

RULES, REGULATIONS AND GUIDELINES
COVERING THE CONSERVATION, MANAGEMENT, UTILIZATION, PRESERVATION,
PROTECTION, RECHARGE, AND ADMINISTRATION OF
GROUND WATER LOCATED IN THE AQUIFERS
WITHIN THE UPPER BIG SANDY GROUND WATER MANAGEMENT DISTRICT
IN EL PASO, ELBERT AND LINCOLN COUNTIES, COLORADO.

PREAMBLE AND STATUTORY AUTHORITY

These rules are a modification of the rules, regulations, and guidelines adopted by the Upper Big Sandy Ground Water Management District ("the District") May 11, 1992 and are, in part, responsive to the conditions described in a study dated June, 2009, titled Upper Big Sandy Designated Ground Water Basin Phase 2 Water Balance Report, performed by Martin and Wood Water Consultant, Inc which contains conclusions related to the protection and appropriations of ground water from aquifers in the District.

The title of these rules is as stated in the heading, and they are sometimes referred to as "Big Sandy Rules" or "Rules." The Big Sandy Rules are promulgated and adopted pursuant to the authority granted to ground water management districts by the General Assembly in the Colorado Ground Water Management Act, C.R.S. Section 37-90-101, et seq., as amended.

RULE 1. APPLICATION, SCOPE, AND PURPOSE

These Rules shall apply to the withdrawal and use of designated ground water within the boundaries of the Upper Big Sandy Designated Ground Water Basin ("Big Sandy Basin" or "Basin"), which is coextensive with the boundaries of the Upper Big Sandy Ground Water Management District ("Big Sandy District" or "District"), in parts of El Paso, Elbert, and Lincoln Counties, Colorado.

These Rules amend, repeal, replace and supersede the rules, regulations, and guidelines adopted by the District May 11, 1992, in their entirety.

These Rules shall apply to all ground water users within the Basin and District. All ground water users shall at all times comply with these Rules, the laws of the State of Colorado regarding ground water usage and the drilling for wells in aquifers located within the District, and with the Designated Basin Rules as adopted and amended by the Colorado Ground Water Commission ("Commission").

The Rules are intended to ensure that ground water is put to beneficial use within the boundaries of the Basin and the District on a sustainable basis and in a manner that does not injure prior appropriations of ground water.

These Rules are designed to guard against speculation in ground water and the waste of ground water.

Recognizing the unique and local issues presented concerning ground water usage and the aquifers in the Basin, the Big Sandy Rules are promulgated to address those local concerns.

These Rules are intended to facilitate cooperation, coordination, and consultation between the District and the Commission. The District and the Commission have conferred and consulted in the adoption of these Rules.

These Rules are intended to provide water users with fair and reasonable procedures and requirements that uniformly apply to all water users or classes of water users, consistent with the scope and purposes of the Ground Water Management Act, the Designated Basin Rules, and the Big Sandy Rules.

RULE 2. DEFINITIONS

The following terms are defined in C.R.S. Section 37-90-103, and these terms shall have identical meanings where used in these Rules:

Alternate Point of Diversion Well
Aquifer
Artesian Well
Ground water and underground water
Designated Ground Water
Designated Ground Water Basin
Ground Water Commission or Commission
Historical Water Level
Person
Replacement Plan
Replacement Well
Subdivision
Supplemental Well
Underground Water and Ground Water
Waste
Well.

The following terms, as used in these Rules, shall have the meanings indicated:

- A. The term "commercial well" refers to any well for which an application has been filed or a permit issued for commercial purposes.
- B. The term "District" or "Ground Water Management District" refers to the Upper Big Sandy Designated Ground Water Management District.
- C. The terms "Directors", "Board of Directors", and "Board" refer to the Directors of the District.
- D. The term "export" means the actual or planned use of water at a location outside the boundaries of the Basin or District when the water involved in such use is:

(1) ground water, or

(2) water that originates as ground water and that in its natural course would not be visible on the surface of the ground but which through unnatural efforts such as well drilling or other human effort is brought to the surface (regardless of its use, reuse, release or discharge once it is brought to the surface), that is located in aquifers in the Basin or District, at a location outside the boundaries of the Basin or District. Such export includes but is not limited to the actual or planned diversion, piping, use, delivery, exchange, replacement, substitution, or augmentation, in any manner whatsoever that removes ground water or other water described in this definitions that is initially located in the Basin and District to an area outside the Basin and District. Note: However, exports in small amounts and for defined uses are specifically exempt from approval by the District under Rule 3.1.

