

MIDDLE PECOS
Groundwater Conservation District
P. O. Box 1644, Fort Stockton, Texas 79735
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**PETITION TO ADOPT OR
MODIFY A DISTRICT RULE**

Instructions: This Petition to Adopt or Modify a District Rule form must be completed as required by District Rule 6.5 and filed at the District office. Each rule adoption or modification requested must be submitted on a separate Petition to Adopt or Modify a District Rule form.

A person unable to comply with any procedures under District Rule 6.5, or to provide the information required by this form, may file a written explanation as to why compliance with the required procedure(s) is not possible along with a written request that the District waive the specific procedure(s). The written explanation and written request must be submitted to the District Office at the same time as this Form.

Additional information may be attached to this form.

- 1. Text of Proposed Rule or Rule Modification** (underline words proposed to be added to the text of the current rules and strike through words proposed to be deleted from the text of the current rules):

RULE 10.8 RULES FOR MANAGEMENT ZONE 1

(a) All non-exempt permit holders are required to meter all non-exempt wells, unless permit is for fewer than 100 ac/ft. Meters to be installed on or before 12/31/2023, and upon completion of any new wells.

(b) All new, non-exempt wells constructed within Management Zone 1 are required to install a 1" pvc line for pressure transducers or concurrently install a monitoring well.

(c) On or before 12/31/2023, all permitholders over 1000 ac/ft are required to pay for a pressure transducer on up to 10% of their wells and allow MPGCD access to the well to install, repair, and monitor. MPGCD may decide in which wells to install transducers.

(d) MPGCD will perform water quality testing (lab result type) in all MPGCD monitoring wells in July and January. All permitholders over 1000 ac/ft are required to perform same test in 50% their wells in July and January and submit to District.

... Continued in attached "PROPOSED MPGCD RULES FOR MZ1."

- 2. Written Explanation of the Intended Purpose of the Proposed Rule or Rule Modification:**

To properly ensure that the District's Management Plan for Management Zone 1 accounts for the overall health and future resilience of the aquifer for all beneficial uses, Cockrell requests that the District adopt the Proposed Rule 10.8 to establish (a) more precise and consistent monitoring of wells within Management Zone 1; and (b) year-round thresholds that monitor declining water levels and are able to trigger automatic pumping cutbacks if the water level drops below the threshold. If the above issues are addressed through meaningful rulemaking procedures, the groundwater levels will be more consistent and the aquifer will be healthier. Enforcing year-round thresholds (not just in the winter recovery period) will allow the District to use index wells to protect the health of the aquifer throughout the entire year by making sure the water levels are maintained at a certain level even during the summer months where irrigation and municipal use are at their highest. Establishing year-round thresholds is not unusual, as many other groundwater conservation districts across the state implement them. The identified thresholds are designed to protect the aquifer at historic lows.

3. Allegation of Injury or Inequity that could Result from Failure to Adopt Proposed Rule or to Modify Current Rule:

The current Management Plan and FSH Special Permit Conditions provide that if 6 of the 11 monitoring wells within Management Zone 1 do not recover above the Winter Thresholds, then specified reductions in pumping will be implemented for the remainder of the year. However, the Management Plan does not provide for a year-round or floor threshold with any real consequences for what occurs if the groundwater level drops too low. Of particular concern is the fact that once the water level in a specific monitoring well recovers above an applicable winter threshold, even if just for an instant, the Management Plan considers the monitoring well to have achieved recovery and cutbacks will not be considered until the following year. Once recovered above the Winter Threshold, the permit holders can proceed with pumping groundwater without threat of cutbacks. This allows for water levels to continue dropping as irrigation begins.

Another problem with the current Management Plan is that it allows for certain groundwater permitholders to “game” the monitoring well system. Specifically, during the winter recovery period, permitholders who have higher usage needs can increase pumping from wells that are farther from the specified monitoring wells in order to allow 6 or more monitoring wells to register levels that rise above the Winter Thresholds, meaning normal pumping can resume across the board without consequence of cutbacks.

