

Middle Pecos Groundwater Conservation District
Minutes of July 19, 2016

On this the 19th of July, 2016, a regular board meeting and public hearings were held by the Middle Pecos Groundwater Conservation District in the office located at 405 North Spring Drive, Fort Stockton, Texas, with the following members present, to-wit:

| | |
|--------------------|---------------------------------|
| Jerry McGuairt | President, Precinct 1 |
| John Dorris | Vice President, Precinct 3 |
| M. R. Gonzalez | Secretary/Treasurer, Precinct 2 |
| Janet Groth | Precinct 1 |
| Merrell Daggett | Precinct 2 |
| Weldon Blackwelder | Precinct 3 |
| Ronald Cooper | Precinct 4 |
| Vanessa Cardwell | City of Fort Stockton |
| Terry Whigham | At Large |

Quorum Present.

Board members absent: Alvaro Mandujano, Jr.

Others present: Paul Weatherby, Mike Gershon, Gail Reeves, Ty Edwards, Harvey Gray, Jeff Williams, Brock Thompson, Ed McCarthy, II, Tommy Ervin, Gary Harrell, Steve Chapman, Mark Osborn, Dave Randall, Rick Dudman, Jimmy Perkins, Darrell Peckham, Oscar Hernandez, Sammy Cogpet, George Wommack, Mark A. Harral, Scott Courtney, Gerald D. Lyda, Fred Tyler, Dave Appleton, Ralph Traynham, Alan Murphy, Ernest Woodward, James Cravens, Paula McGuairt, Gladys Dorris and Bob Beal/Fort Stockton Pioneer.

REGULAR BOARD MEETING

- I President Jerry McGuairt states he has not heard back from applicant therefore he will not call the first half of Regular Board meeting to order.
- II Consider and/or act upon **Appointment of New Director for City of Iraan.**
- III **Administer the Statement of Elected Officer and Oath of Office for New Director for City of Iraan.**

PUBLIC HEARING AND BOARD ACTION ON PROPOSED RULES²

- I Call to order at 10:01 a.m. by President Jerry McGuairt.
- II The Middle Pecos Groundwater Conservation District (District) will receive public input at a hearing on proposed amendments to the District's rules intended to implement procedures (1) governing reconsideration of District decisions, prerequisites to administrative appeals and initiating lawsuits against District, and exhaustion of administrative remedies; and (2) to allow the Board to address demonstrated emergency water needs by (A) issuing emergency orders authorizing drilling and/or temporary production and/or (B) amending permits to authorize production among multiple wells to provide flexibility to entity facing emergency.

Public Comments:

Mark Harral, City of Fort Stockton Water Attorney states the City of Fort Stockton asks for the MPGCD to consider leaving current rules in place. Written comments were presented to the Board for their consideration. (See Attachment A)

Ed McCarthy, II, representing Fort Stockton Holdings LP. has concerns with requirements related to perfecting administrative appeal, making of mandatory requirement as opposed to permissive requirement, and shortening of deadlines.

III Adjourn hearing and consider and/or act on proposed rules

Jerry McGuairt adjourned the hearing at 10:29 a. m.

Janet Groth made a motion to adopt the rules as proposed. Ronnie Cooper seconded the motion. Motion carried unanimously.

**PUBLIC HEARING ON PROPOSED DESIRED FUTURE CONDITIONS OF
RELEVANT AQUIFERS WITHIN
MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT
IN GROUNDWATER MANAGEMENT AREA 7²**

I Call to order at 10:30 a.m.

II In accordance with Texas Water Code § 36.108, the Middle Pecos Groundwater Conservation District (District) will receive public input at a hearing on the proposed desired future conditions (DFCs) of groundwater resources located within Pecos County and surrounding areas located within Groundwater Management Area (GMA) 7. The District's proposed DFCs for the next year 50-year regional planning cycle are:

Capitan Reef: total net drawdown not to exceed an average of 51 feet in 2070 compared with 2006 aquifer levels

Dockum: total net drawdown not to exceed 52 feet in 2070 compared with 2012 aquifer levels

Edwards-Trinity (Plateau) and Pecos Valley Alluvium: total net drawdown not to exceed an average of 12 feet in 2070 compared with 2006 levels

Rustler: total net drawdown not to exceed 94 feet in 2070 compared with 2009 aquifer levels

Public Comments: Scott Courtney , Ed McCarthy II representing Fort Stockton Holdings LP(substituting for FSH Hydrogeologist Mike Thornhill who was unable to attend.)