- E. The term "Ground Water User" as used in these Rules and Regulations refers to any person, individual, partnership, association, corporation, agency of the State of Colorado, or any political subdivision or public agency thereof, and any agency of the United States of America making a beneficial use, or taking steps or doing work preliminary to making a beneficial use of ground water from an aquifer located within the boundaries or extensions thereof of the District.
- F. The term "Large Capacity Well" refers to any well which is drilled and operated under a permit issued pursuant to C.R.S. 37-90-107 and not pursuant to C.R.S. 37-90-105.
- G. The term "Historical Water Level" refers to the average elevation of the ground water level in the District before being lowered by the activities of man, as nearly as can be determined by scientific investigation and available facts.
- H. The term "License" means the document issued by the Board of Examiners of Water Well Construction and Pump Installation Contractors to qualified persons making application therefore, pursuant to C.R.S. 37-91-105, authorizing such persons to engage in one or more methods of well construction or pump installation or any combination of such methods.
- I. The term "Municipal Well" refers to any well which is drilled for municipal use as allowed by permit.
- J. The term "Private Driller" means any individual, corporation, partnership, association, political subdivision, or public agency that uses equipment owned, leased, or otherwise lawfully possessed by it to dig, drill, redrill, case, recase, deepen, or excavate a well entirely for its own use upon property owned by it.

- K. The term "Small Capacity Well" refers to any well which is drilled and operated under a permit issued pursuant to C.R.S. 37-90-105 and not pursuant to C.R.S. 37-90-107.
- L. The term "Waste" refers to an annual appropriation in excess of the maximum allowed under these Rules and Regulations, or to any act or omission without beneficial use, or causing the pollution of water in any aquifer whereby rendering the same unfit for domestic or agricultural use. In addition "Waste" means causing, suffering, or permitting any well to discharge water unnecessarily above or below the surface of the ground.
- M. The term "Well Driller" refers to any individual, corporation, partnership, association, political subdivision, or public agency which shall operate a well drilling rig and equipment, and which shall dig, drill, redrill, case, recase, deepen, or excavate a well or wells for hire or for its own use, or for other consideration.

RULE 3. EXPORT OF GROUND WATER FROM THE DISTRICT

No ground water, including but not limited to water that originates as ground water and that in its natural course would not be visible on the surface of the ground but which through unnatural efforts such as well drilling or other human effort is brought to the surface (regardless of its use, reuse, release or discharge once it is brought to the surface), shall be removed from aquifers within the boundaries of the District and put to an approved beneficial use outside the boundaries of the District, except as provided in this Rule.

3.1 Exportation of Ground Water - Exceptions without Prior Board Approval

Exportation of ground water is permitted by the District without prior Board approval for the following purposes and amounts, provided the required conditions are complied with in full:

- 3.1.1 Exports from large capacity wells. The owner of a large capacity well, that has a final permit, may export up to 2.5 acre feet for each large capacity well.
 - a. The groundwater user providing the water for export shall provide to the District documentation that will include date of export, purpose of use, amount of export and a quarterly report with payment of to the District \$1/1000 gallons for quantity exported during that quarter. Such report and payment shall be provided within 30 days of the end of the quarter.
 - b. Exports under this rule shall comply with the well permit terms and conditions.

3.1.2 Public Health and Safety

Fire Districts/Departments or private persons to extinguish fires. A duly

authorized fire department, fire protection district, or private persons may export water to the extent reasonably deemed necessary by the fire department or district for the purpose of fighting, suppressing, controlling, or extinguishing fires. Other duly authorized public agencies may export water in emergency circumstances or for other public purposes of health and safety.

