

**Appendix C: Excerpts from POSGCD Rules
and Texas Water Code Chapter 36**

Relevant Statutory and Rule Provisions

POSGCD RULE EXCERPTS

RULE 7.6. CONSIDERATIONS FOR GRANTING PERMITS.

In deciding whether or not to issue a well, drilling, transport, permit amendment or operating permit, and in setting the terms of the permit, the Board will consider Chapter 36, Texas Water Code, the District Act and rules, the application, **and all other relevant factors, including, but not limited to,**

- (1) the management plan;
- (2) the quality, quantity, and availability of alternative water supplies;
- (3) the impact on other landowners and well owners from a grant or denial of the permit, or the terms prescribed by the permit including whether the well will interfere with the production of water from exempt, existing or previously permitted wells and surface water resources;
- (4) whether the permit will result in a beneficial use and not cause or contribute to waste; and
- (5) if the applicant has existing production permits that are underutilized and fails to document a substantial need for additional permits to increase production.

If no person notifies the general manager of their intent to contest the application, and if the general manager does not contest the application, the application will be presented directly to the Board for a final decision.

The Board may grant or deny the application, in whole or in part, table or continue the application to hear additional evidence, or refer the application to the hearings examiner for a complete hearing. ... (emphasis added)

RULE 7.8. AMENDMENT OF A PERMIT.

1. A substantial change to a permit may be made only after application to amend the permit has been filed with the District and approved by the Board. ...A written, sworn application for a permit amendment to increase the authorized withdrawal or the withdrawal rate must be filed and an amendment granted before any additional production occurs. **The applicant must demonstrate that the originally authorized amount is inadequate and the need to increase the withdrawals.** (emphasis added)

RULE 8.1. GENERAL PROVISIONS FOR TRANSPORT.

...

5. In reviewing an application for a transport permit, the District shall consider:
 - a. the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, including any planned conjunctive use;

- b. the projected effect of the proposed transport on aquifer conditions, depletion, and subsidence and effects on existing permit holders or other groundwater users within the District;
- c. the approved regional water plan and the management plan; and
- d. whether the applicant has an underlying historic use or operating permit issued or being considered by the District, or a contract for the purchase of water from a person that has an operating permit.

RULE 8.2. APPLICATION FOR TRANSPORT PERMIT.

...

- h. provide information showing what water conservation measures the applicant has adopted, what water conservation goals the applicant has established, and what measures and time frames are necessary to achieve the applicant's established water conservation goals; and
- i. if the water is to be resold to others, provide a description of the applicant's service area, metering, leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each subsequent customer's water demands, including population and customer data, water use data, water supply system data, alternative water supply, water conservation measures and goals, conjunctive use, and the means for implementation and enforcement of all applicable rules, plans, and goals.

RULE 8.4. PERMIT INFORMATION FOR TRANSPORT PERMITS.

...

- g. a requirement that the groundwater withdrawn under the permit be put to beneficial use at all times;

TEXAS WATER CODE EXCERPTS

Sec. 36.001. DEFINITIONS.

- (8) "Waste" means any one or more of the following:
 - (A) 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;
 - (B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;**

...

Sec. 36.122. TRANSFER OF GROUNDWATER OUT OF DISTRICT.

- (a) If an application for a permit or an amendment to a permit under Section 36.113 proposes the transfer of groundwater outside of a district's boundaries, the district may also consider the

provisions of this section in determining whether to grant or deny the permit or permit amendment.

...

- (f) In reviewing a proposed transfer of groundwater out of the district, the district shall 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 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.

...

Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS.

...

- (c) A district may require that only the following be included in the permit or permit amendment application, as applicable under the rules of the district:

...

- (8) other information:
 - (A) included in a rule of the district in effect on the date the application is submitted that specifies what information must be included in an application for a determination of administrative completeness; and
 - (B) reasonably related to an issue that a district by law is authorized to consider.

Sec. 36.1132. PERMITS BASED ON MODELED AVAILABLE GROUNDWATER.

- (a) A district, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108.
- (b) In issuing permits, the district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:
 - (1) the modeled available groundwater determined by the executive administrator;
 - (2) the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;
 - (3) the amount of groundwater authorized under permits previously issued by the district;
 - (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the district; and
 - (5) yearly precipitation and production patterns.