

PLUM CREEK CONSERVATION DISTRICT  
RULES

Plum Creek  
Conservation District  
Groundwater Management  
& Protection  
Rules

Adopted \_\_\_\_\_ (Date)

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**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**TABLE OF CONTENTS**

Preamble .....	iv
Rule 1 - Definitions.....	1.1
Rule 2 – Waste, Pollution .....	2.1
Rule 3 – Test Holes.....	3.1
Rule 4 - Well Applications & Registrations .....	4.1
Rule 5 – Non-Exempt Agricultural Use Well Permits and Dewatering Well Permits .....	5.1
Rule 6 – Test Well Permit Applications .....	6.1
Rule 7 –Operating Well Permit Considerations.....	7.1
Rule 8 - Transportation Permit Applications .....	8.1
Rule 9 - Miscellaneous Applications .....	9.1
Rule 10 - Exempt Wells.....	10.1
Rule 11 - Well Requirements.....	11.1
Rule 12 - Drilling Permits.....	12.1
Rule 13 - Issuance of New or Amended Operating Permits.....	13.1
Rule 14 – Permit Duration and Transfers .....	14.1
Rule 15 - Location of Well .....	15.1
Rule 16 - Deposits and Administrative Fees.....	16.1
Rule 17 -Reporting & Record Keeping Requirements .....	17.1
Rule 18 - Water Well Driller/Pump Installer Licenses.....	18.1
Rule 19 – Classification, Spacing and Production Provisions.....	19.1
Rule 20 - Rate of Decline.....	20.1
Rule 21 – Reworking or Replacing a Well.....	21.1
Rule 22 - Protection of Groundwater Quality – Required Equipment on Wells .....	22.1

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

Rule 23 - Transportation of Groundwater From the District ..... 23.1

Rule 24 - Recharge Wells and Facilities, Including Aquifer Storage and Recovery  
Wells and Projects..... 24.1

Rule 25 - Right to Inspect and Test Wells ..... 25.1

Rule 26 - Notice Requirements..... 26.1

Rule 27 – Permit Consideration ..... 27.1

Rule 28 – Permit Conditions..... 28.1

Rule 29 – Test Hole, Test Well Applications and Applications submitted under Rule 5 ..... 29.1

Rule 30 – Contested Applications..... 30.1

Rule 31 – Changed Conditions ..... 31.1

Rule 32 – General ..... 32.1

Rule 33 – Enforcement of Rules..... 33.1

Rule 34 – Effective Date of These Rules..... 34.1

Signatures..... 35.1

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**PREAMBLE**

Plum Creek Conservation District is a special law district operating in portions of Caldwell and Hays County, Texas. The District was created in furtherance of Article XVI, Section 59 of the Texas Constitution by special legislative act formerly codified as Article 8280-194, TEX. REV. CIV. STAT. ANN., as amended. Although the District was created as a Water Control and Improvement District, the powers and duties of the District were subsequently expanded to include those of groundwater districts operating pursuant to Chapter 36 of the Texas Water Code. The Rules established herein, and as may be amended from time to time, are adopted by the District in furtherance of its constitutional and statutory duties to protect, preserve, enhance and insure the beneficial resources within its jurisdiction.

# PLUM CREEK CONSERVATION DISTRICT RULES

## Rule 1 - Definitions

- A. Except, as otherwise provided in these Rules, the definitions contained in Chapter 36, Texas Water Code, as amended from time-to-time, shall apply to these Rules.
- B. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise:

**“Abandoned Well or Deteriorated Well”** means: (a) a well, the condition of which is causing pollution of groundwater in the District; (b) a well which is or is not in use, or one which contains no pumping equipment (including an open or uncovered well); or (c) a well which is not maintained in compliance with applicable law, including the Rules and Regulations of the District, the Texas Water Well Driller’s Act, Texas Commission on Environmental Quality, Texas Railroad Commission or any other state or federal agency or political subdivision having jurisdiction.

**“Acre-foot”** means one acre-foot of groundwater which is equal to 325,851 gallons of water, or the amount of water necessary to cover one surface acre of land with one foot of water.

**“Administratively Complete”** means an application that contains all the information required by Chapter 36.113 and 36.1131 of the Texas Water Code for the particular type of application presented as determined by the District.

**“Administratively Complete Date”** means the date on the letter from the District to the applicant conveying the information that the District has determined that the application is Administratively Complete. If an application has not been determined to be Administratively Complete by 180 days following its submission the application shall be returned to the applicant for re-filing.

**“Agricultural Use Well”** means a non-exempt well producing not more than 100 acre-feet per year of groundwater for use for on-site agricultural or livestock use purposes which well has an operating permit issued by the District pursuant to the provisions in Rule 5 of the District’s Rules.

**“Allowable decline”** means a decrease in the static water level of a well having a District permit that is less than the amount of the “Drawdown Limitations” stated in Rule 21 of these Rules.

**“Aquifer”** means a formation, or group of saturated geologic formations, capable of storing and yielding groundwater in usable quantities.

**“Aquifer Storage and Recovery Project”** or **“ASR Project”** means a well or wells, and any appurtenant facilities within the Boundaries of the District, used for the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use by the project operator that has a permit for the Project issued under Subchapter G of Chapter 27 and

## **PLUM CREEK CONSERVATION DISTRICT RULES**

Subchapter N of Chapter 36 of the Texas Water Code. ASR Project water production quantities are limited to the total volume of water injected as part of the operation of the Project. Water quantities in excess of the volume of water injected as a part of any ASR Project is considered to be “Native Groundwater”.

**“Aquifer Storage and Recovery Well”** and **“ASR Well”** means a well designated or constructed to be used by the Operator of an ASR Project permitted in accord with the provisions of Section 27.151 and Subchapter N of Chapter 36 of the Texas Water Code.

**“Authorized Well Site”** means:

1. The location of a proposed well registered with or proposed to be operated under an operating permit issued by the District described in sufficient detail to allow the District to establish the well's location in the records of the District. The location in an application is valid until a registration is completed or the application for the well is approved, withdrawn or expires. At that point, the well's location becomes the one described in the registration or operating permit.
2. The location of a well as stated on a registration or on a permit issued by the District; or
3. The location of any well producing fresh, brackish or saline water from the Quaternary, Tertiary, and Cretaceous aquifers, that was in existence at the time the District Rules were first adopted in December 2003 other than those wells producing from the Edwards sands, formation or aquifer regulated by either the Barton Springs-Edwards Aquifer Conservation District or the Edwards Underground Water District on January 1, 1989; or
4. The location of a well capable of producing in excess of 25,000 gallons of fresh, brackish or saline water per day in existence either (i) at the time the District Rules were revised and adopted on December 29, 2009, or (ii) at the time the area was annexed into the District, which was producing water from the Quaternary, Tertiary, and Cretaceous aquifers, and is not considered to be an abandoned well or deteriorated well; or
5. The location of a well drilled after the District's Rules were adopted, or after the area was annexed into the District, which has a properly completed registration and Log of Well on file in the District office and which is not “Abandoned” or “Deteriorated”; or
6. The location of any Exempt Well.

**“Beneficial use”** or **“Uses for a Beneficial Purpose”** means the use of an amount of water in a non-wasteful manner contemplated by Section 36.001(a), Texas Water Code.

## **PLUM CREEK CONSERVATION DISTRICT RULES**

**“Board”** means the governing body of the District as prescribed by the District’s enabling legislation.

**“Commission”** means the Texas Commission on Environmental Quality, or the “TCEQ,” and any successor agency.

**“Contiguous”** includes separately described tracts of land owned or leased by an Applicant touching at any point or separately described tracts of land only displaced from touching other tracts of land owned or leased by the Applicant by a road, other transportation rights of way. Contiguous land used for calculation of acreage requirements does not have to be within the boundaries of the District but may not be used or proposed for use for permitting of a well under by another groundwater district.

**“Dewatering Well”** means a temporary boring or opening in the ground surface made in connection with a construction project that encounters groundwater, meets the appropriate portions of Rule 5 and is then Authorized under the provisions of Rule 5.

**“DFC”** Desired Future Condition means a quantified description, adopted in accordance with Section 36.108, of the desired condition of the groundwater resources in a management area at one or more specified future times

**“District”** means the Plum Creek Conservation District or PCCD, created by special legislative enactment formerly codified as Article 8980-126, TEX. REV. CIV. STAT. ANN. When used in these Rules in connection with actions, the term “District” means actions of the Board of the District and of employees of the District when the employees are acting in accordance with these Rules.

**“District Headquarters”** means the District’s principal place of business located in Caldwell County, Texas at 1101 West San Antonio St., Lockhart, Texas 78644.

**“Domestic Use”** means the use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals; and for non-commercial water recreation including aquatic and wildlife enjoyment. Domestic use does not include water used to support activities for which consideration is given, bartered or received, or for which the product of the activity is bartered or sold.

**“Easy Access”** means access to a well that is not obstructed by equipment and the fitting(s) can be removed and replaced with a minimum of tools and/or effort, and without risk of breakage of any attached parts.

**“Electric Log (Geophysical Log)”** means the representation of results of tests made by a wire line measurement of natural gamma radiation and/or of measurements of various forms of

## PLUM CREEK CONSERVATION DISTRICT RULES

resistivity/conductivity from electrodes placed within an open or cased well or and/or other wire line geophysical tools used to determine formation and/or well characteristics.

**“Executive Manager”** means the person who is employed by and acts as the Executive Manager of the District.

**“Exempt Well”** means a well exempted from permitting by PCCD in Rule 11 of these Rules or exempted from permitting by the provisions of Chapter 36, Texas Water Code. Water produced from Exempt Wells can be used only for purposes related to the claimed exemption.

**“Existing Well”** means a well that was drilled prior to December 31, 2003.

**“Foreign substance”** means any element or combination of elements in excess of that naturally occurring in the groundwater, including re-used or re-claimed water and tailwater, and may also include instances where open-ditch water is treated when a pump discharge pipe is submerged in the ditch.

**“GPD”** means gallons per day.

**“Groundwater”** means water percolating below the surface of the earth.

**“Groundwater Reservoir”** means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

**“Guidance Document”** means a statement prepared and revised by the District from time to time that is a communication between the District and others detailing the District’s views on interpretations of these Rules. Any Guidance Document will be made available in the offices of the District and on the District’s Web Site and is not a Rule.

**“Historic Use”** means the amount of production of groundwater from a non-exempt well for beneficial use without waste prior to 2004.

**“Injection well”** means non-ASR Project Well that is an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transit or dispose of water, or any other fluid, into a water bearing subsurface stratum. An Injection Well may be regulated pursuant to Chapter 27, Texas Water Code and subject to the jurisdiction of either the Texas Commission on Environmental Quality and/or the Texas Railroad Commission.

**“Irrigation distribution system”** means a device or combination of devices having a hose, pipe or other conduit that connects directly to any water well through which water or a mixture of water and chemicals is drawn and applied to land. The term does not include any hand-held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.



## **PLUM CREEK CONSERVATION DISTRICT RULES**

**“Lithologic Log”** means a log constructed from cuttings and/or cores describing the sediments and rocks encountered in the borehole.

**“Livestock Use”** means the use of groundwater for the open-range watering of animals, including exotic livestock, game animals or fur-bearing animals on property designated for agricultural use and holding agricultural use or wildlife management status associated with open space land devoted to farm, ranch or wildlife purposes on the basis of its production capacity from the appropriate appraisal district.

**“Maximum Historic Use”** means the maximum amount of groundwater pumped from a non-exempt well without waste during any consecutive twelve-month period ending prior to December 31, 2003.