3.1.3 Exportation of Fully consumable Water. A user who brings water that in its natural course would not be visible on the surface of the ground but which through unnatural efforts such as well drilling or other human effort is brought to the surface (regardless of its use, reuse, release or discharge once it is brought to the surface), and applies it to beneficial use within the District, and who has the right to fully consume such water may export up to 10% of such fully consumable water outside the Boundaries of the District.

a. The groundwater user providing the water for export shall provide to the District documentation that will include date of export, purpose of use, amount of export and a quarterly report with payment to the District of \$1/1000 gallons for the quantity exported during that quarter. Such report and payment shall be provided within 30 days of the end of the quarter.

b. Exports under this rule shall comply with the well permit terms and conditions.

3.1.4 No ultimate user of exported water shall export water under this Rule 3.1 for more than 2 consecutive calendar years from when exportation commenced unless the water is used for Public Health and Safety.

3.2 Exportation of Ground Water - Applications Requiring Board approval

Any exportation that does not fall within one of the exceptions set forth in Rule 3.1 must be approved by the Board through the process set forth in this Rule 3.2.

3.2.1 Unanimity Rule

Any export other than those provided for in Rule 3.1, shall require the unanimous approval of all members of the Board of Directors present at the hearing where such application is considered by the Board.

3.2.2 Criteria and Standards for Approval

It is the applicant's burden of proof to establish that the proposed export and use of the ground water outside the boundaries of the District will not materially affect the rights acquired by permit by any owner or operator of land within the District and that the export will not materially affect the aquifer. Criteria and standards for consideration by the Board

in deciding whether to approve an application to export may include but shall not be limited to the following:

1. Equal treatment for all water users under similar circumstances.
2. All prior water balance studies showing factors that impact the aquifer.
3. District well monitoring data, or other data, pertinent to the application.

3.2.3 Exportations, if approved, will be temporary-not to exceed 2 consecutive calendar years.

3.2.4 Application to Export

Any export applicant, not excepted pursuant to Rule 3.1, shall file an application with the Board of the District. The Application shall include the following minimum information:

1. name of the applicant;
2. the number of new wells, the well locations, amounts in gallons per minute (g.p.m). and acre-feet (af) per well sought to be exported, and evidence that the applicant owns the land or has the right to use the land upon which the wells will be located;
3. the replacement plan, as described in Designated Basin Rules, for new wells;
4. for applications involving existing wells, or changes that include an export of water, the same information in sub (2), above, plus the well permit number, and the historical use information described in Designated Basin Rule 7;
5. a plan for the water use including the type of use, the place of use coupled with a legal description and deeds or other documents deemed satisfactory by the District showing that the applicant owns or is entitled to use the land, estimated quantity in acre-feet per year of use, and if the applicant does not own the land or the area to be served or the applicant will not use the water for the beneficial uses sought, evidence of a firm contractual commitment for some person or entity to take up the project and carry it through to use the water sought to be exported;
6. engineering report demonstrating the availability of water in gpm and af per well sought to be exported;
7. engineering report demonstrating the technical feasibility of the export project;
8. financial report demonstrating the economic feasibility of the export project and financial viability of applicant to complete project;
9. a permitting report identifying (other than District Board approval of the export or the Commission approval for changes) the local, state, and federal governmental permits and approvals that are necessary for completion of the export project, the steps taken thus far to obtain such permits, that a pathway exists to obtain

- such permits, and that there are no fatal flaws in the export project because such permits or approvals are non-attainable;
10. an engineering report demonstrating applicant's return plan, for returning 98% of the quantity of water exported from the Basin and District after a first use of the water exported and demonstrating that the water will be returned on an annual basis in the same general location as where initially withdrawn;
 11. an engineering report demonstrating the quality of the water will be returned after a first use will be the same as or better than the quality of the water withdrawn; and,
 12. such other information and terms and conditions that the Applicant deems pertinent to the Board's review as to whether the application should be approved.