Mr. Courtney states based on recent permit applications it appears the District relies heavily on the USGS Models. He questions if Allan Standen, the district's geologist or any other qualified district representative run the USGS Model using these DFC's to help determine these proposed conditions. Mr. Courtney will submit questions by e-mail.

Mr. McCarthy ask the Board to consider the following questions as they deliberate the DFC's.

- The distinction between 2006 and 2010 water levels.
- Were DFC's developed and based upon the TWDB GAM Model that is adopted on a statewide basis or based upon a more specific, and what the District considers to be a better analysis for the purpose of the Middle Pecos with the regulations of the USGS Study that the district together with the City of Fort Stockton and Pecos County and was completed in 2013.
- Were the results of the DFC analysis accomplished using one or both of these models.
- Is the USGS Model or the TWDB GAM considered to be the best available science.
- Are the 2006 levels or the 2010 levels considered to be the best available science.

Formal comments will be presented before the August 11, 2016 deadline.

- III Jerry McGuairt adjourned the hearing at 10:45 a. m.
Tabled until next meeting.

**NOTICE OF PUBLIC HEARING ON PROPOSED DESIRED FUTURE CONDITIONS
OF RELEVANT AQUIFERS WITHIN
MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT
IN GROUNDWATER MANAGEMENT AREA 3²**

- I Call to order at 10:45 a.m.
- II In accordance with Texas Water Code § 36.108, the Middle Pecos Groundwater Conservation District (District) will receive public input at a hearing on the proposed desired future conditions (DFCs) of groundwater resources located within Pecos County and surrounding areas located within Groundwater Management Area (GMA) 3. The District's proposed DFCs for the next year 50-year regional planning cycle are:
- Capitan Reef: total net drawdown not to exceed an average of 4 feet in 2070 compared with 2006 aquifer levels
- Dockum: total net drawdown not to exceed 52 feet in 2070 compared with 2012 aquifer levels
- Edwards-Trinity (Plateau) and Pecos Valley Alluvium: total net drawdown not to exceed an average of 14 feet in 2070 compared with 2010 levels
- Rustler: total net drawdown not to exceed 69 feet in 2070 compared with 2009 aquifer levels
- Public Comments: None
- III Adjourn hearing at 10:47 and table the consideration action items.

PRODUCTION PERMIT HEARING for FORT STOCKTON ISD.²

- I Called to order at 10:47 a.m. the Public Hearing on **Production Permit for Fort Stockton ISD.**

Party representing application: Ralph Traynham

Protestant to application: None

Public Comment: None

Ty Edwards presented the application to the Board. The application is for 1 well located approximately 500 feet from 800 South Rio Street, in Pecos County, Texas. The purpose of this well system is for Industrial Use and requests 10 acre feet/year from the Edwards Trinity Aquifer for 10 Months. Application was submitted by Wayne Dyess on behalf of Fort Stockton ISD. Applicant is to report monthly usage. The application is administratively complete

- II Adjourn hearing and consider and/or act on **Production Permit for Fort Stockton ISD.**

Weldon Blackwelder made a motion to grant the permit for production as submitted. Motion seconded by John Dorris. Motion carried unanimously.

Regular Meeting Continued

Call to order regular Board meeting at 10:54 by President Jerry McGuairt.

- IV Comments from public and media:
Ernest Woodward expresses his concerns about the Pecos Alluvium.

Recessed Open Meeting at 10:57.

- V Executive Session pursuant to the Texas Open Meetings Act, Section 551.074 of the Texas Government Code. was called at 10:58 a.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to discuss and evaluate duties of District's employees.

The executive session ended at 12:00 p.m.

Board President Jerry McGuairt reconvened the Regular Meeting at 1:01p.m.

No Action Taken. Certified agenda was prepared and filed.

- VI Consider and/or take action on **Personnel Matters Discussed in Executive Session and Annual Review and Compensation of District's Employees.**
Tabled

An Executive Session was called at 1:04 p.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney on items VII and XV for legal advice. The Board reconvened into open session at 2:31p.m.

No action taken.

