation and, if any subsequent user of the water is a municipality or entity providing retail water services, the water conservation plan, and agreement to prevent waste and achieve water conservation, of that municipality or entity shall also be provided; (ix) the location of the well and rates of withdrawal; and, (x) the period of time for which the permit is sought.

RULE 3.5.7 – PERMIT PROVISIONS

- a) **Compliance with Rules** – This permit is granted in accordance with the provisions of the Rules of this District, and acceptance of the permit constitutes acknowledgement of, and agreement to, comply with the Rules and all of the permit's terms, provisions, conditions, limitations, and restrictions and any emergency conditions assessed by the District. This permit confers only the right to operate the permit under the provisions of these Rules, and its terms may be modified or amended pursuant to the provisions of these Rules.
- b) **Additional Provisions** – In addition to conditions provided by Section 36.1131, Texas Water Code, as amended, the permit shall specify: (i) the amount of water that may be transferred out of the District; and (ii) the period for which the water may be transferred.
- c) **Access to Site** – In addition to well site availability, a District representative shall be allowed access to all other facilities involved in the transport of water outside the District.
- d) **Permit Duration** – The period specified by the transport permit shall be as follows:
 - i. Three (3) years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or,
 - ii. Thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of a permit.
 - iii. The three (3) year period specified above shall automatically be extended to thirty (30) years if construction of a conveyance system is begun before the expiration of such three (3) year period.
 - iv. For the purposes of this section, construction of a conveyance system has been initiated when the permittee has completed construction of at least 10% of the portion of the conveyance facilities located within the District that will be used to convey the maximum annual quantity of groundwater permitted for transport outside of the boundaries of the District.
- e) **District Review** – The District may periodically review the amount of water that may be transferred under the transfer permit and may limit the amount if additional factors warrant the limitation. This review may not take place more frequently than the period provided for the review or renewal of regular permits issued by the

District. In its determination of whether to renew a permit issued under this section, the District shall consider relevant and current data for the conservation of groundwater resources and shall consider the permit in the same manner it would consider any other permit in the District.

RULE 3.5.8 – PRODUCTION AND EXPORT FEES FOR EXEMPT WELLS

- a) **Water Transport from Exempt Wells** – Except as specified in 36.117 of the Texas Water Code, groundwater from an exempt well may not be transported outside the District boundaries. A well may not be used to provide groundwater to be transported beyond District boundaries unless that well has a valid, District-approved operating permit.

RULE 3.5.9 – PERMIT CHANGES AND AMENDMENTS

- a) **Modification of Transfer** – It is a violation of these Rules to transfer any amount of water in excess of the amount or withdrawal rate specified in the transport permit issued by the District, or by any means or route not authorized by a transport permit issued by the District. A written, sworn application for an amendment to a transport permit must be filed and the amendment granted before any deviation in the transport permit occurs. The applicant must give reasons for the need to make a change or changes, demonstrate why the originally authorized terms and conditions in the transport permit have proven inadequate and shall provide sufficient supportive documentation.
- b) **Action** – The General Manager shall prepare a notice to be given of the application for amendment, which notice shall be given as in the original application, and a hearing conducted in the manner prescribed for permit issuance.

RULE 3.5.10 – REPORTING, MONITORING AND INSPECTIONS

- a) **Monthly Reporting** – On or before the 10th of each month, a permittee authorized to transport groundwater outside of the District boundaries shall file a monthly report with the District describing the total amount of groundwater produced and the amount transported outside of the District boundaries during the preceding month. The report shall be filed on a form obtained from and approved by the District.
- b) **Failure to Report** – If a permittee authorized to transport groundwater outside of the District does not file a complete monthly report within the allotted time, the permittee is subject to civil penalties as outlined in Section 36.102 of the Texas Water Code and Chapter 9 of these Rules. Failure to complete the report and payment of any fine or penalty does not alleviate the applicant of their responsibility to submit the report.

RULE 3.5.11 – VIOLATIONS AND PENALTIES

- a) **Rights** – The permitted right to transport groundwater out of the District shall be limited to the extent of and for stated purpose(s) in the permit.
- b) **Causes for Permit Revocation** – Transport permits issued under these Rules are subject to penalty or revocation due to waste, deviation from the purposes and terms of the permit, or damage caused to the groundwater or aquifers. After notice and an opportunity for hearing is given, a permit may be revoked, suspended, terminated, canceled, modified, or amended in whole or in part for cause including, but not limited to the following: (i) violation of terms or conditions of the permit; (ii) obtaining the permit by misrepresentation or failure to disclose relevant facts; (iii) a finding that false or misleading information has been supplied on the application, or, (iv) failure to comply with any applicable rules, regulations, fee schedule, special provisions, requirements, or orders of the District.
- c) **Violations** – It is a violation of these Rules to transport groundwater beyond the boundaries of the District without first obtaining a Board-approved transport permit application, to transport an amount in excess of the specified amount on the permit or to transport beyond the designated duration of the permit. Violation of these Rules subjects the permittee to revocation of the permit and / or civil penalties as specified in Section 36.102 of the Texas Water Code and Chapter 9 of these Rules. A violation of this Rule occurs on the first day the transport without the appropriate permit begins and continues each day thereafter until the appropriate permit is issued.