3.2.5 Filing and Review Fee

Upon the submission of an application for approval of an export to the District Board, the applicant shall submit an initial filing fee of \$500.00 per well involved and \$100.00 per acre-foot of export sought. Any fees and costs incurred by the District in excess of initial filing fees will be assessed to the applicant and must be paid within 30 days of billing. Said fees shall be used by the District Board to help defray the costs and expenses incurred by the District in evaluating and considering the application, including but not limited to notice and publication costs, costs incurred in conducting the hearing on the application, consulting costs, including but not limited to engineering or legal fees incurred in evaluating the application or defending any decision of the Board concerning the application.

3.2.6 Preliminary Review and Publication

If the Application for Export Approval is not complete, within 3 months of its receipt, the Board shall notify the applicant in writing of the areas deemed incomplete and the materials needed in order to complete the application. Within 6 months of receipt of the completed application and the filing fee, the Board will make a preliminary review of the application and the supporting information required by Rule 3. During this preliminary review process the Board will confer and consult with the Commission staff. If the export involves a change of rights to designated ground water, pursuant to Designated Basin Rule 7.7.4.1 the Board will request that the Commission evaluate the matter as described in Designated Basin Rules 7.7.1, 7.7.2, and 7.7.3 prior to the District conducting its formal review of the export application. The Commission staff shall provide a preliminary evaluation to the District (which evaluation shall not constitute final action by the Commission on any portion of the change application), and then the Commission shall wait for the outcome of the District's formal review of the export request before taking final action on the change application. Nothing in the Commission staff's preliminary evaluation shall be binding upon the District in its formal review or decision concerning the Application of

Export Approval. Once the Application is complete and the preliminary evaluation from the Commission staff has been received by the District, the Application will be published for two consecutive weeks in the newspapers of general circulation in the counties in the District. Applicant will be required to pay the publication costs. Applicant shall also notify any landowners within one mile of any well in the Application for Export Approval; such notice to be by certified mail with a copy of proof of service to the District. The published notice and the certified mail notice shall inform the public and those landowners that they have 60 days from the last day of publication to object to the application for export by filing a Statement of Objection with the Manager of the District Board setting forth the reasons why they object to the application. Such statement of objection must be accompanied by a \$ 50.00 filing fee.

3.2.7 Hearing

Hearings under Rule 3 shall be conducted in accordance with Rule 23 and may be continued from time to time as deemed appropriate by the Board.

3.2.8 Administrative Fee

If an application for export is approved by the District, on or before January 15th of each year the Applicant shall pay to the District an administrative fee of \$500.00 / af exported in the prior calendar year.

3.3 Sanctions for violating Rule 3

If the Board has reason to believe that an exportation may be occurring

1. without the District's approval, other than those exportation provided for in Rule 3.1, or
2. in violation of any of the conditions of approval of such exportation, then the District shall provide notice of such allegations to the exporter and conduct a hearing on the matter before the Board, in accordance with Rule 23. If the Board determines by a majority vote that such violations have occurred, then the Board shall enter an order (1) directing that such violations immediately cease and desist, (2) imposing a penalty of up to ten times the rate specified in Rule 3.1 or 3.2,
3. and assessing against the violator all costs and attorneys fees' incurred by the District in connection with determining such violation. In addition, the Board may cancel the violator's export. If the violator fails or refuses to fully comply with all portions of the Board's order, the District shall be entitled to file an action in the District Court having jurisdiction over the matter, seeking injunctive and all other relief available to implement and enforce the Board's order. The District shall be entitled to recover all costs and fees incurred in pursuing such District Court action, including but not limited to attorneys fees' and engineering fees. In the event the Board determines that an exportation is occurring that represents an immediate threat of possible harm or irreparable injury to the District, the aquifer, or the rights of a water user within the District, the District may

seek immediate injunctive relief and other appropriate relief in the District Court having jurisdiction over the matter.