**“Mitigation Plan”** means the procedures and actions to address impacts of permitted or registered groundwater wells except those having permits issued under the provisions of Rule 5 of these Rules located on properties in the District. A Mitigation Plan can be one adopted by Rule by the District or approved by the District in connection with an application for an operating permit for a well or Well Field Project, or one mandated by the District’s Mitigation Requirements. Any Mitigation Plan can include a request for consideration of the Applicant’s mitigation efforts in place with other groundwater districts or Well Field Projects.

**“Modeled Available Groundwater”** or **“MAG”** means the amount of water that the Executive Administrator of the Texas Water Development Board determines may be produced on an annual average basis to achieve a desired future condition.

**“Monitor well”** means a producing or non-producing well designated or constructed to measure, or monitor, either the quality, or quantity or movement, of substances, elements, chemicals or fluids beneath the surface of the ground. The term does not include any monitoring well which is used in conjunction with the production of oil, gas or any other minerals.

**“Native Groundwater”** means groundwater that is under the surface of property in a volume and quality that is present without consideration of water in place because of injection into the subsurface from operation of an ASR Project.

**“Owner”** means, and includes, any Person having the right to produce groundwater either by ownership, contract, lease, easement or any other estate in the land or water.

**“On-Site”** means property owned or controlled by a holder of a groundwater production permit or registration even if such property is not contiguous to the property tract where the well producing the permitted or registered water is located if the permit holder desires to have additional land included within any application submitted to the District. If such land is considered to be “on-site” land for any particular application or permit, then such land cannot be used for land surface area calculations for any other application submitted to the District or any other Groundwater District.

## PLUM CREEK CONSERVATION DISTRICT RULES

**“Permitted Well”** means a non-exempt well that has been issued an Operating Permit under these Rules or has received other authorization by the District.

**“Person”** means any individual, partnership, corporation, organization, government, government subdivision or agency, business trust, estate or any other legal entity or association.

**“Pollution”** means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, groundwater in the District that renders the groundwater harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**“Railroad Commission”** means the Texas Railroad Commission.

**“Re-equip”** means to replace any portion of the water producing equipment in a well.

**“Registered Well”** means an exempt well that has been registered with the District.

**“Rework”** means any alteration of a well whether accomplished by mechanical or chemical means.

**“Saturated thickness”** means the vertical distance between the water table and the base of the groundwater reservoir.

**“Storage Coefficient”** means a unitless number used by the District in evaluating permit applications. To be valid for use by the District in such evaluations a “Storage Coefficient” must be larger than  $1.0E^{-6}$ .

**“Subsidence”** means the lowering in elevation of the land surface caused by withdrawal of groundwater.

**“TCEQ”** means the Texas Commission on Environmental Quality.

**“Test Hole”** means an excavation into a geological formation that is intended to determine the formation’s characteristics for the purposes of producing groundwater to be put to some lawful purpose.

**“Test Well”** means a Well drilled and completed for the purpose of determining aquifer characteristics through water production during a short period of time. A Test Well is not a Production Well having an associated Operating Permit. A Test Well can subsequently receive an Operating Permit as a non-exempt production well or be converted into a monitor well following submission of an appropriate application. An application for a Tier II operating permit requires Test Well results for permit issuance, and the District may request Test Well results for consideration of some Tier I well applications.

## PLUM CREEK CONSERVATION DISTRICT RULES

“**Tier I Well**” means a well that has an Operating Permit with annual pumping limit of 300-acre feet or less. An Agricultural Use Well permitted under Rule 5 is considered to be a Tier I Well.

“**Tier II Well**” means any well having an Operating Permit that does not qualify as a **Tier I** well.

“**Transportation Facility**” means any system used for transporting any quantity of native groundwater produced from a well(s) located, or to be located, within the District. An ASR Well that is part of a Transportation Project is not a well permitted by the District unless water is being produced from the well in excess of water quantities injected into the storage facility in which case the well requires a permit issued by the District.

“**TWDB**” means the Texas Water Development Board.

“**Underground Water**” means native groundwater but does not include the volume of water injected as a part of an ASR Project.

“**Waste**” means any one, or more, of the following as applied to wells:

1. Withdrawal of groundwater from a groundwater reservoir at a rate, and in an amount, that causes, or threatens to cause, intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
2. The flowing, or producing, of water from wells completed in a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. The escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater. As used herein, the term “escape” does not include water intentionally transferred from a groundwater reservoir into another groundwater reservoir for beneficial use in connection with an ASR project or groundwater discharging to the surface in natural springs;
4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering or allowing groundwater to escape from a well into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road or road ditch, or onto any land other than that of the owner of the well for a non-beneficial purpose, unless the same is authorized by a permit, rule or order issued by the District, or by the Commission under either Chapter 11 or 26 of the Texas Water Code;
6. Groundwater pumped for irrigation that is not contained in tailwater retention ponds and escapes as irrigation tailwater onto land, other than that of the owner of

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

the well(s), unless permission has been granted by the occupant of the land receiving the tailwater, and the same is used for a beneficial purpose;

7. For water produced from an artesian well “Waste,” also has the meaning assigned by Section 11.205 of the Texas Water Code; or

**“Water Classes”:**

PCCD Definition Water Classes	Total Dissolved Solids (mg/l)
<b>Fresh</b>	<1,000
<b>Brackish</b>	1,000-10,000
<b>Very Saline</b>	10,001-35,000
<b>Sea Water</b>	35,000
<b>Brine</b>	> 35,000

**“Water Well”** means any artificial excavation including a well permitted and operated as a part of an ASR Project constructed for the purpose of exploring for, monitoring, recharging, storing or producing, groundwater other than: (i) test or blast holes in quarries or mines; (ii) any well(s) or excavation(s) for the purpose of exploring for, or producing oil, gas or any other minerals, unless the produced groundwater is exempt from regulation of a groundwater district under Chapter 36; or (iii) any injection well regulated by the Railroad Commission or an ASR Project injection Well regulated by TCEQ. The term “Water Well” includes Test Holes as described in Rule 3 of these Rules and Dewatering Wells as described in Rule 5 of these Rules.

**“Well”** includes any “Water Well” defined in these Rules.

**“Well Field”** means any permitted non-ASR Project well or group of wells whether permitted or exempt under the control of one owner and existing within 5,000 feet of another permitted well.

**“Well Field Project”** means an application submitted to the District for operating permits in a single purpose project that will use multiple water wells for the planned project that will be installed and developed over a period of time on an integrated basis for use in connection with the Well Field Project. A Well Field Project can include both wells that are to receive Operating Permits issued by the District and ASR project wells as permitted by TCEQ. Multiple exempt wells used for a single purpose do not require a Well Field Project application or permit.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 2 — Waste, Pollution**

- A. Groundwater shall not be produced, or used, within the District in such a manner, or under such conditions, as to constitute Waste. Groundwater shall not be produced from an abandoned or deteriorated well; or from any permitted or registered well at greater rates or in greater quantities than authorized by law or these Rules for such well.
- B. Any person producing, or using groundwater, shall use every possible precaution to avoid and prevent Waste.
- C. Within thirty (30) days following written notification from Plum Creek Conservation District, the owner of a well(s) identified as an abandoned or deteriorated well must initiate action to ensure that the abandoned or deteriorated well is plugged, covered, or reworked in accordance with the requirements of the District and any applicable statewide law, agency or political subdivision having jurisdiction including, but not limited to the Texas Water Well Driller's Act, Chapters 35 and 36, Texas Water Code, the TCEQ, and Railroad Commission. Final plugging, covering or re-working shall be accomplished within ninety (90) days of the well owner receiving notice.
- D. Groundwater produced from a Well that does not have an associated operating permit issued by the District is Waste unless the well qualifies as an Exempt Well in accord with Rule 11 of these Rules, is permitted under Rule 5 of these Rules, or is an ASR Project well.
- E. Long term production of quantities of water in excess of recharge rates for an aquifer or for a group of aquifers that result in declines in water levels in an area or aquifer in excess of those following determinations made pursuant to the provisions of Rule 21, or production of water causing or leading to Pollution, may be determined to be Waste under, these Rules.
- F. “Waste” can result in the well Owner or Operator being subject to an order to cease the activity considered to be Waste and also being required to address impacts of the wasteful production following a determination made by the District in accord with Rule 21 of these Rules and the District’s Mitigation Rules.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 3 - Test Holes**

- A. A test hole can be used to determine some subsurface characteristics for use with other types of well applications. A test hole cannot be used to produce water for any purpose except that of characterizing the subsurface formation and water contained in those formations unless it is converted into a water well having an operating permit issued after consideration of an appropriate application.
- B. A person wishing to explore for groundwater by using one or more test holes must file with the District an application for authority to drill the number of desired test holes prior to commencement of drilling each test hole. The application for authority to drill one or more test holes shall be accompanied by payment of the prescribed fee(s), and include all of the following additional information:
1. A legal description of the tract upon which the test hole is proposed to be drilled;
  2. The date for commencing drilling of the test hole or the time period during which all test holes will be drilled;
  3. The exact location of each test hole, including longitude and latitude coordinates, the name of the current landowner as listed on the tax roll with the volume and page data from the Caldwell or Hays County Deed Records, and the approximate distance and location in fact to the nearest public road, property line or other landmark; and the survey in which the land is located.
  4. If the person proposing to obtain permission for the test hole is not the owner of the Property on which the drilling activity is to take place, the person seeking authority for the test hole must furnish some written document evidencing authority to be on the property for the purposes of exploring for groundwater through test holes;
  5. The name and address of the driller or contractor;
  6. The date the test hole(s) is to be completed;
  7. An acknowledgement that the person(s) responsible for drilling of the test hole will provide drilling logs and/or plugging reports to the District upon completion of the test hole operation;
  8. An acknowledgment that each test hole will either be properly plugged on or before the expiration of the test hole permit or, if a decision is made to convert a test hole to a permitted water well having an operating permit or into a monitor well, that the test hole will be capped with a covering capable of

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

sustaining a weight of at least 400 pounds until the test hole is converted into an exempt well, a well having an operating permit or into a registered monitor well; and

9. An acknowledgment that the owner will make appropriate applications to the District pursuant to Rule 4 for conversion of the test hole into a well having an Operating Permit or into a Monitor Well within sixty (60) days of completion of drilling if the test hole(s) is not plugged.
- C. Any other information deemed necessary by the District.
  - D. If the test hole is not completed as an exempt well or no application is received by the District to convert the Test Hole into Monitor Well or a well having an Operating Permit within one (1) year after the stated date for completion of the test hole, the test hole must be plugged; provided, however, that the District may grant authority to further extend the period during which the test hole may remain unplugged.
  - E. Authority to drill Test Holes may be granted by the District's Executive Manager if the Manager determines that all required information has been submitted and that the fees have been paid. Any extension of time for a Test Hole to remain unplugged must be submitted to and approved by the District's Board.
  - F. Drilling activities pursuant to the authority granted for a Test Hole must commence within one hundred twenty (120) days following the issuance of authority to drill a Test Hole.
  - G. If the person to whom Test Hole authority is issued fails to plug the Test Hole as required, the District may act to plug the Test Hole and seek to recover its costs from the Applicant.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 4 - Well Applications & Registrations**

- A. All wells, including exempt wells, ASR Project wells authorized pursuant to Chapter 27 of the Texas Water Code, and Monitor Wells, must be registered with or permitted by the District in order for the District to consider the effects of other permit applications on the well. Failure to register a well with the District or to obtain an Operating Permit for a well will result in the well without a registration or permit not being considered in a decision of the District to issue Operating Permits for wells. If the District becomes aware of an existing Exempt Well or an ASR Project Well, it may invite the owner to submit a registration for the well. However, until a registration request is received from the owner the District will not consider the well to be registered.
- B. All applications submitted to the District for well Operating Permits for new wells other than Monitor Wells, and Dewatering wells are subject to spacing requirements, if any, relative to any approved well permit(s) or existing registered well(s) if the new well application request is to produce from the same formation as the existing registered, or permitted, well. Existing Wells are not subject to spacing limits; provided however, that any permit renewals or amendment requests to increase the well size, amount of production or rate of production, of an Existing Well shall be subject to the District's spacing and production requirements then in effect. ASR Project recovery wells are not subject to the permitting, spacing and production requirements of the District so long as the amount of groundwater recovered from the wells does not exceed the volume authorized by the Commission to be recovered under the Project. Should production exceed the amount authorized by the Commission for the Project, the District's permitting, spacing and production requirements apply.
- C. All exempt Existing Wells, including Exempt Wells, Monitor Wells and wells used in connection with continuing oil and gas operations, shall be registered with the District. If a person desires to drill a new Exempt Well, including a new Exempt Well being drilled or to be used in connection with oil and gas or mineral operations, the well owner or operator must register such new well.
- D. All wells, whether exempt, registered or permitted, shall be equipped and maintained in accordance with all applicable state laws and these Rules as to drilling, installation of casing, completion, and pipe and fittings to prevent (i) 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, and (ii) waste.
- E. Forms for permit applications and registrations approved by Board Resolution will be made available by the District.
- F. Each registration and/or permit application filed with the District shall be accompanied by the applicable prescribed fee(s).