- VII Consider and/or act upon **Production Permit Amendment for Pecos SS, LLC.**

Tabled

- VIII Discuss and/or approve **Transport Fee Agreement by and Between MPGCD and Pecos SS, LLC.**

Tabled

Terry Whigham left the meeting at approximately 3:00 p.m.

- IX Consider and/or act on matters regarding the **administrative completeness of Republic Water Company of Texas, LLC's application for a production permit.**

The following information was shared with the board by Jimmy Perkins with Republic. He says the Model does not operate outside of the native program which is USGS. The issue is a technical one. Model does not work by third parties .What you have is a program written by programmers at the USGS in a native language, customized to your needs. Mr. Perkins refers to April 8th letter written by Allan Standen and says he will send copies.

Tabled

- X Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending June 30, 2016.** Janet Groth made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending June 30, 2016. Motion seconded by John Dorris. Motion carried unanimously.

- XI Consider and/or act upon **Minutes of June 21, 2016.** Tabled

- XII Consider and/or act upon **Order of General Election for November 8, 2016.**

Tabled

- XIII Presentation by **Petro Waste Environmental LP**; consider and/or act upon Board Resolution concerning Petro Waste Environmental LP's project.

George Wommack President and CEO of Petro Source says Rule 8 of the RRC relates to water protection and oil and gas disposal. Petro Source has a permitted plan to follow which is to:

- Submit an engineering plan.
- Construct and once construction is finished, submit as built plans.
- RRC will do walkthroughs. Once you go operational and once you open the front door they have the ability to inspect at anytime.
- There are requirements to test weekly and monthly.
- Monthly reports and quarterly reports will be submitted to RRC. MPGCD will be copied on the reports submitted by Petro Source.

John Dorris made a motion to approve the resolution. Seconded by Janet Groth Motion passed unanimously.

- XIV Consider and/or act upon **General Manager's 2nd Quarterly Report.**
Report in notebook was given to board members. No action taken. Board will act on at next meeting.

Tabled

- XV Briefing on April 25, 2016 letter complaint submitted by City Water Attorney Mark Harral / Fort Stockton to 112th District Attorney Laurie English and Attorney General of the State of Texas alleging violation of Texas Open Meetings Act and consider and/or act to waive client-attorney privilege of discussions between Board and its legal counsel during the second Executive Session on April 19, 2016, which started at approx. 11:47 a.m. and ended at approx. 12:07 p.m.

Tabled

- XVI Briefing and take action as necessary on **Republic Water Company of Texas, LLC and Fort Stockton Holdings, LP lawsuit filed May 20, 2016, Cause #4:16-CV-33.** MPGCD Attorney Mike Gershon updates the board. Joe De La Fuente an attorney with Lloyd Gosselink will brief the board at the next scheduled meeting in August about what was, and about to be filed, and next steps.
No Action required.

- XVII Briefing and take action as necessary on **Republic Water Company of Texas, LLC's Request for Issuance of Writ of Mandamus** filed on May 10, 2016, in Pecos County 112th District Court, Cause # P-11956-112-CV.
MPGCD attorney Mike Gershon updates the board with the following.
A hearing is set August 17th in Fort Stockton on the request for Mandamus.
On July 8th we received some discovery request from Republic Water that will be worked on.

- XVIII **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Drought Monitor Map and ongoing Water Quality Analysis**

- Well Registrations:
 - Production Permits
 - Water Samples are ongoing.
 - Analysis's are being conducted.
- There is a rustler well being drilled on Bentley King Ranch.

- XIX Consider and/or act upon **General Manager's Correspondence.**
- Groundwater Summit is August 23rd-25th, 2016.
 - General Manager Paul Weatherby and Board President Jerry McGuairt will testify July 25th before the senate committee on agricultural, water and rural affairs.
 - Assistant Manager Ty Edwards updates the board on the sinkhole in Imperial.

- XX **Directors' comments.** Board Member Janet Groth asks that information packets be e-mailed in advance. Janet Groth also asks what the level of MPGCD's involvement is in setting DFC's of GMA3 and GMA7³.
Ty Edwards Assistant Manager answers saying we are a voting member of both GMA's and actual DFC's have to be approved by the board.

XXI Consider and/or act upon **agenda for next meeting.**

- Personnel Matters
- Pecos SS
- Transport Fee Agreement
- Administrative completeness on Republic
- Minutes June 21st , 2016
- General Manager's Quarterly Report
- Briefing on Attorney General
- DFC's

XXII **Adjourn regular Board meeting.**

President McGuairt adjourned the meeting at 4:21p.m.