3.4 Termination of exportation

In the event the District Board determines by super majority vote (2/3 of Directors Present) at a public hearing, following reasonable notice to the exporting person or entity, that an exportation previously approved by the Board (or an exportation that falls within one of the exceptions set forth in Rule 3.1) is causing injury to existing well owners or to the aquifer, such exportation shall immediately terminate. If the exporter fails or refuses to immediately and fully comply with all portions of the Board's order, the District shall be entitled to file an action in the District Court having jurisdiction over the matter, seeking injunctive and all other relief available to implement and enforce the Board's order. The District shall be entitled to recover all costs and fees incurred in pursuing such District Court action, including but not limited to attorneys fees' and engineering fees.

RULE 4. WELL SPACING

No large or small capacity well shall be drilled into the upper alluvium less than one half mile from an existing high capacity well or point of diversion for surface water without a waiver of injury from both well owners or the surface water right owner. Because Denver Basin wells are deeper, the minimum space between a Denver Basin well and another large capacity well is reduced to 600 feet. No small capacity well shall be constructed within 600 ft of another small capacity well without a waiver of injury from both well owners

RULE 5. MEASUREMENT AND REPORTING OF GROUND WATER DIVERSIONS IN THE DISTRICT

All large capacity wells, municipal wells, and commercial wells located within the District shall be subject to the following measurement, reporting, and other compliance requirements:

- 5.1. Flow Meters ,at such time that the Board concludes sufficient funds, to pay a portion of the cost of meters, have been accumulated, all large capacity wells, municipal wells, and commercial wells located in the District shall be equipped with an approved totalizing flow meter ("flow meter"). All flow meters must be installed and maintained according to manufacturer's specifications and properly verified in the field to be in accurate operating condition by a Colorado certified well tester. The flow meter shall be maintained in working order by the well owner. All flow meters must be tamperproof and maintained in a manner so as to be accessible and readable by the District at all times. Meters must be tested and certified to be accurate within plus or minus 5% at least once every four years by a person certified by the State of Colorado to test and certify flow meters. In the event a flow meter malfunctions, the amount of water withdrawn from the well during the time the flow meter malfunctioned shall be estimated

based on the power records for the well, calculating the power coefficient for the prior month (by calculating the acre-feet pumped per kilowatt hour consumption for irrigation of the crops or other intended use for the prior two months of pumping and multiplying that number times the kilowatt hours for the time period the flow meter malfunctioned). A malfunctioning flow meter shall be repaired or replaced within 90 days of the time the malfunction is discovered.

- 5.2 Inactive Wells. A well owner may declare a well inactive, and so long as it remains an inactive well, it is exempt from the measurement, reporting and other requirements of Rule 5. The owner of an inactive well must submit an Inactive Well Report to the District on a form supplied by the District. The deadline for reporting an inactive well is the later of March 1, 2013 or six months after the date the well became inactive. When an inactive well is changed to active status, the well becomes subject to Rule 5 and must have an approved flow meter installed before pumping the well.
- 5.3 Annual Measurement and Reporting. Based on the flow meter data, all owners of large capacity wells shall record the monthly amount of water pumped for each month the well is pumped and report the monthly and annual amount of water pumped from each well for the period of January 1 to December 31, to the District office, by no later than February 1 of every year after meters are required. Wells that have Third Party Administration contracts with the District are not required to submit this data because staff of the District will compile data for these wells. Data shall be submitted on an Annual Water Use Report form provided by the District. Well owners may ask the District to compile the Annual Water Use Report for the owner's well, at a cost of \$50.00 per well. Any well for which the Annual Water Use Report has not been submitted by March 1, will be inspected by the District and is subject to a \$100.00 fee per well.
- 5.4 Noncompliance. Failure to install and maintain a flow meter for a large capacity, municipal, or commercial well may subject the well owner to a penalty of up to 10% each year with such annual penalties to accumulate each year (ex. 20% after 2 years up to 100% after 10 years) to be subtracted from the annual appropriation of the well, until the well is in compliance. Prior to imposition of this penalty, violators shall be notified by the District in writing by certified mail and shall be advised as to how the well owner can avoid the penalty by compliance with Rule 5. Any appropriation reduction penalty imposed shall apply to the calendar year during which the well is not in compliance. The full appropriation according to the final permit will be restored for use in future years after the well has been inspected and found to be in compliance with Rule 5.

