

District Permitting

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Water Code Permits

- Drilling Permits 36.113
- Operating Permits 36.113
- Export or Transport Permits 36.122
- Exempt Permits 36.117

Drilling Permits

- Spacing limitations
- Construction Standards
- Capacity Limitations

Operating Permits

- Historic use (§36.116(b))
- “Correlative” rights
- Reasonable Use

District Permit Requests

- Generally, 6 types of LPGCD requests
 - New Operating Permit
 - New Transport Permit
 - Amendment w/ increase
 - Amendment w/o increase
 - Operating Permit Renewal
 - Transport Permit Renewal

Operating Permit

Operating Conditions/Elements 36.1131

- Permit term
- Production limit (annual withdrawal amount)
- Rate of Production (capacity limit—GPM)
- Point of Withdrawal
- Purpose of Use
- Place of Use

Considerations for operating permits: 36.113(d)

- 1) Meets Ch. 36 and fees paid;

- (2) Whether proposed use unreasonably affects existing groundwater and surface water resources or existing permit holders;

- (3) beneficial use;

(4) consistent with management plan;

(5) Hill Country PGMA;

(6) avoid waste and achieve conservation; and

(7) protect groundwater quality and follow well plugging guidelines at the time of well closure.

Board Balances these factors

Rule 5.2.D

- (1) whether the application conforms to the requirements prescribed by chapter 36 of the Texas Water Code and the District Rules;
- (2) whether the proposed use of water unreasonably effects existing groundwater and surface water resources or existing permit holders;
- (3) whether the proposed use of water is dedicated to a Beneficial Use;
- (4) whether the proposed use of water is consistent with the District Management Plan;
- (5) whether the applicant has agreed to avoid waste as required by Chapter 36 of the Texas Water Code and Section 12 of these Rules and achieve water conservation; and
- (6) whether the applicant has agreed that reasonable diligence will be used to protect groundwater quality;
- (7) whether the applicant will follow well plugging guidelines at the time of well closure.

(8) whether granting the application is consistent with the District's duty to manage total groundwater production on a long-term basis to achieve an applicable Desired Future Condition, considering:

(a) the Modeled Available Groundwater determined by the TWDB executive administrator;

(b) the TWDB executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by District Rules and Texas Water Code § 36.117;

(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 produced under permits issued by the District; and

(e) yearly precipitation and production patterns;

(9) whether the conditions and limitations in the Operating Permit prevent Waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells;



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(10) whether the applicant has a history of non-compliance with District Rules and chapter 36 of the Texas Water Code, including any record of enforcement actions against the applicant for violation of District Rules or chapter 36.

E. **Unreasonable Effects.** For the purposes of this Rule 5.2, “Unreasonable Effects” shall be a modeled or demonstrated drawdown of the water table or reduction of artesian pressure as a result of pumping from a well or well field, and which contributes to, causes, or will cause any of the following:

(1) well interference with one or more water wells of existing permit holders ceasing to yield water at the ground surface;

(2) well interference related to a decrease in well yields that results in one or more water wells of existing permit holders being unable to obtain an authorized volume or rate from a well maintained and efficient water well as determined by the General Manager;

(3) the degradation of groundwater quality such that the water is unusable or requires the installation of a treatment system; or

(4) a decrease in existing springflow or baseflows to surface streams including a decrease that may cause an established minimum springflow or environmental flow rate to not be achieved.



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Operating Renewals 36.1145

Automatically renewed if:

- Application to renew timely filed
- No amendments are requested
- Permittee has paid all required fees
- Permittee does not have a pending enforcement action for a rule violation
- Permittee does not have an outstanding penalty amount due



Export/Transport Permits

- Transport groundwater outside the boundaries of the District
- Permit term of 3 or 30 years
- Transport permit limit
- May periodically review permits
- District must be “fair, impartial, and nondiscriminatory.”

Considerations for Transport Permits: 36.122(f)

- (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 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
- (3) the approved regional water plan and approved district management plan.

Rule 6.3.B

B. **Considerations.** In deciding whether to grant an application for a Transport Permit, deny the application, or approve the Transport Permit with terms other than those requested in the application, the Board shall consider the requirements of Texas Water Code chapter 36 and the District Rules, including, but not limited to, the following:

(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 projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;

(3) the State's approved regional water plans and the District Management Plan; and

(4) whether the applicant has agreed to avoid Waste and achieve water conservation.

Processing

- 1. Application submitted
- 2. GM Technical Review
- 3. Notice of Administrative Complete to the applicant with Draft Permit
- 4. Public Hearing is set within 60 days of Admin. Complete
- 5. Notice of the public hearing
- 6. Request Contested Case Hearing due 5 days before the public hearing
- 7. Public hearing
- 8. If uncontested, take action

Contested Case Processing

- Application Review
- Notice (when required)
- Hearing (when required)
- Action on uncontested applications
- If protest filed – preliminary hearing on standing and justiciable issues
- If standing and justiciable interests met, evidentiary hearing at SOAH, Board or hearings examiner
- Proposal for Decision and Recommendation
- Board considers PFD after Final Hearing
- Action
- Appeal



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Appeals

- Districts may be sued by any person affected by and dissatisfied with any rule or order to challenge the validity of that rule or order
- Permit appeals may only be filed by a party to the contested case hearing
- The petitioner has the burden of proof and rules are deemed prima facie valid
- All appeals are subject to the Substantial Evidence rule

THANK YOU!

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