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- G. All applications shall be sworn to by the applicant.
- H. Unless the drilling and/or operation of a well is exempt, either by law or by these Rules, or is associated with the drilling and/or operation of an ASR Project Well, no person shall (i) operate a well, (ii) begin to drill a well, (iii) perforate or screen an existing well, or (iv) increase the size of an existing well or a pump therein, without first applying to the District for, and receiving an Operating Permit for groundwater production for any well other than an ASR Project Well.. Monitor Wells must be registered with the District and must comply with the District's reporting requirements for results from that well as established with the registration.
- I. Owners of Existing Wells that do not qualify as Exempt Wells or ASR Project Wells must apply to the District for an Operating Permit to continue operating the Well. An application for each such well must be filed with the District within one (1) year after the date these Rules are adopted. An Existing Exempt Well for which a registration application has been filed may continue to be operated in a non-wasteful manner.
- J. All applications for Operating Permits, groundwater production authority under Rule 5, and registrations filed with the District shall include all of the following information unless noted otherwise in these Rules:
1. Name and mailing address of the applicant/registrant and, if different, the owner of land on which the well is or will be located;
  2. If the applicant/registrant is other than the owner of the property, documentation establishing the applicable authority to construct and/or operate on the property described in the application for the proposed use;
  3. The location of the Existing Well or the location where a new well, test well or test hole is to be drilled in sufficient detail to allow the District to locate the placement of the well with reference to property ownership records and location from access points.
  4. A statement of the nature and purpose of the existing/proposed action, the amount of water to be used for each purpose, and the estimated rate at which water will be produced from the well.
  5. An acknowledgment by the applicant/registrant that required information in any Operating Permit will be furnished to the District by the applicant/registrant upon completion of the well(s) and prior to production of water therefrom under any operating permit;
  6. A water conservation and drought contingency plan, or a declaration that the applicant/registrant will comply with the District's Groundwater Management Plan

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

7. A water well closure plan, or a declaration that the applicant/registrant will comply with well plugging guidelines and report closure to the TCEQ and the District;
8. Any other additional information deemed necessary by the District and authorized by Chapter 36 of the Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 5 – Non-Exempt Agricultural Use Well Permits and Dewatering Well Permits**

**I. Non-Exempt Agricultural Use Wells**

- A. In lieu of making an application for a standard Operating Permit an owner of land seeking to use groundwater for agricultural or livestock use purposes on-site may apply for an operating permit under the provisions of this Rule 5. To qualify for an Operating Permit under this Rule 5 the applicant may seek an Operating Permit for one well to produce not more than a total of 100 acre feet per year if the property on which the well is to be located contains at least 200 acres. If the tract of land on which the well is to be located contains less than 200 acres, the application can be made under this Rule for an operating permit for a lesser annual production quantity of one-half acre foot per acre for the owned tract. Production rates for such wells are limited to production rates no greater than those allowed for Tier I wells producing the same total annual quantity of water from the same aquifer as the well to be permitted under the terms of this Rule. To qualify for an Operating Permit under this Rule separate tracts of land can be totaled by an applicant but the separately tracts must be contiguous and under the same ownership or all of the lands leased by the applicant. No permit under this Rule 5 may be issued for production of more than 100 acre feet per year. If lands sought to be included in the land area for which an application is sought under this Rule 5 are leased, the lease supporting the application must be provided with the Application and the lands supporting the application for a permit issued under the terms of this Rule must not have been used to support another Operating Permit for groundwater production issued by the District or a different groundwater district.
- B. Only a single Non-Exempt Agricultural Use Well Permit may be issued for a single or for contiguous tract/s of contiguous property that is/are under one ownership.
- C. The water produced from a non-exempt agricultural well under this Rule must be used for agricultural or livestock use on-site for the non-exempt agricultural Well permit to remain valid.
- D. The District will develop and make available a form for an application for a non-exempt agricultural use well.
- E. An application for a non-exempt Agricultural Use well permit under this Rule is not a contested case.
- F. All of the requirements in the District's Groundwater Management and Protection Rules and Mitigation Rules are applicable to wells permitted under Rule 5 in accordance with the provisions of each of those Rules.
- G. Should leased lands be included in the application for such well, any permit issued shall require a verified annual statement that the lease over such lands is still valid. If

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

a lease terminates or a required annual report stating that the lease is still in effect is not received by the end of January after a calendar year concludes, the lease shall be deemed to be terminated and the pumping permit amount shall be proportionally reduced by the lease land that was included in the original amount of acres supporting the grant of the permit under this Rule.

- H. A non-exempt Agricultural Use Well authorized under the terms of this Rule is a Tier I well that has obtained an Operating Permit that is limited to water production and the specific uses authorized under the terms of this Rule 5.

**II. Dewatering Wells**

- A. Should a contractor or landowner encounter groundwater within fifty (50) feet below the normal ground surface during an excavation for any construction project that requires the groundwater to be addressed to complete the construction project, the Owner or Contractor may apply to the Executive Manager for a permit of temporary duration to allow the groundwater to be produced to allow the construction project to continue to completion.
- B. The Request for authorization does not need to contain the information described in Rule 4 but must contain the information stated in this Section of these Rules. A Request for authorization to dewater must be submitted in writing to the Executive Manager. Any Request must identify the depth of the anticipated excavation, the dimensions of the proposed dewatering excavation of well, the location and owner of the property on which the construction is taking place, note any nearby streams, and give an estimated time for completion of the required period for which the authority is requested. The Request must also identify the use to which the water removed during the dewatering is to be put, must comply with the District's requirements that the water not be wasted as the term "Waste" is used in these Rules and provide enough information so that the District and, if necessary, TCEQ can make a determination that the water being encountered is groundwater owned by the owner of the surface of the tract involved and not State-owned surface water. If the proposed produced groundwater is to be used in the Construction Project, the Contractor must provide the District with documentation that the Contractor has authority from the Property owner to produce and use the groundwater in the project. If the District has any question about the classification of the water as Groundwater or Surface water, the person submitting the request may be asked to furnish documentation from TCEQ that the character of the water encountered is groundwater and not surface water.
- C. The Request is not a contested case matter and Authority for the dewatering may be issued by the Executive Manager after giving a minimum of 10 days' notice to the Property owner of the receipt of the Request to allow the Property owner to submit comments or objections, or to state that the owner is consenting to the use of the produced groundwater in the Construction project. Any authority of the Executing Manager to authorize the use of groundwater under the provisions of an authorization

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

for a dewatering well must contain a time for the immediate construction period after which the authorization will automatically expire.

- D. Authority to extract groundwater under provisions of this Rule shall not be renewed to extend the period of time allowed for dewatering in the Authorization issued following an initial Request. If more time for groundwater production is requested, a new application must be submitted. In no event shall this Rule be used to authorize groundwater production from one location and project for a term of more than sixty (60) days from the time of initial issuance of a first application for Authority for a Dewatering activity.

## Rule 6 – Test Well Permit Applications

- A. An Application for a Test Well Permit may include all of the information required in 4.J of these Rules.
- B. An application for a Test Well Permit is not a contested case and can be issued by the Executive Manager of the District or may be referred by the Executive Manager to the Board for consideration and action. A test well Application does not require formal notice to other landowners prior to action on the Application.
- C. Test Well results shall be required for completion of processing and issuance of an operating permit for any Tier II well, and may be necessary for processing and permitting of Tier I wells in some instances (such as a request for a deviation or a variance from requirements in these Rules), depending on the geologic facts related to the application being considered.
- D. Test Well Parameter Reporting Requirements supporting applications are as follows:

<b>TEST REPORTING REQUIREMENTS</b>				
<b>Test Well Drawdown</b>	Hydraulic Conductivity (K)	Transmissivity (T)	Regional Drawdown Maps	Storage Coefficient
<b>Feet</b>	Ft/day	Ft <sup>2</sup> /day	Feet	Unitless
	If the Cooper-Jacob method is used, divide gpd/ft by 7.48 to obtain the required units shown above.		50' contours or less.	A number below 1.0E6.

- E. Drilling activities pursuant to a Test Well Permit must commence within one hundred twenty (120) days following the issuance of the Test Well Permit or the Permit expires. The Test Well must be completed within 120 days following the initial drilling date or the Test Well Permit shall expire. The Executive Manager or Board may extend the initial period of a Test Well Permit for one additional one hundred twenty (120) day period.
- F. A Test Well Permit may be extended for a term of no more than five (5) years from the first date any Test Well Permit for the well in question was first issued conditioned upon drilling activity commencing within one hundred twenty (120) days and completion of the Test Well within an additional 120 day period or some other period allowed pursuant to Rule 6.C. No extension of the initial period of a Test Well Permit for a term of more than five (5) years from the date of first issuance of the Permit shall be considered by the

District unless the District receives an application to convert the Test Well permit into a permitted production well during the period when the Test Well Permit is valid.

- G If the District has not received an application to convert a test well into a well having an Operating Permit during the Test Well Permit term, the Test Well must be plugged or completed as an exempt or Monitor Well within one hundred twenty (120) days after the expiration of the Test Well Permit for the Test Well. If the Applicant fails to complete the test well as an exempt well or properly plug it as required, the District may act to plug the Well and recover its costs from the Applicant.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 7 – Operating Well Permit Considerations**

- A. Considerations for issuance of an Operating Permit for a new non-Exempt well except a well authorized under the Provisions of Rule 5 of these Rules, for a Test Well that is to be converted into a Monitor Well or for an ASR Production well that is subject to the Rules of the District because of its production includes production of water in quantities in excess of the amount of injected water as authorized in a permit issued by the Commission must include all of the following additional information:
1. Copies of any either (i) other applications for permits previously submitted to, and/or (ii) permits issued by the District for the subject well;
  2. All information required in 4.J of these Rules to the extent such information has not been previously supplied;
  3. The drilling, lithologic or geophysical log(s) (in TIFF format if available) prepared during the drilling of the subject well;
  4. Results and information from any and all Test Wells related to the Application performed in accord with the provisions of Rule 6 of these Rules;
  5. Identification of the aquifer(s) from which water will be produced and the screening or perforation interval(s);
  6. The proposed use of the well(s);
  7. The total number of gallons per minute the pump(s) is capable of producing;
  8. The maximum rate and duration of the period at which the well(s) is going to be produced in gallons per minute;
  9. The volume of water to be produced annually;
  10. The number of acres owned or leased for water production by the applicant/registrant from which groundwater is to be produced as recorded in the Deed Records of the appropriate County or Counties where the lands are located. The acres that the Applicant requests be considered must not be included in an area of land calculation required for permit issuance by the District or any other groundwater district that has issued a permit for production of groundwater or has such an application under consideration.
  11. The number of acres owned or leased for water production by the applicant associated with and dedicated to production solely from the proposed well or well field;