Without significant rulemaking changes in cutback threshold levels are determined and maintained, the following issues likely occur: declining water levels, decreased transmissibility, decreased levels of production, increased levels of solids in the water, higher production costs, and potential need to install larger pumps, drill deeper wells, and even re-drill some wells. Lack of proper enforcement and pumping adjustments based on water levels increases risks of long-term damage to the aquifer and its ability to adequately recover after the summer irrigation season. Increased strain on the aquifer could also damage other nearby aquifers. Individual users, such as Belding Farms, may experience a loss or degradation of water at or below historic levels.

4. Description of Petitioner(s) Real Property Interest in Groundwater in the District (attach proof of real property interest in groundwater located within the District for each petitioner):

Cockrell is a landowner within the District. Cockrell/Belding Farms owns a 2,205 acre commercial pecan orchard consisting of approximately 68,000 trees. For its orchard, Cockrell utilizes its substantial water rights in the Edwards-Trinity Aquifer, which supports its pecan orchard.

Cockrell currently has a Historic Existing Use Permit that was issued in July 2006 for 16 wells in the amount of 15,528.846 acre feet, which is used to, among other things, supply water/irrigation requirements for its pecan orchard consisting of approximately 68,000 trees. In fact, Cockrell’s 2,205-acre orchard is a part of 6,663.18 acres owned and leased by Cockrell.

For additional details, please see COCKRELL INVESTMENT PARTNERS, L.P.’S PETITION TO ADOPT RULE submitted to the MPGCD on September 5, 2023, and attached hereto.

Petitioner(s) Information (Please include information for additional petitioners as appropriate).

Petitioner #1:

Cockrell Investment Partners, LP and Belding Farms, c/o Ryan C. Reed, Attorney

(210) 222-9494; rreed@pulmanlaw.com

First Name Last Name Phone Number Email Address

Pulman, Cappuccio & Pullen, LLP, 2161 NW Military Hwy, Suite 400, San Antonio, TX 78213

Physical Address City State Zip code

Pulman, Cappuccio & Pullen, LLP, 2161 NW Military Hwy, Suite 400, San Antonio, TX 78213

Mailing Address City State Zip code

/s/ Ryan C. Reed 12/18/2023

Signature

Date

Petitioner #2:

First Name Last Name Phone Number Email Address

Physical Address City State Zip code

Mailing Address City State Zip code

Signature *Date*

Petitioner #3:

First Name Last Name Phone Number Email Address

Physical Address City State Zip code

Mailing Address City State Zip code

Signature *Date*

Additional information may be attached to this form.

RULE 10.8 Rules for Management Zone 1

- (a) All non-exempt permit holders are required to meter all non-exempt wells, unless permit is for fewer than 100 ac/ft. Meters to be installed on or before 12/31/2023, and upon completion of any new wells.
- (b) All new, non-exempt wells constructed within Management Zone 1 are required to install a 1” pvc line for pressure transducers or concurrently install a monitoring well.
- (c) On or before 12/31/2023, all permitholders over 1000 ac/ft are required to pay for a pressure transducer on up to 10% of their wells and allow MPGCD access to the well to install, repair, and monitor. MPGCD may decide in which wells to install transducers.
- (d) MPGCD will perform water quality testing (lab result type) in all MPGCD monitoring wells in July and January. All permitholders over 1000 ac/ft are required to perform same test in 50% their wells in July and January and submit to District.
- (e) All permit holders subject to metering requirements under these Rules are required to submit to the MPGCD, on a quarterly basis, their meter readings, subject to additional reporting requirements under Reporting Threshold levels.
- (f) Thresholds, Reporting Requirements, and Cutbacks
 - (1) The Prison Well, MPGCD 320, S-45, and S-6 are designated as groundwater elevation trigger wells. Threshold triggers are invoked when two of the four wells register groundwater elevations below the specified groundwater trigger elevations set forth herein. When invoked, cutbacks and contingency planning set forth herein will be instituted. Groundwater elevation trigger levels for all four wells are summarized in **Table 1**.