**Workshop on Proposed Budget and Tax Rate Call to Order
Immediately following Regular Meeting and Public Hearings**

I Call to Order. 4:21

II Workshop to review **Proposed Budget for Fiscal Year ending September 30, 2017.**
Tabled

III **Adjourn workshop.** 4:22 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 8-16-16

July 19th, 2016

Paul Weatherby
General Manager
Middle Pecos Groundwater District
P.O. Box 1644
Fort Stockton, 79735

RE: Proposed Amended Rules of MPGCD Public Hearing on July 19th, 2016

Dear Mr. Weatherby,

The City of Fort Stockton would like for the MPGCD to consider keeping its current rules governing rehearings and noncontested hearings in order to minimize conflicts with the Texas Water Code Chapter 36 and attracting more attention from the Texas Legislature. Minimizing these risk is especially important given that the Natural Resource Committee members have already questioned the MPGCD reliance on words not found in the Texas Water Code. Previously, the City of Fort Stockton discussed the MPGCD Proposed Amended rules in open session. After concerns were raised about the MPGCD's proposed rules, Ty Edwards stated the proposed rules were being made to address the 84th Legislature changes to the Texas Water Code Chapter 36. The City of Fort Stockton requests the following of the MPGCD Board of Directors:

(1) Review Applicable Documents Before Voting

The City requests the MPGCD board of directors review the following documents prior to voting on the MPGCD Proposed Amendment to Rules set for public hearing on July 19th, 2016:

- (1) Applicable Texas Water Code 36.412, 36.413, and 36.4051(e);
- (2) A copy of the MPGCD Official Meeting minutes from its January meeting showing the MPGCD rules were changed in January to take into account changes to the Water Code Chapter 36 by the 84th Legislature; and
- (3) Applicable sections of the Lloyd Gosselink's published document showing the changes made by the Texas 84th Legislature to the Texas Water Code Chapter 36 (http://www.cuwcd.org/pdf/Chapter%2036%20Modified_84thLeg.pdf);

(2) Only Use Words Found in Texas Water Code Chapter 36

To avoid the risk to our taxpayers being burdened by costly litigation and potential takings claims, the City requests the MPGCD only use words found in the Texas Water Code Chapter 36. The City of Fort Stockton is concerned about the potential impact to all Pecos County citizens if the MPGCD adopts rules inconsistent with the Texas Water Code Chapter 36. Also, the proposed rules appear to delete sections of the current Texas Water Code as well as use the word "reconsideration." The word "reconsideration" can not be found in the Texas Water Code Chapter 36. The City of Fort Stockton is concerned about the existing two lawsuit filed against the MPGCD. Based on a preliminary review, the most recent lawsuit is based on the MPGCD using the word "abate," a word not found in the Texas Water Code.

(3) Clearly State the Texas Water Code Supersedes MPGCD rules

If the MPGCD Board of Directors approves the proposed rule changes, the City requests the MPGCD clearly state the Texas Water Code Chapter 36 supersedes MPGCD rules. The specific sections of the Texas Water Code can be found below:

Texas Water Code 36.412(a-e)

Texas Water Code 36.413(a-c)

Texas Water Code 36.4051(d)

(4) Be Aware of Statements Made by Texas Legislatures

The City of Fort Stockton is concerned the Texas Legislature will question the approval of the MPGCD proposed rules when the Texas Natural Resource Commission Subcommittee holds a meeting in Fort Stockton this September. The City's concerns stem from statements made at the Committee on Natural Resources of the Texas House of Representatives.

https://tlchouse.granicus.com/mediaplayer.php?view_id=37&clip_id=12001

At or around 5:07:20, Mike Gershon stated "I have added a statement word for word from a board member of the district that explains the reason for abating the Republic Water application... as you can seein the opinion of Director Cardwell the District Board found it very difficult and legally challenging to understand how you could process an application that involves the same wells, property, same water rights and same linkage to historic use permits that were addressed in the FSH matter that is currently in litigation."

At or around 5:12:50, the Honorable Chairman Jim Keffer stated to Mike Gershon "You are the eye of the storm right now and I know that you rather not be, but it is certainly where things are right now and you've wet our appetite. We certainly look forward to September 19th and your hearing out there."