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

12. Historic use if the well qualifies for such consideration and permitting is not being requested under Rule 5 of these Rules; and
  13. Additional information that may be required by the Board, and authorized by Chapter 36, Texas Water Code.
- B. To obtain an Operating Permit for an Existing Well based upon its Historic use the following additional information shall be provided to the District on forms provided by the District:
1. All information required in 4.J of these Rules if it has not been previously supplied;
  2. If available; a technical description of the well(s) that are producing water including, but not limited to, all of the following:
    - (a) a copy of the driller's lithologic and geophysical log(s) for each well anticipated to contribute groundwater to the transportation facilities;
    - (b) a completion record showing the depth of the well(s), the casing diameter, type and setting, and the perforated interval(s);
    - (c) the size of the pump(s) used to produce groundwater to be transported; and the date the well(s) was drilled;
  3. The purposes of use for which water has historically been produced;
  4. The highest volume of water produced during any consecutive twelve (12) month period prior to January 1, 2004 supported by documentary evidence corroborating such production and use;
  5. If known, monthly production during a period of twenty-four (24) consecutive months or for the number of months less than 24 during which the well has operated;
  6. The number of contiguous acres owned or leased for water production from which the groundwater has been produced from the Existing Well;
  7. The number of acres owned or leased for water production by the applicant; and
  8. Additional information that may be required by the Board, and authorized by Chapter 36, Texas Water Code.
- C. If any information listed is not available, a statement by the applicant that the information could not be located. If the listed information could not be located, the Executive Manager may determine that the application is Administratively Complete but that the

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

Application could not be properly evaluated and return it to the applicant or present the application to the Board for action. The Board may either deny such an application without a hearing or set such an application for a hearing to be considered on the basis of the information contained in the application

D. Well Field Project applications:

In addition to the other items in this Rule 7 required for an Operating Permits, an application for an Operating Permit for each well that is to be within a Well Field Project must contain a development plan that includes information on the total number of wells anticipated, take completed estimated dates of construction and locations of the wells, and estimated rates of production and total production associated with each well or each group of wells planned for development and completion within each six (6) month period of the permit duration.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 8 – Transportation Permit Applications**

- A. An application to obtain a “Transportation Permit” for water produced from a well or from a group of wells in a Well Field Project within the District pursuant to Operating Permits must include all of the information described in 4.J of these Rules and Rule 7 of these Rules, as well as the following information to the extent it has not been furnished in any other application:
1. The name and address of the owner(s) and/or operator(s) of the transportation facility;
  2. The location of the well or Well Field Project for the well or wells from which groundwater to be transported is to be produced;
  3. A map reflecting the location of the well(s) and the transportation facilities;
  4. The name(s) and address(es) of the owner(s) of the land(s) upon which the well(s) from which water is to be produced and transported are located;
  5. The Operating Permit number of any currently permitted well or wells used to produce water to be transported;
  6. Well Field Project Applications associated with Transportation Permits shall state that information required in Rule 7 (A) (B) and (C) for each well shall be supplied within 120 days following the completion of each well in the permitted Well Field Project. Upon submission of such information and approval by the District each well in the Project shall then be considered a well having an operating permit;
  7. A description of the facilities used to transport groundwater;
  8. The time schedule for construction and/or operation of any new transportation facilities;
  9. A copy of the construction and operation plans, including but not limited to, all of the following:
    - (a) A technical description of the facilities to be used for transportation of water;
    - (b) Information showing the effect, if any, of the proposed transportation on the quantity and quality of water available within the District under the appropriate MAG;
  10. Credible scientific evidence that the proposed operation will not cause pollution, waste, or subsidence;

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

11. A Mitigation Plan for the well or Well Field Project;
12. Additional information that may be required by the District, and authorized by Chapter 36, Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 9 – Miscellaneous Applications**

- A. Applications for permits for non-Exempt Wells or operations affecting groundwater resources in the District not described in any other Rule must include the information described in Rule 4, if the information has not been previously provided to the District. If the information has been provided, an application made under this provision may reference the information by owner and date or by another reference clearly identifying where the information can be located.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 10 – Exempt Wells**

A. Wells completed and operating under the provisions of Section 36.117 of the Texas Water Code are exempt from permitting by the District. However, all such wells are subject to the other applicable terms of these Rules, including notices, reporting and completion requirements that apply to the appropriate type of well that is exempted from permitting. The owner or driller of any Exempt well is required to file with the District the well log required by Section 1901.251 of the Texas Occupations code and, if available, the well's geophysical log. Water produced from Exempt Wells can be used only for purposes related to the claimed exemption

B Domestic Use Wells

1.A well used solely for domestic use is exempt from the need to obtain an Operating Permit from the District as long as all the requirements of paragraph 11.B of these Rules are met. Groundwater produced from any exempt well under this Rule 11.B may be used only for domestic and livestock purpose.

2. Any domestic use well producing water from any formation in the District must be drilled, completed and equipped so that it is incapable of producing, more than 25,000 gallons of groundwater per day.

3. A well producing water for domestic use purposes is not exempt from the requirements of the District if the well is used to supply water to a subdivision of land for which a plat approval is required by Chapter 232 of the Texas Local Government Code. If a well is used to supply water for domestic use to a subdivision of land requiring plat approval pursuant to the provisions of Chapter 232 of the Texas Local Government Code at the time the well is drilled or at some later time, all of the permitting requirements applicable to the well based on its production capacity apply to the well.

4. The driller of a domestic use well that is exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.

5. The owner or operator of a domestic well exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.

6. Any domestic well exempt from permitting under the provisions Section 10.B of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's rules requiring the installation of

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

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.

7. Any alteration of an exempt well to increase its capacity to produce water, or to change the use of water begin produced from domestic use to any other non-exempt use, requires the submission of an appropriate application for the well. Use of the exempt well for the new use or for the greater production may continue until the District has made a decision on the application for a permit for the well or for one year after the change in use or alteration occurs, whichever is the shorter period.
8. Water transported outside the District that is produced for domestic purposes from an exempt well located within the District is subject to export fees imposed by the District.
9. The District may not restrict production from a well that is exempt from the need to obtain a permit because it is a domestic use well drilled, completed and equipped so that it is incapable of producing more than 25,000 gallons per day of groundwater.

**B. Livestock and Poultry Use Water Wells**

1. A well used to provide water for livestock or poultry use on a tract of land larger than ten (10) acres is exempt from the need to obtain an Operating Permit from the District for the production of water from the well as long as all the requirements of Section 11.C of these Rules are met.
2. Exempt livestock and poultry use water wells are subject to the District's spacing rules in Rule 20 of these Rules.
3. Any Exempt well producing water from any formation in the District for livestock and poultry use on a tract of land larger than ten (10) acres must be drilled, completed, equipped and/or operated to limit its production to no more than 25,000 gallons of groundwater per day.
4. The driller of well that is exempt from permitting under the provisions of this Rule and of Chapter 36 of the Texas Water Code because the produced groundwater is being used for livestock and poultry use on a tract of land larger than ten (10) acres is required to file the drilling log of and a completion report for the well with the District.
5. The owner or operator of a livestock and poultry use well that is exempt from permitting under the provisions of this paragraph of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.

6. Any well that is producing groundwater and is exempt from permitting under the provisions of paragraph 10.C of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's rules requiring the 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.
7. Any alteration of a well exempt from permitting by operation of the provisions of this paragraph of these Rules to increase its capacity to produce water, or to change the use of water begin produced from livestock or poultry use on a tract of land larger than ten (10) acres to any other non-exempt use, requires the submission of an appropriate application for the well. Operation of the exempt well to produce groundwater for the non-exempt use or for the greater production may continue until the District has made a decision on the application for a permit for the well or for one year after the change in use or alteration occurs, whichever is the shorter period.
8. The amount of water transported outside the District that is produced from an exempt livestock and poultry use well located within the District is subject to export fees imposed by the District.
9. Multiple livestock and poultry Exempt use wells in a Well Field Project will be considered together for the purpose of determining production capacity for reporting requirements and for determination of spacing of wells in such Well Field Project.

C. Wells used in Oil and Gas Production

1. No Operating Permit is required by the District for a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission drilling permit is responsible for drilling and operating the water well and the water well is located on the same lease or within the same field associated with drilling operations of the oil or gas drilling rig.
2. If a well exempt from permitting under the provisions of Section 11.D of these Rules begins to provide water for any purpose other than drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas,



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

then the well producing the groundwater is no longer exempt from the other requirements of the District and of these Rules. Production of groundwater from the exempt well for the new use is prohibited until the District has made a decision on the application for a permit for the well for the new use of water produced from the well.

3. The District will not deny an application for an Operating Permit for a groundwater well solely because the water produced will be used for hydrocarbon production activities if the application meets all applicable District Rules for the appropriate Tier of well for which the application is submitted.
4. The owner or operator of a well that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.
5. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's Rules requiring the 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 or aquifer.
6. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code must comply with the spacing requirements of the District's Rules.
7. The driller of well that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.
8. The amount of water transported outside the District that is produced from a well located within the District that is exempt from permitting under the provisions of Section 11.D of these Rules and of Chapter 36 of the Texas Water Code is subject to export fees imposed by the District.

**D. Water Wells used in Surface Coal Mining**

1. Drilling of or production from a water well completed in any formation within the District that is authorized under a permit issued by the Railroad Commission of Texas under the terms of Chapter 134 of the Texas Natural Resources Code is

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

exempt from any permitting requirements of the District to the extent the withdrawals of groundwater from the well so exempted are required for mining activities regardless of any subsequent use of the water. Use of water for mining activities includes dewatering activities associated with surface coal mining.

2. Production of quantities of water from a water well completed in any formation within the District that is no longer necessary for mining activities as specified in the permit for such activities issued by the Railroad Commission of Texas, or in quantities that are greater than the amount necessary for activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134 of the Texas Natural Resources Code are not exempt from any appropriate permitting requirements of the District. If the operator desires to produce more water from the well than quantities authorized, or if the operator seeks to continue to produce water from the well that is no longer necessary for mining activities, both the well and the production of water from the well are subject to the Rules of the District and production of water from such a well may not continue until the District has issued an operating permit for the well.
3. Water wells exempt from permitting by the District under the terms of Section 11 E of these Rules need not comply with the spacing requirements of the District's Rules.
4. The owner or operator of a well that is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code must be registered with the District. Registration shall not be complete until information required to be submitted to the District has been furnished or the Executive Manager has agreed to designate the well as being registered with incomplete information. An exempt well that is not registered with the District will not be considered in evaluating applications submitted to the District.
5. The driller of well that is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code is required to file the drilling log of and a completion report for the well with the District.
6. Any well that is producing groundwater and is exempt from permitting under the provisions of Section 11.E of these Rules and of Chapter 36 of the Texas Water Code must be equipped and maintained so as to conform to the District's Rules requiring the 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.
7. The amount of water transported outside the District that is produced from a well located within the District that is exempt from permitting under the provisions of

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

Section 11.E of these Rules and of Chapter 36 of the Texas Water Code is subject to export fees imposed by the District.

8. The entity holding the permit issued by the Railroad Commission of Texas under Chapter 134 of the Texas Natural Resources Code that authorized the drilling of a water well inside the District's Boundaries shall report to the District before the close of the succeeding calendar month:
  - a. The total amount of water withdrawn during the month;
  - b. The quantity of water necessary for mining activities; and
  - c. The quantity of water withdrawn for other purposes.
  
- E. Nothing in these Rules other than registration requirements applies to production of groundwater from wells to be used for oil and gas production as described in Rule 11.D of these Rules, nor to injection wells drilled for oil, gas, sulphur, uranium, or brine production, or for core tests associated with, or for injection of water, gas, saltwater, or other fluids, in wells that are authorized under permits issued by the Railroad Commission of Texas or the Texas Commission on Environmental Quality, as appropriate. However, the District is to be notified of the locations of such injection wells at the time application for a permit for drilling such a well is made to the appropriate State agency.
  