Any well owner pumping more than the allowable annual appropriation from any well that is subject to Rule 5 will be informed of the violation and will be warned

by the District the first year. If such a violation occurs again the following year, the well is subject to having the District order a decrease in annual appropriation on a two to one basis: (for example, if a well pumps 10 acre-feet over its permitted appropriation, then the well loses 20 acre-feet of appropriation the following year). During the following year, if the well does not exceed the reduced appropriation, then the full appropriation according to the final permit will be restored for use in future years.

If a well owner repeatedly fails to comply with Rule 5, the District may issue a Cease and Desist Order that prohibits pumping for each well which is not in compliance and may compel compliance for the enforcement of the Order as provided in Rule 22.

- 5.5 Small Capacity Wells. Small capacity wells for domestic, stock watering, or commercial purposes are not required to have flow meters, unless the Board of Directors of the District determines, based on the particular facts and circumstances presented, that it is necessary to require the pumping of water from any small capacity well located within the District to be measured with a flow meter and for that annual usage to be reported to the District.
- 5.6 Variance. When the application of any portion of Rule 5 would cause unusual hardship, the District may grant a variance. Any request for a variance shall be made in writing and shall state the basis for the request, with supporting technical data and other documentation for the requested variance. If the District finds the request justified, the District shall issue a written order granting the variance.

RULE 6. REPLACEMENT WELLS

No large capacity replacement well shall be drilled within the District unless the replacement well shall be drilled within three hundred (300) feet of the original well. No replacement well shall be allowed to yield more than the original annual appropriation. The original well may be issued a new permit as a domestic or stock well, but if not so permitted it shall be abandoned and capped according to specifications as included herein.

RULE 7. SUPPLEMENTAL WELLS AND ALTERNATE POINT OF DIVERSION WELLS

In accordance with C.R.S. Section 37-90-111(2) , no new supplemental well or alternate point of diversion well shall be allowed in the District without a replacement plan.

RULE 8. ANNUAL APPROPRIATIONS LIMITATIONS

The annual appropriation of water from all wells may be set by the Board of Directors of the District. The limits will be determined by known depletion of aquifer levels and/or hydrologic characteristics of aquifers within the District as stated in Rule 10.

RULE 9. PERMIT LIMITATIONS

The ground water user shall use the water to the beneficial use stated on their permit. The permit should be considered valid to irrigate only the land specified in the permit. For the purpose of administration, if the applicant desires to irrigate land other than that specified in the permit, the holder of the permit must apply to the Colorado Ground Water Commission for approval of the same.

RULE 10. AQUIFER SUSTAINABILITY

The District will strive to attain sustainability of the aquifer by adoption of appropriate management, policies and actions. No new large capacity wells shall be drilled without a replacement plan as in accordance with Designated Basin Rule 5.2.7.

RULE 11. PRIORITY

Priority of claims for appropriations or for the purpose of limiting the use of water within the District shall be determined by the doctrine of prior appropriations as set forth in C.R.S. 37-90-109.

RULE 12. PROTECTION OF SMALL CAPACITY WELLS

No application for a large capacity well shall be recommended for approval by the District unless:

1. The point of diversion is more than 1320 feet from any existing small capacity well drilled in the shallow alluvial aquifer, or
2. A lesser distance is approved by the District after investigation and hearing, or
3. A waiver of injury is filed from both well owners.

It is the intent of this rule to protect small capacity wells from being depleted in areas of low saturated thickness and in areas of highly irregular and variable saturated thickness, except that in Denver Basin Aquifers the well spacings shall be no less than 600 feet. This provision shall not apply to applications for replacement of an existing large capacity well.