At or around 5:13:50, the Honorable Lyle Larson stated "This is certainly the big issue in Texas right now....We are at a cross roads and need to navigate through this....." Further at or around 5:14:40, he stated "When we abate a permit...I did not see that in the Water Code. I haven't seen where a groundwater district can abate something like that.... then also conditionally ask for contracts for these things though...that needs to be vetted and we need to have these discussions because its not just the Mid-Pecos. It's a number of districts throughout the State that are in the same predicament with property owners asking for water and communities asking for water from the property owners. Its going to be interesting."

Sincerely,



Mark A. Harra, JD

4711 117th Street

Lubbock, Texas 79424

Exhibit A: Applicable Sections of Texas Water Code Chapter 36

§ 36.412. Request for Rehearing or Findings and Conclusions

Effective: June 10, 2015

Currentness

(a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may administratively appeal a decision of the board on a permit or permit amendment application by requesting written findings and conclusions not later than the 20th day after the date of the board's decision.

(b) On receipt of a timely written request, the board shall make written findings and conclusions regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the board receives the request. A party to a contested hearing may request a rehearing not later than the 20th day after the date the board issues the findings and conclusions.

(c) A request for rehearing must be filed in the district office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing.

(d) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(e) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

§ 36.4051. Board Action; Contested Case Hearing Requests; Preliminary Hearing

Effective: June 10, 2015

~~Currentness~~

(d) An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order:

(1) includes special conditions that were not part of the application as finally submitted, or

(2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

§ 36.413. Decision; When Final

Effective: September 1, 2005

~~Currentness~~

(a) A decision by the board on a permit or permit amendment application is final:

(1) if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing, or

(2) if a request for rehearing is filed on time, on the date:

(A) the board denies the request for rehearing, or

(B) the board renders a written decision after rehearing.

(b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file a suit against the district under Section 36 251 to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.

(c) An applicant or a party to a contested hearing may not file suit against the district under Section 36 251 if a request for rehearing was not filed on time.

Middle Pecos Groundwater Conservation District
Minutes of January 20, 2016

On this the 20th of January, 2016, a regular board meeting and public hearings were held by the Middle Pecos Groundwater Conservation District in the office located at 405 North Spring Drive, Fort Stockton, Texas, with the following members present, to-wit:

| | |
|-----------------------|----------------------------|
| Jerry McGuairt | President, Precinct 1 |
| John Dorris | Vice President, Precinct 3 |
| Janet Groth | Precinct 1 |
| Weldon Blackwelder | Precinct 3 |
| Alvaro Mandujano, Jr. | Precinct 4 |
| Vanessa Cardwell | City of Fort Stockton |
| Terry Whigham | At Large |

Quorum Present.

Board members absent: Ronald Cooper, M. R. Gonzalez, Jeffery McMahon, and Merrell Daggett

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Brock Thompson, Ed McCarthy, III., Tommy Ervin, Alan Murphy, Chance Murphy, Chris Alexander, Billy Jackson, Gerald D. Lyda, Gene Lyda, Steve Finch, Jr., Steve Finch (Sr.), Kenneth Heritage, Gil Van Deventer, Don Burns, Raymond Straub, Alex Gonzalez, Stephen Robertson, Rita Childs, Clayton Moss, Brent McGuire, Tim Reed, Michael McCulloch, and Bob Beal/Fort Stockton Pioneer.

PUBLIC HEARING AND BOARD ACTION ON PROPOSED RULES

I Call to order at 10:02 a.m. by President Jerry McGuairt.

II The Middle Pecos Groundwater Conservation District (District) will receive public input at a hearing on proposed amendments to the District's rules intended to (1) implement changes to statutory law enacted in 2015 by the 84th Texas Legislature, which amendments address matters including but not limited to (i) the purpose of the District; (ii) permit renewal procedures; (iii) procedures for permit hearings, including preliminary hearings, hearings referred to the State Office of Administrative Hearings, and uncontested hearings; (iv) Board review and consideration of a Proposal for Decision on a permit hearing; (v) language describing the export of groundwater outside of the District; (vi) procedure and considerations for appealing desired future conditions of the aquifers underlying the District; (vii) the regulation of aquifer storage and recovery; (viii) definitions of terms used in the rules or commonly used during District business; (2) clarify the identity of groundwater formations underlying the District; (3) modify hydrogeological report requirements for permit applications; and (4) edit references to past rules amendments.