- F. Absent an appropriate TCEQ ASR project permit, or Texas Railroad Commission Permit injection of water and production of stored water from wells in excess of injected quantities of water for the ASR Project Owners or Operators of such wells are required to obtain individual well permits or Well field Project Operating Permit authorizations from the District.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 11– Well Requirements**

- A. The following requirements shall apply to all new wells or Well Field Projects permitted by the District, whether permitted for testing purposes or for operation:
1. Both lithologic and geophysical logs shall be run for all Tier II wells & for other permitted wells when requested by the District;
  2. Geophysical logs shall be provided to the District in TIFF format if available;
  3. Monitor well(s) shall be drilled at locations and at distances to be determined by the District related to operations associated with the particular application being considered as stated in the permit issued for the well;
  4. All Tier II production wells shall be equipped with an open ended one and one-quarter inch (1.25”) or District approved PVC access port strapped to the drop pipe to provide measurement with an e-line and/or a transducer;
  5. Totalizing flow meters shall be installed on all **Tier II** wells. For all other wells permitted by the District either totalizing flow meters, correlated Kw hours for each well or some other acceptable measurement means shall be installed and utilized to produce records of volumes, rates and times of operation of the well; and

## **Rule 12 - Drilling Permits**

- A. There is no separate application for a drilling permit required by the District. All drilling operations are to be conducted either pursuant to Exemptions for wells considered Exempt under Rule 11 or pursuant to appropriate well registration or appropriate permit issued by the District after consideration of an application for the particular type of registration or permit requested. Although no drilling permits are required for exempt or registered wells, the provisions on information reporting and all applicable requirements in Rule 11 of these Rules apply and the District is to be given the location and dates for beginning the drilling of exempt wells and required information about the locations, depths, drilling and completion details associated with such wells.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 13 - Issuance of New or Amended Operating Permits**

- A. The District shall provide notice of applications in accord with the provisions of Rule 27 of these Rules.
- B. Before granting or denying any permit, the District will consider whether:
1. The application contains all the information required to be submitted to the District pursuant to these Rules;
  2. Notice of the proposed action issuing the Operating Permit has been given as required by Law and these Rules.
  3. The application of a well or for wells in a Well Field Project is for a location or locations that will be or are in conformance with any applicable spacing requirements established by the District or, if any deviation from those requirements is requested, whether there are measured data supporting the request for deviation in accord with the provisions of Rule 20.D of these Rules;
  4. The proposed use of groundwater unreasonably affects existing groundwater or surface water resources;
  5. The proposed use will allow the District to manage total groundwater production on a long term basis to achieve desired future conditions when considering:
    - (a) the modeled available groundwater determined by the Executive Administrator;
    - (b) the Executive Administrator's estimate of the current and projected amount of groundwater being produced under exemptions granted under Rule 11 of these Rules and Section 36.117 of the Texas Water Code;
    - (c) the amount of groundwater authorized under permits previously issued by the District;
    - (d) a reasonable estimate of the amount of groundwater that is actually being produced under permits issued by the District; and
    - (e) yearly precipitation and production patterns.
  6. The proposed use of groundwater is a beneficial use and is consistent with District's Approved Groundwater Management Plan;
  7. The applicant has agreed to avoid waste to achieve water conservation through practices appropriate for the permit being sought;

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

8. The proposed use of the groundwater will result in subsidence;
  9. 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;
  10. If the application is for the renewal of a permit, whether the requirements of the Existing permit and of the District's Rules have been followed, whether the appropriate fees associated with the permit or project, if any have been paid, and the pattern and extent of use of the existing permit;
  11. Applications for renewals of permits will be considered for renewal under the same terms, conditions, and requirements as those in use when the permit was originally issued to the extent such requirements are still authorized under State law, well operations have not compromised or adversely impacted any other registered exempt well or permitted well under the guidelines of the District's mitigation plan or alternate mitigation plan that was approved in conjunction with a specific permit, and to the extent that aquifers being pumped can continue to produce permitted water on a sustainable basis.
  12. Nothing in this provision of this Rule shall prevent the Board from imposing any new requirements associated with permit renewals in response to information brought to the Board's attention during the process of consideration of the renewal application.
  13. Applications for Tier I wells that receive no comments within 20 days after notice is issued may be issued by the Executive Manager or brought before the Board for consideration.
  14. Whether the Applicant for a Well Field Project has agreed to provide information on wells in the Project at the times required by these Rules related to such permits.
  15. If the Application is for renewal of an existing permit, whether the Application for renewal was submitted in a timely manner, whether the Application was accompanied by any required fees, and whether the Applicant is requesting a change related to the renewal that would require a permit amendment.
- C. For Transportation Permits, the Board shall also consider:
1. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
  2. The availability of feasible and practicable alternative supplies to the applicant;

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

3. The amount and purposes of use in the proposed receiving area for which water is needed;
4. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
5. The approved State Water Plan, regional water plan and Certified District Groundwater Management Plan.
6. The method of calculating any transportation fee, including any method suggested by the Applicant.



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 14 - Permit Duration and Transfers**

- A. Any drilling work required by any individual well permit must be commenced within one hundred twenty (120) days from the date the permit is granted. Thereafter, the permit shall be valid for the term stated in the permit issued. The Executive Manager may extend a permit for a Test Hole or Test Well in accord with the provisions of Rule 6 of these Rules.
- B. An applicant for any type of permit may request as part of an application, or in a separate written request, that the Board grant a longer period of time for commencement of required drilling activity under the permit if a proposed drilling project will take more time to complete and the Board may grant such time as is reasonably necessary to complete such project.
- C. Well Field Project applications shall contain a schedule for development of the wells in the Project and individual wells drilled as a part of the Well Field Project shall be in accord with the initial or modified well drilling schedules and location.
  - 1) All Well Operating Permits including Well Field Project Permits shall remain valid for a term of thirty (30) years. Permits for individual wells within a Well Field Project have the same duration as for the Well Field Project permit and expire when the Well Field Project Permit expires. Test Well Permits and Dewatering Permits are for the terms specified in those Permits when they are issued.
  - 2) After the initial permit term for existing permits as of the date these Rules are adopted all permits other than Dewatering permits issued under Rule 5 of these Rules and Test Well Permits shall be renewed by the Board for terms of such duration for the type of permit being renewed in the District's Rules as the time the permit renewal is requested, or if the District's Rules provide no shorter term, for a period of thirty (30) years from the initial expiration date of the original permit provided that:
    - a. the well has been drilled and completed within the required time period if the permit is for an individual well;
    - b. Wells in a permitted Well Field Project have been drilled in accord with the currently approved development plan for the Project;
    - c. Each drilled and completed permitted well or Well Field Project well has been used to produce water at least once during the five year period following the permits' issuance for the production of water without waste as reflected in reports filed with the District unless the District has granted an exception to this requirement;
    - d. The well has been operated in accordance with the representations in the application that was submitted and used for the basis of permit issuance and in accordance with the permit's terms, the District's Rules and all applicable statutes; and

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- e. All fees or other assessments levied by the District, if any, have been paid.
  
- 3) If renewal of a Production Permit or Well Field Project Permit is filed with the District at least one month before the expiration date of the existing permit, then the existing permit will remain in full force and effect and will not expire until Board action on the renewal application is final.
  
- 4) Permits existing as of the Date of Adoption of these Rule shall have terms of thirty (30) years from the date of issuance of the permit in existence as of the date these Rules are adopted and will then be subject to renewal under the terms of these Rules.
  
- 5) All permits, including Agricultural Use permits, individual well permits, and Well Field Project permits will be reviewed by the Board at least every five (5) years, or more often if conditions require such review, including determination made pursuant to Rule 21 of these Rules.
  
- 6) Well Operating Permits issued by the District are not vested property rights but licenses subject to the continuing jurisdiction of the District. Regardless of the stated term and conditions in an Operating permit, Operating permit provisions are subject to modification including modification mandating reductions in production rates and quantities on a permanent or temporary basis if the District determines that aquifer conditions associated with the permit are such that modification is necessary in order to conserve water or to react to weather conditions, pumping within or outside the boundaries of the District that has impacted the supply or quality of water in the aquifer from which the permitted production is taking place, if the continued pumping at rates or at the quantities permitted would cause the groundwater in the District to be at levels that would violate the Desired Future Conditions applicable to the permitted water well, or if conditions exist as determined under Rule 21.
  
- 7. Non-production from a well having an Operating Permit that is not part of a Well Field Project during the five years following issuance of an Operating Permit may result in termination of the Operating permit unless the Board finds valid reasons for the lack of production when considering an initial application or an application to renew the permit.
  
- E. An Operating Permit issued by the District is transferable to a new Permit Holder in the event of a change of ownership of the well or Project related to the Permit by the parties to the transfer giving notice to the District. The Notice shall include the name of the name and mailing address for both the new and old permit holders. Telephone contact information and any email information shall also be provided to the District. Unless the Permit is modified in response to an appropriate application, the transferred Permit is for the remainder of the term and subject to all other terms and conditions of the transferred Permit. Acceptance of the Permit by the person to whom it is issued or transferred constitutes acknowledgment of and agreement to comply with all of the existing terms, provisions, conditions, limitations, and restrictions of the Permit and of these rules.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- F. Acceptance of a permit(s) constitutes an acknowledgment and agreement that the permittee shall comply with all the terms and conditions embodied in the permit, including any subsequent pro rata reductions or modifications thereof, the Rules of the District, and Chapter 36 of the Texas Water Code, all as the same may be amended from time-to-time.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 15 - Location of Well**

- A. After the application for an Operating Permit has been granted for a new well or a well that is a part of a Well Field Project any replacement well for the permitted well must be within one hundred fifty (150) feet of and at the same distance from a property boundary than the location specified in the permit or registration for the well that is to be replaced. If the well is commenced or drilled at a different location, absent an amendment to the permit or registration, the drilling or subsequent operation of such well may be enjoined by the Board pursuant to Chapter 36.102 Texas Water Code and these Rules.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 16 - Deposits and Administrative Fees**

- A. Each well registration, application for authority to drill a test hole, a test well, and/or application for a permit shall be accompanied by the required deposit and/or any applicable fee(s) specified in a Resolution adopted by the Board. Copies of the current District fee schedule are to be available at the District's offices and by mail. Said deposit and/or administrative fees shall be paid by cash or certified check only, made payable to the "Plum Creek Conservation District."
- B. The Board may change the amount of any deposits and fees established by Board Resolution, and may modify its refund policies for deposits from time to time by Resolution upon giving proper public notice as required for actions taken to amend Board Rules.
- C. Each year, and at least once in conjunction with the development of its annual audit, the Board shall review and adopt any changes to these fees, or establish any new fees, by Resolution.
- D. Unless a permit allows some other schedule, the District's Transportation Fee is payable monthly within thirty (30) days after the end of each calendar month and shall be calculated on the basis of one-twelfth (1/12) of the quantity of water permitted for annual transport.
- E. The District will recover the actual costs incurred by the District in conducting any contested hearing conducted in accord with the provisions in Rule 31.
- F. The District will recover from Applicants the actual costs in excess of \$500 incurred by the District for notice required by Rule 27.B.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 17 - Reporting & Record Keeping Requirements**