Table 1. Groundwater elevation trigger levels (ft, msl | depth to water)

<u>Well</u>	<u>Threshold 1</u>		<u>Threshold 2</u>		<u>Threshold 3</u>	
<u>Prison Well</u>	<u>2960</u>	<u>239</u>	<u>2950</u>	<u>249</u>	<u>2900</u>	<u>299</u>
<u>S-6</u>	<u>2935</u>	<u>188</u>	<u>2925</u>	<u>198</u>	<u>2875</u>	<u>248</u>
<u>S-45</u>	<u>2920</u>	<u>147</u>	<u>2910</u>	<u>157</u>	<u>2860</u>	<u>207</u>
<u>MPGCD 320</u>	<u>2900</u>	<u>168</u>	<u>2890</u>	<u>178</u>	<u>2840</u>	<u>228</u>

(2) Threshold 1: District Action -

- i. District sends written notice to all permitholders of Threshold being reached and requirements for permitholders and/or publishes on Website/via Email
- ii. All permitholders monitor and report water levels monthly
- iii. All permitholders report lowering of pumps and new pump depth
- iv. No new transport/export permits considered by MPGCD
- v. No applications for non-exempt wells considered
- vi. Schedule Agenda item for next board meeting to discuss results of monitoring data including reporting data, water levels, pump depth, etc.
- vii. This remains in effect for 30 days, even if levels go above Threshold 1

(3) Threshold 2: District Action -

- i. District sends written notice to all permit holders of Threshold being reached and requirements for permit holders and/or publishes on Website/via Email
- ii. All permit holders monitor and report water levels monthly
- iii. All permit holders report lowering of pumps and new pump depth
- iv. No new transport/export permits considered by MPGCD
- v. No applications for non-exempt wells considered
- vi. Schedule board meeting within 10 days to discuss potential exercise of District's emergency powers
- vii. Production permit holders in Management Zone 1 will only be authorized to produce 50 percent of 1/365 of their respective annual permitted pumping amount on a daily basis. Production permit holders may resume pumping their full permitted amount ten (10) days after three of the four trigger wells register daily groundwater elevations above Threshold 2 triggers.

(4) Threshold 3: District Action -

- i. Production permit holders in Management Zone 1 will cease to be authorized to produce under their production permit. Production permit holders may resume pumping: (i) 50 percent of 1/365 of their respective annual permitted pumping amount on a daily basis ten (10) days after three of the four trigger wells register daily groundwater elevations above Threshold 3 triggers, and (ii) their full permitted amount ten (10) days after three of the four trigger wells register daily groundwater elevations above Threshold 2 triggers.

- (5) If, during any year, Threshold 2 trigger levels are exceeded and there is no adverse impact on the aquifer, following an evidentiary hearing at which it is determined that (a) no Management Zone 1 groundwater permit holder's (i) Total Dissolved Solids have increased by more than 5.0% over TDS levels observed in wells in calendar years 2017-2023; (ii) Sodium levels have increased by more than 5.0% over Sodium levels observed in wells in calendar years 2017-2023; (iii) Calcium levels have increased by more than 5.0% over Calcium levels observed in its wells in calendar years 2017-2023; and (iv) production rates have decreased by more than 5.0% over rates observed in its wells in calendar years 2017-2023, and (b) other aquifers are not recharging the Edwards-Trinity Aquifer, the Threshold trigger levels in Table 1 may be adjusted by no more than 10 feet (10' decrease for msl, 10' increase for depth to water) for the following year. Provided, however, that if FSH's Special Permit Conditions Winter Threshold 1 is invoked in any year, the Thresholds in Table 1 shall apply for the following year.