Public Comments:

Ed (Eddie) McCarthy, III, representing Fort Stockton Holdings LP: The rule changes proposed conflict each other and conflict the water code. Some rules are very vague and some are discretionary. Written comments were presented to the Board for their consideration.

III Adjourn hearing and consider and/or act on proposed rules

Jerry McGuairt adjourned the hearing at 10:09 a.m.

One additional change was proposed by Ty Edwards, and MPGCD hydrogeologist Allan Standen agreed, to change any reference to the San Andres shall be San Andres Formation (not San Andres Aquifer).

MPGCD lawyer, Mike Gershon, told the Board he agrees with the rule changes.

John Dorris made a motion to adopt the rules as proposed. Vanessa Cardwell seconded the motion. Motion carried unanimously.

Exhibit C: Applicable Sections of Lloyd Gosselink's published document showing changes to Texas Water Code by 84th Legislature



TEXAS WATER CODE

CHAPTER 36

GROUNDWATER CONSERVATION DISTRICTS

AS MODIFIED BY THE

84th TEXAS LEGISLATURE (2015)

Regular Session – January 13, 2015 – June 1, 2015

Sec. 36.4051. BOARD ACTION; CONTESTED CASE HEARING REQUESTS; PRELIMINARY HEARING

- (a) The board may take action on any uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The board may issue a written order to:
- (1) grant the application;
 - (2) grant the application with special conditions; or
 - (3) deny the application.
- (b) The board shall schedule a preliminary hearing to hear a request for a contested case hearing filed in accordance with rules adopted under Section 36.415. The preliminary hearing may be conducted by:
- (1) a quorum of the board;
 - (2) an individual to whom the board has delegated in writing the responsibility to preside as a hearing examiner over the hearing or matters related to the hearing; or
 - (3) the State Office of Administrative Hearings under Section 36.416.
- (c) Following a preliminary hearing, the board shall determine whether any person requesting the contested case hearing has standing to make that request and whether a justiciable issue related to the application has been raised. If the board determines that no person who requested a contested case hearing had standing or that no justiciable issues were raised, the board may take any action authorized under Subsection (a).
- (d) An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order:
- (1) includes special conditions that were not part of the application as finally submitted; or
 - (2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

Added by Acts 2015, 84th Leg., Ch. ____, Sec. ____, eff. June 10, 2015.

Sec. 36.412. REQUEST FOR REHEARING OR FINDINGS AND CONCLUSIONS

- (a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may administratively appeal a decision of the board on a permit or permit amendment application by requesting written findings and conclusions ~~or a rehearing before the board~~ not later than the 20th day after the date of the board's decision.
- (b) On receipt of a timely written request, the board shall make written findings and conclusions regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each ~~person who provided comments or each~~ designated party, not later than the 35th day after the date the board receives the request. ~~A party to a contested hearing person who receives a certified copy of the findings and conclusions from the board~~ may request a rehearing ~~before the board~~ not later than the 20th day after the date the board issues the findings and conclusions.
- (c) A request for rehearing must be filed in the district office and must state the grounds for the request. If the original hearing was a contested hearing, the ~~party~~ person requesting a rehearing must provide copies of the request to all parties to the hearing.
- (d) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.
- (e) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

Added by Acts 2005, 79th Leg., Ch. 970, Sec. 17, eff. Sept. 1, 2005; Amended by Acts 2015, 84th Leg., Ch. Sec. , eff. June 10, 2015.

Sec. 36.413. DECISION; WHEN FINAL

- (a) A decision by the board on a permit or permit amendment application is final:
 - (1) if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
 - (2) if a request for rehearing is filed on time, on the date:
 - (A) the board denies the request for rehearing; or
 - (B) the board renders a written decision after rehearing.
- (b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file a suit against the district under Section 36.251 to appeal a decision on a permit or

permit amendment application not later than the 60th day after the date on which the decision becomes final.

- (c) An applicant or a party to a contested hearing may not file suit against the district under Section 36.251 if a request for rehearing was not filed on time.

Added by Acts 2005, 79th Leg., Ch. 970, Sec. 17, eff. Sept. 1, 2005.