RULE 13. WASTE

All ground water users pumping water from aquifers within the District shall consider the impact of water balance issues in applying such water to beneficial use. All ground water users shall construct their wells, recovery pits, reservoirs, or water producing devices and use the same in such a manner as minimize such impact, and to prevent waste and shall undertake appropriate actions to preserve the quality and quantity of the ground water resources within the District.

RULE 14. WELL PERMITS

No well shall be drilled within the District unless drilled under a permit issued by the State Engineer of the State of Colorado, and unless such well is drilled by a licensed and bonded well driller, licensed and bonded under the Statutes of the State of Colorado, or the Commission, or by a private well driller in accordance with Ground Water Commission Rules.

RULE 15. DESIGN AND CONSTRUCTION OF WELLS

All wells shall be designed and constructed in accordance with the Colorado Ground Water Management Act Sections. 37-90-101, et seq., Water Well Construction Rules 2CCR-402-2, and the Designated Basin Rules 2CCR 410-1 as they may be amended.

RULE 16. WELLS NOT COMPLETED AS WATER WELLS

All exploratory, seismic, test, pilot, oil, gas and other holes not completed as water wells, or other engineering structures, shall be completed to protect all aquifers. This shall be done in accordance with the Colorado statutes and regulations adopted by the Ground Water Commission, State Engineers Office, and Oil and Gas Commission. After the well has been constructed the applicant shall provide the District with the drilling log of the well.

RULE 17. WATER QUALITY

For the purpose of conserving, preserving, and protecting the groundwater within the District and to ensure that water quality within the District is maintained within the limits established by Colorado State Agencies and Departments having jurisdiction over such matters, all wells and water delivery systems within which foreign matters are added to the water shall be equipped with protective devices which prevent such foreign matters from entering the groundwater aquifer at any time through the well. Such protective devices shall be maintained in proper working condition at all times. For the purpose of this rule, "foreign matters" shall include, but not be limited to, fertilizers, pesticides, herbicides, and other agricultural chemicals, landfills, plant disposals, sewage, water treatment materials.

In accordance with Rules Number 5 and 18, the District or its agents duly designated by the District Board, shall have the right to enter upon any lands within the District to inspect for compliance with these rules and to collect and analyze water samples for the purpose of monitoring the groundwater quality throughout the District. The District may also require any or all water users to certify, on a form to be provided by the District, that the protective devices required by this rule are properly installed and in working condition.

Rule 18. INSPECTION

Any officer, employee, agent or representative of the District, duly authorized by the District Board, shall have the right, at all reasonable times, to enter upon the land upon which any well or wells may be located within the boundaries of the District for the purpose of inspecting such well or wells and their appurtenances, including but not limited to meters, accessories, and use of said well or wells, in accordance with these rules.

Rule 19. ABANDONMENT STANDARDS

All wells and bore holes shall be plugged and abandoned in accordance with Rule 16 of 2CCR 402-2 Water Well Construction Rules.

RULE 20. COMPLIANCE

If the District Board has a reasonable basis to believe that one or more of these Rules and Regulations have been violated, the District shall provide written notice to the alleged violator, stating the nature of the alleged violations and providing opportunity for the violation to be remedied in 45 days or such lesser period of time designated by the District in the notice. If violation has not been cured the District may set the matter for a hearing before the District Board no less than thirty (30) days after the date by which the violation was to be remedied. The District shall hold a hearing regarding the violation. Such hearing shall be conducted within the principal office of the District or at such other location as designated by the District Board, and shall be conducted in such a manner as to afford the alleged violator an opportunity to be heard. At the conclusion of the hearing, or within thirty (30) days thereafter, the Board shall render its final determination in writing and serve a copy of the determination and order of the Board upon the alleged violator. In the event that the violator shall fail, refuse or neglect to comply with the order of the District Board, then in that event, the Board shall have the right and option of compelling compliance of such order by an action brought in the District Courts of El Paso, Elbert, or Lincoln Counties, Colorado. In such action before the District Court, the District shall be entitled to assert all remedies and seek all relief available to it in law or equity. Further, in the event that the alleged violator is dissatisfied with the decision or order of the Board of Directors of the District, he/she may appeal the same to the District Courts of El Paso, Elbert or Lincoln Counties, Colorado as provided by Colorado statutes and rules.