- A. Both water well drillers and applicants shall keep complete records concerning the drilling, equipping and completion of all wells drilled or reworked and such records shall be furnished to the District. Such records shall include an accurate Driller's log, any electric log that has been made and such additional data concerning the description and completion of the well, its pumping capacity and its equipment as may be required by the Board. Such records shall be filed with the District, on forms furnished by this District or on forms used for reporting such information to appropriate regulatory agencies, within thirty (30) days after completion of the well or activity requiring such reports. The requirements of this rule are in addition to any other applicable state or local law or regulation.
- B. Within thirty (30) days following the expiration of an authorization for a Dewatering Well the applicant shall file a report with the District noting that dewatering has ceased. Such a report shall state how the excavation was closed or report that the encountered water was totally removed.
- C. No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary for the testing and equipping of such well and equipment, unless or until the District has been furnished the information required by the Board on the form furnished by the District.
- D. On or before January 31st of each year, all **Tier I** and **Non-Exempt Agricultural Use well** owners shall file a report with the District stating the total amount of water produced during the prior calendar year. Such reports shall show production by month if such record keeping is required by the Permit for the well.
- E. **Tier II** well owners and Well Field Project permit holders shall file monthly reports with the District of pumped water volume for each permitted well within thirty (30) days after the end of each calendar quarter unless some other schedule is authorized by the District.
- E. Aquifer Storage and Recovery wells or Projects authorized by an agency other than the District shall report monthly the injected and produced volumes and maximum and average Rates of injection and production of water in the ASR project. and the source or sources of the injected water. Such reports shall be submitted within thirty (30) days after the end of each calendar quarter unless some other schedule is authorized by the District. As specified in Section 36.453(2) of the Texas Water Code, the Operator shall provide the District with a copy of a report both of normal operations and of the volume of groundwater recovered that exceeds the volume authorized to be recovered for use by the District in determinations of whether Native Groundwater is being produced as a part of ASR Project operations.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 18 - Water Well Driller/Pump Installer Licenses**

- A. Pursuant to Chapters 32 and 33, Texas Water Code, unless otherwise authorized by law, no person shall drill, complete, equip or rework any well or borehole without having a current Texas Water Well Driller's license and/or Texas Pump Installer's license.
- B. Any person who drills, completes, equips or reworks a well shall comply with the Rules and Regulations of the District, and any state or federal agencies or political subdivisions having jurisdiction, including but not limited to the Department of Licensing and Regulation, the Texas Railroad Commission, and the Commission on Environmental Quality, all of which are incorporated herein by reference for all purposes.
- C. Any person who drills, completes, equips, or reworks a well shall file with the District the information required by these Rules within thirty (30) days after the completion of the work.
- D. Any person who drills or performs any work on any well in the District who is required to file reports of such activity and fails to provide it is in violation of these Rules and subject to any enforcement or penalties allowed by law.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 19 - Classification, Spacing and Production Provisions**

- A. To reduce drawdown of the water table and/or the reduction in artesian pressure, to control subsidence, and to prevent waste, the District is enacting well spacing and/or production limits in these Rules. These spacing requirements and production limits apply to vertical well completions only. If some other completion technique is used, the Operating Permit will specify conditions.
- B. **Tier I** rules apply to non-exempt agricultural use wells permitted under Section 5 of these Rules and to individually permitted wells producing not more than 300 acre feet per year of water not used for municipal purposes. **Tier II** rules apply to permits for wells producing more than 300 acre feet per year of water and to municipal use wells of any producing quantity. As of the effective date of these Rules, the following spacing and production requirements are established:
- C. **Dewatering Wells authorized pursuant to Rule 5 of these Rules are not subject to the District's location and spacing Rules.**
- D. Non-exempt agricultural use wells are subject to the setback and spacing requirements and limits on production based upon tract size (permit limits feet/acre/year) for Tier I wells shown in the chart for Tier I permits.
- E. **Applications for Tier I, Tier II and Non-Exempt Agricultural Use water well production permits may use the Brackish-Saline Table in lieu of using the Tier I & II tables, if the well's TDS level is shown to be equal or above a 1000 MG/L**
- F. **Before the Brackish-Saline Table can be used, an applicant will be required to furnish the District with results of their TDS water quality test from a NELAP accredited lab. Numbers in the tables are presumptive numbers but are subject to being modified if Test Well results indicate that different numbers should be stated in any operating permit.**

[SEE FOLLOWING PAGE FOR CHARTS OF  
**TIER I PERMITS** and **TIER II PERMITS**]



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**TIER I PERMITS**

**Tier I** Table as shown below applies only to permitted wells producing 300 acre feet per year or less for other than municipal use:

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Alluvium	50'	100 gpm	½ ac ft/ac/year	450'
Leona	50'	50 gpm	½ ac ft/ac/year	450'
Wilcox	50'	100 gpm	½ ac ft/ac/year	100'
		200 gpm	½ ac ft/ac/year	200'
Carrizo	50'	100 gpm	1 ac ft/ac/year	100'
		200 gpm	½ ac ft/ac/year	200'
Reklaw	50'	50 gpm	½ ac ft/ac/year	450'
Queen City	50'	50 gpm	½ ac ft/ac/year	450'

**TIER II PERMITS**

**Tier II** Table as shown below applies to wells that are intended to have a capacity of more than 300 acre-feet per year, or wells that are considered to be **Tier II** wells because of proposed use for municipal purposes:

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Alluvium	300'	100 gpm	½ ac ft/ac/year	600'
Leona	100'	50 gpm	½ ac ft/ac/year	200'
Wilcox	300'	Dependent upon drawdown test well results, well field design and proposed operations	½ ac ft/ac/year	Dependent upon drawdown test results well field design and proposed operations

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Carrizo	500'	Dependent upon drawdown test results, well field design and proposed operations	1 ac ft/ac/year	Dependent upon drawdown test results, well field design and proposed operations
Reklaw	100'	50 gpm	½ ac ft/ac/year	450'
Queen City	100'	100 gpm	½ ac ft/ac/year	450'

**Brackish – Saline Table**

Aquifers	Setback of Property Lines	Permit Limits gpm/well	Permit Limits feet/acre/year	Permit spacing (minimum)
Any Aquifer within the PCCD	Dependent upon drawdown test results, well field design and proposed operations	Dependent upon drawdown test results, well field design and proposed operations	Dependent upon drawdown test well results, well field design and proposed operations	Dependent upon drawdown test results, well field design and proposed operations

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- G. The limitations in the **Tier I, Tier II** and **Brackish-Saline** Tables may be modified based upon credible scientific evidence by amendment of these Rules and all permits issued by the District may be subject to ratable reductions and/or increases in production authorizations based upon those modifications.
- H. The Board may allow deviation from the limits for production rates, annual production limits or spacing requirements for individual **Tier I, Tier II** wells upon application based on data developed by measurements in and data produced from test wells, production wells and observation wells demonstrating production capacity and impacts for the proposed well or wells. Well Field Project permits may have special production rates, annual production limits, and spacing requirements established in the Permits for such items rather than those specified in these Rules that would apply to individually permitted wells
- I. All wells will be classified according to the guidelines set forth in either **Tier I, Tier II** or Brackish Tables.
- J. It shall be considered to be a fraud upon the District for any person willfully giving erroneous information on a well permit application. If any applicant willfully produces a well at a higher rate than authorized in a Permit, such action is subject to action by the Board to address the violation of Rules and Permit terms
- K. Water wells drilled after December 31, 2003, to supply water for hydrocarbon production must meet the spacing requirements of the District in effect from time-to-time unless no space is available within 300 feet of the production well or the central injection station.
- L. No commingling of water in separate aquifers shall occur for any completion.
- M. Water availability testing is required for **Tier II** well permitting, for Tier I Well permitting if deviation is requested, and for Well Field Project applications.
- N. Permit limits are dependent upon Test Well results for **Tier II** well permits, Tier I well permits if deviation from table limits is requested in the application for permitting for such a well, and for Well Field Project permits.
- O. **Brackish and Saline Groundwater management zone** is established from the Edwards “*Bad Water Line*” (=> 1000 TDS) down gradient to the southern extremities of the PCCD District for the application of special provisions for the Brackish and Saline aquifers.
- P. Two types of permits may be issued for requests for **Tier II** wells:
1. **Permit Test Hole or Test Wells** shall be drilled and completed and tested utilizing the requirements as stated above in Rule 4 and Rule 19 herein. The test

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

well period shall be in effect for a period of 6 months to 12 months or as stated in the Test Well permit, dependent upon the circumstances; and

2. **Operating Permits** will be issued upon the completion, logging and analysis to the satisfaction of the PCCD and limits will then be set by the PCCD upon Board approval. Operating Permit limits for Tier II wells or an exception to table limits for Tier I well operating permits require Test Well results.
- Q. **DFCs:** Once the DFCs have been established by Rule by the District, any application for an Operating Permit that would cause water to be produced in excess of quantities that could result in failure to achieve DFC limits then in place will be considered and may be granted by the Board for limited duration and may contain special conditions addressing DFC impacts of the Operating Permit.
- R. Should the District determine that management of groundwater resources in the District or that conditions in or use of an aquifer differ substantially from one geographic area to another the District may consider those differences from those in these Rules when considering issuance of permits or in connection with amendments or renewals.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 20 - Rate of Decline**

- A. The District recognizes that Texas vests ownership of groundwater in the owner of the Surface. Nonetheless, it is a hydrologic fact that groundwater moves. Therefore, depending on the geologic and hydrogeologic conditions, almost any permit application considered by the Board may result in declines in water in an aquifer that is not under the ownership or control of the Application for an operating or Well Field Permit. The issuance of an Operating Permit does not mean that the person who holds the Permit, or the person who operates the well pursuant to the terms of the Permit, is violating Texas law on groundwater production. Texas groundwater production law is the “English Rule” of capture and is subject to limitations established under Common Law as applied and determined to exist in Texas. Generally, that means that one who owns land can produce water from beneath the land for beneficial use as long as the production is done in a manner that is not negligent, is not chosen to deliberately harm a neighbor, and does not negligently result in subsidence to neighboring property. So even if the water on a neighboring property becomes unavailable, that does not mean that the production is against Texas law.
- B. The District is also aware that Texas Law requires Districts to consider the amount of Modeled Available Groundwater as determined by the executive administrator but is also charged with the responsibility of managing the production of groundwater within the District to achieve the Desired Future Conditions. Desired Future Conditions are determined within a Groundwater Management Area (GMA) and Texas Law mandates that those determinations then be adopted by individual districts within the Groundwater Management Area.
- C. Desired Future Conditions in the District’s GMA are averages over the entire GMA. The District realizes that there can be aquifer drawdowns in areas of the District that are greater than the averages of the DFC determinations.
- D. The District is also aware that, because of geologic conditions, some aquifers or portions of aquifers that exist and may be accessed for water in the District may lose water levels because of pumping beyond the Boundaries of the District.
- E. Because of the considerations and factors stated in this Rule, the District has determined that it will take into account groundwater level declines measured in Monitor Well locations specified in Operating Permits in the following manner:
1. The Board shall determine if there has been a decline in groundwater levels based on information gathered by the District, the Texas Water Development Board, the TCEQ, the Railroad Commission, other state or local agencies or political subdivisions, and by groundwater levels in the District gathered by District personnel and authorized representatives.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

