

Comments received and responses given

Comment or Question

District should require copies of leases in lieu of affidavits or memorandums of lease to establish right to produce water from property owners.

Response or Action to address comment or question

The Board, Staff and Consultants of the District recognize the right of property owners to enter into agreements which describe the assignment of their property for use or production. The Rules Committee reviewed Rule 7.4.4(b) and believe the District's present Rules requiring affidavits together with "documentation establishing the applicable authority to construct and operate a well on such property for the proposed use; the documentation must be one or more documents recorded in the real property records of the County in which the land is located;" is non-intrusive and provides protection and privacy to property owners in crafting their agreements and has proven so far to provide sufficient documentation for the purpose.

New District Rule 4.3 will be used retroactively to determine District Rules have been violated.

The intent of new District Rule 4.3 is to ensure monitoring equipment is installed in new qualifying wells in advance of production so appropriate data will be collected for use and benefit of the District and its citizens, as well as the owner/operator of a qualifying well or well system. The District's Rule is also to clarify the need for the information and to obtain such information as the earliest possible time that monitoring equipment is installed on new wells. The District is uncertain where the "retroactive" language and concern arises. The intent of the new Rule is not to cause violations to exist.

By exempting wells in the Little River and Brazos River Alluvium, the District's new Rule 4.3.7 is discriminatory because it applies only to one permittee.

Rule 4.3.7 is written to address the monitoring of impacts of pumping from large operational permits on water levels in aquifers for which the Districts has established both Desired Future Conditions (DFCs) and Protective Drawdown Limits (PDLs). (Additional language) Further, the District is well within its rights to seek information based upon any or all aquifers in order to manage the resources.

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| <p>By requiring annual reporting of change in ownership interests of groundwater leases new District Rule 8.6.2 and 8.6.3 are discriminatory against transport permit holders.</p> | <p>The Rules Committee reviewed this comment. While uncertain where the idea that such request for information is "discriminatory"; the Rules Committee, Staff and General Counsel believe that Section 36.122(c), Texas Water Code's prohibition of not imposing more restrictive permit conditions on transporters is <i>not</i> triggered by this change. Since a change in ownership of property interests, including leases, may occur at any time, this is merely a need to ensure all records that the transport permit is based on remain up to date and accurate. Annual updates is hardly discriminatory and certainly not a restrictive permit condition when pursuant to Rules 8.3.4 and 8.4.1, the District is to ensure that nothing in the permit has changed during its tenure - that includes ownership interests.</p> |
| <p>By amending Rule 16.7.3 to allow reduction of production as soon as reasonably required, the new District Rule could have adverse impacts on public water supply reliability.</p> | <p>Recent science and investigations, as well as annual updates on conditions of aquifers, show the information which will lead to changes in maximum allowable production will be fully vetted years in advance of necessary curtailments. Further, any changes to the maximum allowable production would be preceded by public hearings at which time all information could be considered by the Board prior to decisions to change management of groundwater resources.</p> |
| <p>Texas Water Code (TWC), Chapter 36, charges the District to manage to Desired Future Conditions (DFCs), and does not address Protective Drawdown Limits (PDLs) as referenced in amended Rule 16.7.4.</p> | <p>The District Board, Staff and General Counsel believe the District is able to manage to goals described in the District's Management Plan, which is adopted in a manner consistent with TWC Chapter 36, and includes both DFCs and PDLs.</p> |

PDLs may be inconsistent with DFCs which could create a conflict in management as the District is bound by TWC Chapter 36 to manage to DFCs

The District Board, Staff and General Counsel believe the District is able to manage to goals described in the District's Management Plan, which is adopted in a manner consistent with TWC Chapter 36, and includes both DFCs and PDLs. Any conflicting decisions will be considered and decided by the Board in consultation with GMA-12.