RULE 21. DISTRICT REVIEW OF WELL PERMIT APPLICATIONS

The District will review well permit applications and provide recommendations to the Commission as necessary.

RULE 22. INJUNCTIVE RELIEF

The Board of Directors shall have the authority to immediately enjoin the operation of any well upon the refusal of the ground water user to comply with these Rules and Regulations, requiring measuring devices or establishing a measuring method, or upon the refusal of the ground water user to permit the gathering of information as required by these Rules and Regulations. This remedy is in addition to those set forth in Rule 20. In the event the ground water user fails or refuses to comply with the District's order enjoining operation of the well, the District may seek immediate injunctive relief from the District Court in El Paso, Elbert, or Lincoln Counties.

RULE 23. GENERAL RULES OF PROCEDURE AT HEARING

Hearings may be conducted in such a manner as the Board deems most suitable to the particular case at the principal office of the Board of the District or other location designated by the Board. The technical rules of evidence and civil procedure need not apply. It is the

purpose of the Board to obtain all relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of any party. Any party in interest in a proceeding may appear either in person or by an attorney or both in such proceeding. A party in interest is any party with a valid and reasonable interest located within the boundaries of the District which is or may be affected by such proceedings. At the discretion of the Board, any one not a party in interest in a proceeding may appear. Evidence and testimony will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that necessary and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties to the proceeding. A hearing officer can be designated by the Board of Directors of the District to conduct the hearing. Evidence may be stipulated by agreement of all parties in interest.

RULE 24. INFORMATION TO BE FURNISHED TO THE DISTRICT

Any applicant, who shall apply for a permit to use ground water, construct a well, or install a pump as provided by Colorado Statue and provisions of the Colorado Ground Water Commission or the Colorado Division of Water Resources, shall submit to the District at its office the following information at the same time that it is filed with the State:

- a) A copy of the application for the permit submitted to the Colorado Ground Water Commission or State Engineer.
- b) A copy of all materials required by Rules 3, 5, 15, 17, and 20.
- c) An accurate log, signed by the driller, date the test hole or well was drilled, the legal description, static water levels, and depth from surface to bedrock, on the well and logs of any test holes drilled in connection with the application.
- d) A copy of the permit as received from the Commission or State Engineer.
- e) A copy of the Beneficial Use Statement submitted to the Commission.

RULE 25. NONPAYMENT OF FEES AND CHARGES

In the event any fee, charge, penalty, or assessment provided for in these Rules is not paid when due, in addition to other remedies available to the District, the District may suspend processing any application or issuing any permit or approval unless and until the fee and all delinquent charges associated with it are paid in full.

RULE 26. RESOLUTIONS AND AMENDMENTS TO RULES, REGULATIONS, AND FEES

The Board of Directors shall have the authority to amend these Rules and Regulations. The Board of Directors shall also have the authority to pass Resolutions necessary to effectuate the policies and purposes of the District. The fees set forth in these Rules may be amended from time to time through adoption of a resolution by the District Board.

RULE 27. SEVERABILITY

If any section, sentence, paragraph, clause, or part of these Rules and Regulations should be held or declared invalid or unconstitutional, for any reason by final determination of the Commission, or 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

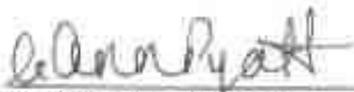
Regulations and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause or part thereof may be declared invalid or unconstitutional.

THE FOREGOING RULES OF THE UPPER BIG SANDY GROUND WATER MANAGEMENT DISTRICT WERE PUBLISHED IN NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTIES IN THE DISTRICT ON NOVEMBER 3RD AND NOVEMBER 10TH AND APPROVED ON OCTOBER 12, 2011.


MORRIS VERVERS, PRESIDENT


GERALD HLATKI, SECRETARY

ATTEST


LEANN PYATT, MANAGER
12/14/11

