

**Proposed Amendments to the Kinney County
Groundwater Conservation District Rules**

- (1) Rule 3.01 is amended by adding subsection (F) to read as follows:

F) Permit by Rule: The General Manager may issue a permit to withdraw less than 50 acre-feet of groundwater per year following a public hearing. The well owner may drill the well without applying for a test well permit. The well must be registered with the District and must meet all requirements for a Regular Permit. Only one such well may be permitted for each person or related entity. For the purposes of this section, "related entity" means:

- a) a relative of the permittee
- b) a relative of a spouse of such a permittee;
- c) director or member of the body or of a related body corporate;
- d) relative of such a director or member;
- e) relative of a spouse of such a director or member;
- f) body corporate that is related to the first-mentioned body;
- g) beneficiary under a trust of which the first-mentioned body is or has at any time been a trustee;
- h) relative of such a beneficiary;
- i) relative of a spouse of such a beneficiary;
- j) body corporate one of whose directors is also a director of the first-mentioned body; and
- k) trustee of a trust under which a person is a beneficiary, where the person is a related entity of the first-mentioned body because of any other application or applications of this definition.

- (2) Rule 3.02 is amended to read as follows:

RULE 3.02 EVALUATION OF PERMIT APPLICATION

- (a) An application shall be limited to only one well.

Applicant: For applications for a groundwater withdrawal permit, if the well or proposed well has one owner, that owner shall file the application. If there is more than one owner, a joint application shall be filed by those owners. In the case of more than one owner, the owners shall select one among them to act for and represent them before the District. Written documentation satisfactory to the District, must accompany the application. Unless the ownership of the well by the lessee, assignee, or easement holder is clearly established in the documentation defining the relationship between parties, a lessee or designee of the surface estate or an easement holder, will not be considered the owner of the well. If the Applicant is a lessee or owns groundwater rights severed from the surface estate, the Applicant shall provide written notice of the application to each groundwater rights owner and surface estate owner by certified mail, return receipt requested. Groundwater rights must be evidenced by a certified copy of a recorded deed. The

application is not administratively complete until evidence of the notice provided, including the signed returned receipts or the refused or undelivered certified letters are provided to the District.

In deciding whether to issue a permit, and in setting the terms of the permit, the Board will consider the purpose of the District Act and all other relevant factors, including, but not limited to:

- 1) the application conforms to the requirements of Chapter 36, Water Code, and is accompanied by the prescribed fees;
- 2) the quantity of groundwater proposed to be withdrawn unreasonably affects existing groundwater and surface water resources, existing permit holders, or other groundwater users within the District;
- 3) the proposed use of water is dedicated to any beneficial use;
- 4) the proposed use of the water is consistent with the District's certified water management plan;
- 5) the Applicant has agreed to avoid waste and achieve water conservation; and
- 6) the Applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the Applicant will follow well plugging guidelines at the time of well closure.

(b) The district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:

- (1) the MAG determined by the executive administrator;
- (2) the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117, Water Code;
- (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.

(c) The MAG is unreliable and will not be considered when issuing individual permits.

- (3) Rule 3.06 (D) is amended to read as follows:

D) Board Action if No Request for Contested Case Hearing. If no request for a contested case hearing is made by 5:00 p.m. three business days before the public hearing, the Board shall issue a written order or resolution reflecting its decision. If

the Board approves the Application, the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within sixty (60) days after the final hearing at which the Application was considered. If the Board votes to issue the permit at an amount less than the amount requested on the application, or votes to issue the permit with conditions that were not part of the original proposal, or denies the permit, the applicant may demand a contested case hearing by submitting a written demand to the District office no later than the close of business on the twentieth (20th) tenth (10th) business day after the Board's vote.

(4) Rule 4.02 (B) is amended to read as follows:

B) Equipment Required for Establishing Quantity of Groundwater Produced. All operable non-exempt use wells must have installed meters and monitoring equipment approved by the District from a list of approved vendors. A well is deemed to be operable unless the well plumbing and power source are disconnected from the wellhead or the well casing is capped, or the well is plugged. Monitoring equipment may include real-time monitoring equipment installed at the District's office at the well owner's expense. The meter and monitoring equipment installation must be inspected by the District and a schematic drawing of the installation must be provided to the District. Metering Device failure must be reported to the District, and the District must approve an appropriate measuring alternative. The District may, at the District's expense, also install monitoring equipment at the well or in the District office. The purpose of the approved meter and monitoring equipment is to ensure that the District has the capability to promptly and accurately measure the amount of groundwater being produced or transported out of the District.

(5) Rule 4.04 is amended to read as follows:

RULE 4.04 ANNUAL GROUNDWATER PUMPAGE REPORT

(a) Before January 15th of each year, each permit holder must submit to the District a report on a form provided by the District, stating the following:

- 1) the name of the permit holder;
- 2) the well number(s);
- 3) the total amount of groundwater produced by the well or aggregate system during the immediately preceding calendar year (January through December);
- 4) the purpose for which the groundwater was used;
- 5) any other information requested by the District pursuant to the provisions of the District Act and Chapter 36, Water Code.

(b) Each permittee must record and report to the District the amount of groundwater withdrawn each calendar month. The monthly report is due no later than the 10th day after the end of each calendar month. The District also requires an annual pumping report that includes the amount of groundwater withdrawn each calendar month during that reporting period.

(6) Rule 3.03 (F) is repealed.