2. Annually the Board shall review the credible scientific data, and related information, available to it on groundwater levels within the District. If the Board determines that an area(s) in the areas in the District are experiencing average drawdown levels during production from initial measurements of 25% of the aquifer thickness in Monitor wells, or there is drawdown of 50% between the aquifer bottom and the initial water levels in the wells having operating permits issued by the District, the Board may delineate a proposed study area(s) any portion of the District that the Board deems in danger of overproduction of groundwater
  3. If the Board determines that based upon the available credible scientific evidence an aquifer in the District in an area of permitted wells or of a Well Field Project is in danger because of overproduction it shall notify registered well owners and operating permit holders of record in the affected area(s) in writing.
- F. The Board shall hold a public hearing to receive comment concerning the intent of the Board to limit production in the affected area(s). After the public hearing the Board shall take action within thirty (30) days, if necessary, to address the pumping on a temporary or permanent basis to determine what actions should be taken to assure sustainability in production of groundwater in the District.
- G. Nothing in this Rule shall impede the Board's ability to review permits and make required changes in accord with Rule 15 or Rule 20 of these Rules. The determinations made under the provisions of this Rule may be used by the Board in connection with its review of permits under the terms of Rule 15 and/or Rule 20.
- H. The Board shall continue to collect and review credible scientific data, and related information, or more, each succeeding year after the Board has delineated such area(s), and shall take one of the following actions with respect to any actions adopted under Rule 20 E:
1. Proposed to continue to monitor the area(s);
  2. Determine that any production limitation should be ended or adjusted;
  3. Determine that the area(s) should not be under Rules and that any ongoing monitoring shall be terminated;
  4. Propose an expansion of the area(s) under Rules to include an additional area or areas adjacent to the original area(s), in which case the Board is required to follow the provisions of Section E;
  5. Amend the Rules to incorporate the new data; and
  6. Take other action determined to be appropriate by the Board.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 21 - Reworking or Replacing a Well**

- A. No person shall alter, rework, redrill, or re-equip a an exempt domestic and livestock well or exempt well used for production of livestock and poultry in such a manner that would increase the rate or volume of production from such well above the amount then authorized by the applicable exemption or so as to raise its pumping capacity to more than 25,000 gpd if it is an exempt domestic well without first having made an application to the District, and having been granted a permit, or a permit amendment by the Board to do so when the well is not exempt. No person shall alter, rework, redrill, or re-equip a permitted well to alter its production zone nor to increase its production capacity from that specified in the permit for such a well without first applying for and being issued a permit for such work. Wells associated with Well Field Project permits must be maintained in accordance with the current approved development plan for the Project. No District permit shall be required to maintain or repair a well if the maintenance or repair does not increase the production capability of the well to more than its authorized o permitted production rate.
- B. No person shall replace a well without a permit from the Board.
1. A replacement well permit shall be granted by the Board without an opportunity for a contested case hearing if the replacement well is to be drilled within one hundred fifty (150) feet of the old well; provided, however, that such replacement well shall comply with the District's applicable spacing and property line requirements, as those existed and in use when the permit was originally issued, to the extent such requirements are still authorized under State law and well operations have not compromised or adversely impacted any other registered exempt well or permitted well or any non-exempt agricultural use well permit with the District under Rule 5 of these Rules.
  2. If the replacement well does not come within the provisions of Rule 22.B.1, the replacement well shall be considered to be a new well for which a permit application must be submitted. If the altered well would require an operating permit the application is subject to consideration in a contested case hearing.
- C. Within thirty (30) days following completion of a replacement well, the well replaced by the new well shall be:
1. Plugged and abandoned; or
  2. Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water per day and then registered with the District as an exempt well; or
  3. Converted into a Monitoring Well.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- D.
1. The size or actual pumping capacity of any well in the District shall not be modified so as to increase the rate of production of the well above the maximum pumping capacity for which the well was permitted without a permit amendment.
  2. Any such permit amendment may be granted only after written notice and action as required for new well applications for wells of the type and capacity of the replacement well.



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 22 - Protection of Groundwater Quality - Required Equipment on Wells**

- A. When a pump is installed, or repaired on wells having a chemical injection, chemigation or foreign substance unit in the water delivery system, an in-line, automatic quick-closing check valve capable of preventing pollution or harmful alteration of the groundwater shall be installed.
- B. Any open, or uncovered, well(s) shall be required to be closed or capped, either permanently or temporarily, in accordance with Chapter 36, Texas Water Code, as set forth below:
1. The District may require the owner or lessee of land on which an open or uncovered well is located to cap the well permanently closed or capped with a covering capable or sustain a weight of at least 400 pounds, except when the well is in actual use;
  2. As used in this section, “open or uncovered well” means an artificial excavation that is dug or drilled for the purpose of exploring for injecting or producing water from the underground water reservoir and is not capped or covered as required;
  3. If the owner or lessee fails or refuses to close or cap the well in compliance with this Rule within 10 days after being requested to do so in writing by an officer, agent, or employee of the District; any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely;
  4. In accord with the Provisions in Chapter 36.118 of the Texas Water Code: Reasonable expenses incurred by the District in closing or capping a well constitute a lien on the land on which the well is located;
  5. The lien is perfected by filing an affidavit, executed by any person conversant with the facts, in the deed records of the county where the well is located, stating the following:
    - (a) The existence of the well;
    - (b) The legal description of the property on which the well is located;
    - (c) The approximate location of the well on the property;
    - (d) The failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
    - (e) The closing of the well by the District, or by an authorized agent, representative, or employee of the District; and
    - (f) The expense incurred by the District in closing the well.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- C. Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 23 - Transportation of Groundwater From the District**

- A. An application for a permit to transport water produced from wells in the District must be made in accord with Rule 8 of these Rules, and a permit must be obtained before water produced from wells within the District can be transported outside the boundaries of the District for delivery to wholesale or retail customers outside of the District.
- B. Notice of an application for a permit to transport water produced within the District for delivery to wholesale or retail water customers outside the District is described in Rule 27.
- C. No permit is required to transport groundwater produced from wells permitted by the District to locations outside of the District for the purpose of treatment or temporary storage if the beneficial use of the water occurs within the District.
- D. As a result of an application, the Board may enact special conditions in any permit authorizing transport of water produced within the District for use outside the District to exempt a permittee from total or partial payment of out-of-District transport fees if the water produced in the District is produced by an entity having its primary water supply in the District and at least seventy-five percent (75%) of the water produced in the District is consumed by retail CCN customers inside the District, or, alternatively, if there is agreement reached in connection with the Transportation Permit holder and the District on a methodology of apportioning volumes of water produced within the District to retail service inside the District and outside the District on an annual basis that addresses the amount of fees..

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 24 - Recharge Wells and Facilities,  
Including Aquifer Storage and Recovery Wells and Projects**

- A. Aquifer Storage and Recovery Wells and Projects are subject to reporting requirements in State Law and in Rule 18 of these Rules.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 25 - Right to Inspect and Test Wells**

- A. Any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times to enter lands upon which a well or wells may be located within the District for the purpose of conducting inspections authorized by Chapters 36, 49 and/or 51 of the Texas Water Code, as the same may be amended from time-to-time.
  
- B. If any District officer, employee, agent or representative is refused the right to enter lands under this authority, the District may invoke the remedies authorized by law, including Section 36.102 of the Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 26 – Notice Requirements**

- A. Applications for Test Holes and Test Wells
1. No general notice is required prior to issuance of permits authorizing a Test Hole or a Test Well; and
  2. Should the Executive Manager or other appropriate staff refer an application for a permit to drill a Test Hole or install a Test Well to the Board, notice of proposed Board action on the application shall be given as for Board meetings with the agenda item listed separately.
- B. All Applications for new or amended conditions in Operating Permits for wells other than those intended for Non-exempt Agricultural Use Wells, Test Holes, Test Wells, and Dewatering Wells
1. At the time that an application for a new or for an amended Operating Permit has been determined to be Administratively Complete, the District shall mail notice of that fact to the Applicant. The notice that the Application has been determined to be Administratively Complete shall include the date of initial Board consideration of the application;
  2. Not less than Fifteen (15) days before the date set for Board’s initial consideration of an application for an Agricultural Use non-exempt well or for a Dewatering Well, notice shall be mailed by first-class mail, postage prepaid, to the applicant.
  3. Not less than fifteen (15) days in advance of the date set for Board’s initial consideration of an application for issuance of a new or amended Operating Permit for any well or Well Field Project other than for a permit under the provisions of Rule 5, notice of the proposed action shall be:
    - (a) Posted on the District’s Web Site;
    - (b) Given by electronic mail, regular mail, or by FAX to any person who has requested receipt of notice for issuance of Operating Permits or Well Field Permits for the current calendar year;
    - (c) Provided to the County Clerk of each County in which the District’s territory is located;
    - (d) Posted at the District’s Office in a readily accessible place;
    - (e) For Operating Permits for new Tier II wells and for new Well Field Project applications, published in at least two local newspapers that are published in the County or Counties where the well or Well Field Project is to be located;

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- (f) Mailed to adjacent landowners.
4. The notice shall contain the following:
- (a) The name and address of the applicant;
  - (b) The date the application was filed;
  - (c) The time and place of the hearing;
  - (d) The location or address of any proposed well or wells;
  - (e) An explanation of the proposed permit or amendment, including the amount of requested groundwater, rate of proposed groundwater production, the depth or name of the formation from which the proposed production will be made if known, the proposed purpose or purposes for which the groundwater production is to be used, the location of the proposed use and, when appropriate, any proposed change in use that is begin requested;
  - (f) For any Transportation Permit, a description of the Transportation Facility, including its proposed route and location of the point or points of delivery or use outside the District's boundaries; and
  - (g) A brief summary of the information in the application.
5. The published notice required in Rule 27.B.3(e) may be in the legal notices section.

Renewals of Operating Permits are governed by Section 36.1145 of the Texas Water Code and no notice of action to renew permits is required under those provisions unless the conditions for renewal under the provisions of that Section are not being met at the time of the renewal, or if the Applicant is seeking a change in terms of the Operating Permit that would require an amendment to be initiated by the Applicant or sought by the District.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 27 – Permit Consideration**

- A. When granting or denying any permit application the Board shall consider the items listed in Rules 5, 14 and 20, and whether appropriate notice has been issued as required by Rule 27.
- B. For transportation permits, in addition to the matters listed above, the Board will consider the items listed in Rule 14.C.



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 28 – Permit Conditions**

- A. Following the adoption of these Rule Revisions, either upon current permit renewal or on issuance all permits shall list the:
1. Name and mailing address of the person to whom the permit is issued;
  2. The location of the well or areas in a Well Field Project and the locations of facilities permitted;
  3. The date the permit or registration is to expire if activities authorized by the permit or registration are not commenced;
  4. The purpose for which the water is to be used;
  5. A statement that the water withdrawn is to be put to beneficial use at all times;
  6. The location of the use of the water from permitted wells within the District or to the extent known for Well Field Projects;
  7. A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the Commission;
  8. Any conditions and restrictions on water withdrawal;
  9. Any conservation oriented methods of drilling and operation imposed by the District;
  10. Any drought contingency plan requirements of the District;
  11. Statements that the permit is subject to the District's rules as those may be amended from time to time; and
  12. Other terms and conditions authorized by the Texas Water Code.
- B. For transportation permits, in addition to the matters listed above, the Board may provide:
1. The name and address of the person to whom the permit is issued;
  2. The location of the pipeline facility;
  3. The date the permit is to expire if no Transportation Facility is constructed;
  4. A statement of the purpose for which the Transportation Facility will be used;
  6. A requirement that the water transported under the permit will be put to a beneficial use at all times;

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

7. The location of the use of the water from the Transportation Facility to the extent known at the time of permit issuance;
8. the method of calculating in district and out of district use quantities;
9. Conditions and restrictions, if any, placed on the rate and amount of water transported;
10. Any conservation oriented methods of constructing and operating the transportation facility;
11. A drought contingency plan approved by the District;
12. The amount of water that may be transferred out of the District;
13. The period for which the water may be transferred;
14. All Transportation Facilities shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel. The operator of a Transportation Facility shall be required to keep records and make quarterly reports to the District as to the operation of the transportation facility, including the volume of water transported during the preceding quarter;
15. All Transportation Facilities shall reimburse the District for expenses incurred for administration in connection with this facility as outlined in Chapter 36, Texas Water Code; and
12. This Rule does not apply to groundwater produced from wells located outside of the District.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 29 – Test Hole, Test Well Applications and Applications submitted under Rule 5**

- A. A test hole or test well determination and applications for requested under Rule 5 are not contested cases.
- B. Any test well, test hole authority or dewatering well authority granted is for limited duration and carries with it no rights to produce groundwater in quantities more than needed to dewater or to conduct the test in accordance with the terms contained in the authority granted pursuant to the application.
- C. Should an applicant disagree with the decisions of the Executive Manager contained in the authority to drill a test hole or drill and complete a test well, or for Authority under Rule 5, the applicant may request a review of the executive manager's determinations contained in the authority by submitting a written request to the Executive Manager within ten (10) days following the date of the letter or other authority granting permission to install a test hole, a test well, or a Rule 5 well. Any letter submitted to the Executive Manager under this provision must identify the test hole, test well or Rule 5 well that is the subject of the request by reference to a date or description such as an application number, and also state with specificity the particular provisions in the authority issued to which the applicant objects and give a reason for the objection.
- D. If an Applicant makes an objection to any Permit terms and requests a Board review to the Executive Manager's decision to issue authority for a test hole, test well or a Rule 5 well is received, the Executive Manager shall schedule the applicant's objection for consideration by the Board of the District at the next possible Board meeting for which an agenda has not yet been prepared or posted.
- E. At the Board meeting considering the objection, the Board may affirm the Executive Manager's authority, reject the protest by the Applicant, or modify the Executive Manager's determination.
- F. Should the Applicant still desire to contest the final determination granting authority for a test hole or test well or registration, or Rule 5 authorization any additional protests shall be in accord with the provisions in Rule 31 governing appeals of Board decisions.
- G. Failure of an applicant to file a protest within the 10 day period allowed after the date of the authority granted for a test hole or test well or Rule 5 well establishes that the applicant accepts the terms and conditions expressed in the Executive Manager's determination and grant of authority.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 30 - Contested Applications**

- A. Every application submitted to the District for any type of well submitted pursuant to these Rules and to Chapter 36 of the Texas Water Code other than for applications for a test hole, a test well or a Rule 5 well is considered to be a contested application by the Board.
- B. If an application for an Operating Permit for a Tier I well other than one to be permitted under Rule 5 of these Rules receives no comment from any person within twenty days following issuance of notice about the application, the permit for such well may be issued by the Executive Manager or may be brought before the Board for consideration. As stated in Rule 5, applications submitted for production in compliance with the provisions of Rule 5 are not contested application but, rather, are permits issued by Rule in accord with the provisions of Rule 5
- C. At the time of the initial consideration of a contested application by the Board the Board may conduct the hearing itself or, in appropriate circumstances, refer the application and hearing process to an individual to whom the Board has designated responsibility for conducting the hearing or to the State, or, where appropriate and where agreements have been entered into for hearings or a particular hearing, to the State Office of Administrative Hearings.
- D. At the time of the Board meeting on which the initial contested application is heard, those having an interest in the application who wish to address the Board on the application being considered shall submit a form conveying information about the person's name, mailing address, telephone number, and, if available, e-mail address or fax number; and the person or group who the person registering represents if the person registering is not appearing in their individual capacities. The form may also request information about whether the person submitting the application resides within the limits of the District and if the person has a well permitted by or registered with the District.
- E. If no person registers as protesting the issuance of the contested application, the Board may proceed to informally conduct a hearing on the application at the time of the Board's meeting and initial consideration of the application. If no formal protests are received, or no registration forms are submitted indicating an individual is opposed to the issuance of the permit requested by the Applicant, the Board may allow those present to submit comments about the application at the conclusion of the presentation of the material supporting the application to the Board but the application is no longer considered contested.
- F. The Board's President, or in the absence of the President a Board Member selected by the Directors who are present, shall preside at hearings.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

- G. If no person protests an application for the permit being considered, at or after the hearing being held the Board may grant the application, grant the application with special conditions, or deny the application.
- H. If the Board issues an Order on an uncontested application, the applicant may, not later than the 20<sup>th</sup> day after the date the Board issues an order granting or denying the application, demand a contested case hearing if the Order includes special conditions that were not part of the application as finally submitted, grants a maximum amount of groundwater production that is less than the amount requested in the application or denies the application.
- I. Should the Board determine that the application is protested, the Board will then determine whether any hearing should be conducted by an individual to whom the Board designates responsibility for conducting the hearing or by SOAH in which case the individual selected or the SOAH Administrative Law Judge is the presiding officer at the hearing.
- J. All hearings on applications that are protested shall be conducted in accord with the provisions of Section 36.406 of the Texas Water Code, specifically including referral of any contested case matters to alternative dispute resolution in accordance with Chapter 209 of the Government Code.
- K. The presiding officer at the hearing has the authority to determine and designate parties in addition to the Executive Manager and the applicant on any contested application. Any person requesting to be a party to any contested hearing other than the applicant or executive manager must be able to demonstrate that the person has standing to be a party to the hearing under applicable provisions of Texas State Law.
- L. At the time the Board has its initial consideration of any contested application, the Executive Manager shall furnish the Board with an affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile or e-mail to those person(s) who have requested notice from the District of hearings on permit or permit amendment applications and that demonstrates compliance with the other notice provisions of these rules.
- M. If an applicant submits multiple applications for authority, and if the applicant requests in writing that the separate applications for drilling, equipping operating, or completing a well or substantially altering the size of a well or well pump, or for separate spacing of water wells for production of groundwater or transferring groundwater out of the District, then the applicant may request that all of the applications related to its project be consolidated and considered under one notice and hearing. A Well Field Project application is considered as a single application. The District is not required to use a consolidated hearing or notice to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another. If a consolidated action request is received from

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

an applicant, when the hearing is initiated the Board shall make a determination about proceeding on the consolidated applications or the order in which the applications and Board actions will be made.

- N. If the District contracts with SOAH, the hearing on the applications on the hearings referred to SOAH shall be conducted as provided by subchapters C, D and F of Chapter 2001 of the Gov't Code.
- O. For hearings conducted by the Board or by an individual designated by the Board, the Presiding Officer of the hearing shall, after determining party status of those requesting such status:
1. Determine the admissibility of evidence as authorized in Section 36.407 of the Texas Water Code. Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to relying in the conduct of serious affairs. Evidence may be stipulated by agreement of all parties admitted to the hearing;
  2. Provide for making a record of the proceedings and allocating the costs of the record in accord with the provisions of Chapter 36.408 of the Texas Water Code. The record of the proceeding shall include a statement by the presiding officer of the hearing of the date on which the hearing is considered concluded;
  3. Authorize continuances without requiring new notice in accord with the provisions of Section 36.409 of the Texas Water Code; provided, however, that if no announcement is made at the time the continuance is granted of the date, time and place for the next hearing session, then notice to all parties admitted to the hearing must be provided by regular mail at least ten (10) days in advance of the resumption of the next hearing session;
  4. Confine testimony to the subject matter contained in the application or matter under consideration. In the event that any party at a hearing pursues a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or immaterial, the presiding officer may terminate such line of interrogation; and
  5. In any proceeding the presiding officer may limit the number of witnesses appearing to prevent testimony from becoming cumulative.
- P. The presiding officer shall prepare a report of the hearing for consideration by the Board in accord with the provisions and within the time specified in Section 36.410 of the Texas Water Code. The Board shall act on the application not later than the sixtieth (60<sup>th</sup>) day after the final hearing on the application is concluded.
- Q. Requests for rehearing or requests for findings of facts and conclusions of law can be submitted by any party to the hearing within the 20<sup>th</sup> day after the date of the Board's decision on the application. The request must contain the information specified, and actions on the requests must be taken within the time limit specified in Section 36.412 of

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

the Texas Water Code. A motion for rehearing may be granted in whole or in part when a motion for rehearing is granted the decision or order or permit is nullified. The Board may reopen the hearing to the extent it deems necessary and, thereafter, the Board shall render a decision as required by these Rules.

- R. A decision on any application or a group of applications if there is a consolidated hearing is final if a request for rehearing is not filed on time or if a request is filed on time and the Board denies the request or the Board renders a written decision after a rehearing.
- S. Timeliness and the ability to appeal this final decision is subject to the provisions of Section 36.413 of the Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 31 - Changed Conditions**

- A. The Board has continuing jurisdiction and authority to act on any matter related to any permit, registration or other action within the jurisdiction of the Board authorized by law and these Rules. Upon receiving a complaint from any person alleging changed conditions or of changes in any aquifer within the District as a result of issuance of an operating permit or other matter affecting the availability, use or pollution of groundwater within the District, or upon the discovery by the District of new or different conditions or facts after a decision on any application is granted, including an application granted under the Provisions of Rule 5, then, on the recommendation of the Board's Executive Manager, or on its own Motion the Board may schedule a hearing at a regular Board meeting in response to consider the new information or the Complaint. Notice of any such hearing shall be given as provided by Rule 27 for new applications. At the time as the Board considers the request the Board may deny it or, if it grants the request in whole or in part, may initiate a hearing to ascertain the validity of any complaint or tendered new information. Any such hearing on complaints of changed conditions is a contested case and the hearing will be conducted pursuant to these Rules governing hearings on contested cases. Notice shall be given to all affected operating permit holders in addition to notice required under the provisions of Rule 27.
  
- B. Nothing in this Rule alters the authority or ability of the Board to periodically review issued permits in accord with the provisions of Rule 15.



**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 32 - General**

- A. COMPUTING TIME: In computing any period of time prescribed or allowed by these Rules, by Order of the Board, or by any applicable statute, the period shall begin on the first day following the day of the act, event, or event of default in question occurs, and shall conclude on the last day of that period, unless the last day falls on a Saturday, Sunday or legal holiday on which the District Office is closed, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday on which the District Office is closed.
1. TIME LIMIT: Applications, requests, or other papers or documents required or permitted to be filed with the District under these Rules or by law must be received for filing at the District Office within the time limit, if any, for such filing. The date of receipt and not the date of posting shall be determinative;
  2. SHOW CAUSE ORDERS AND COMPLAINTS: The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person(s) operating within the District to appear before it and require him to show cause why his operating authority or permit should not be suspended, canceled, revoked or otherwise restricted and or limited, for failure to comply with the Rules or Orders of the Board, or any relevant rule (s), regulation(s) or statute(s) of any local, state or federal governmental body of competent jurisdiction. The matter of evidence and all other procedural matters at any such hearing will be conducted in accordance with these Rules of procedure and practice;
  3. SAVINGS CLAUSE: If any section, sentence, paragraph, clause, or part of these Rules should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these Rules, and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such Rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.
  4. The Board shall have the right to revise or restructure, after due public notice, any portion of these Rules it deems necessary.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 33- Enforcement of Rules**

All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36, Texas Water Code and subsequent changes thereto.

- A. The District may enforce Chapter 36, Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
1. The Board may set reasonable civil penalties for breach of any rule of the District pursuant to which penalty shall not exceed \$10,000.00 per day, per violation and each day of continuing violation constitutes a separate violation.
  2. A penalty under Chapter 36, Texas Water Code, or the District's Rules is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in a court of competent jurisdiction in Caldwell or Hays County.
  3. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Rule 34 - Effective Date of These Rules**

These Rules are adopted at a duly noticed, public meeting of the Board of Directors of the Plum Creek Conservation District held on \_\_\_\_\_, \_\_\_\_\_, at the District's Offices in Lockhart, Caldwell County, Texas, to become effective on \_\_\_\_\_. Penalties for violations of the Amended Rules will become effective five (5) days following publication of the second of the two notices required by Sections 51.129 and 51.130 of the Texas Water Code.

**PLUM CREEK CONSERVATION DISTRICT  
RULES**

**Plum Creek Conservation District  
Board of Directors**

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James A. Holt, Jr., President

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James O. Lipscomb, Vice President

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Lucy Knight, Secretary

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Ben Twidwell, Director

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Peter Reinecke, Director

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Fred Rothert, Director

Attested by: \_\_\_\_\_  
Johnie Halliburton,  
Executive Manage