



April 11, 2023

Mr. Gary Westbrook
General Manager
Post Oak Savannah Groundwater Conservation District
310 E. Avenue C.
Milano, Texas 76556

RE: Comments on POSGCD Proposed Rules

Dear Gary,

On behalf of Alan Gardenhire, VP of Operations for the Sandow Lakes Ranch, I provide the Post Oak Savannah Groundwater District the following comments regarding the proposed rule revisions and other general comments about existing rules of the District. For the District Board's benefit, I share my comments are based in my 30+year experience working, for both groundwater district and permittee/landowner clients, in rule making proceedings and as an expert witness in court cases. My comments are not comprehensive to all District rules. A few comments for the District rules are as follows:

Proposed Rule 7.1. General Permit and Registration Provisions

- I recommend striking the words “or to accommodate aquifer conditions”. This phrase is superfluous. Any modifications to permits occur due to changes in the rules, compliance with management plan, or changes in state law.

Proposed Rule 7.4.10 Application Requirements for All Permits

- I believe permit applications that have been under review by the General Manager for 90 days should not expire for lack of submittal within 30 days. If a timeframe is to be associated with expiration of the application, then the timeframe should be much longer. Perhaps a minimum of 180 days . This time frame may be required to conduct additional studies, groundwater modeling, data collection, or other lengthy well testing, field work or technical work in support of the application.

Proposed Rule 7.10.1.a Exempt Well Status

- I recommend adding an additional option (vii) which would be to maintain the well with a protective casing and with no authority to produce the well without re-permitting of the well.. Certainly, the exempt well status of the rig supply well is to be terminated upon completion of the production well. However, the well could become a registered well as long as it is not equipped to produce water, or it could be plugged or it could become a monitor well.



Proposed Rule 16.4 (and District Management Plan)

- I recommend that all references to Protective Drawdown Limits (PDLs) be removed from the District rules and management plan. Chapter 36 authorizes groundwater districts the authority to adopt Desired Future Conditions within the GMA framework. Chapter 36 does not address district-only, specific PDLs in addition to the stated requirements for the District and GMA 12 to adopt DFCs.

Existing Rules 16.4.6(c), (d) and (e)

- I recommend dropping these three rules from Rule 16.4.6. Use of hydraulics on a small, local basis to regulate groundwater production rights can be problematic for providing fair share opportunity to every groundwater owner. Often landowners with larger transmissivity can more readily comply with the hydraulic based regulations, thereby capturing more of the regional landowners' groundwater, while owners with less transmissivity capture a greater proportion of their own groundwater yet end up with more onerous restrictions on permitted capacity.
- Rule 16.4.6(e) purports to grant the District the authority to set a baseline value for saturated thickness and artesian pressure on a "case by case basis" for a baseline year that is not before 2010. It is my experience that time-based rules that are applied on a local, landowner basis will typically be more onerous on local landowners who begin utilizing their property after the baseline date, while owners who began utilizing their property prior to a baseline date have already established hydraulic gradients that are more regional and thus can continue pumping with less localized effect into the future.

Proposed Rule 16.5 Five (5) Year Reviews

- It is my professional opinion that there are many proposed rules that would be difficult to objectively evaluate, measure and enforce in a manner that provides fair share to every owner of the groundwater reservoir. Especially the proposed rules that involve local specific considerations rather than regional management of the common reservoir. Another example worth noting is Item 16.5.1.(b) A groundwater owner's private property right is not subject to being included in the State Water Plan. In many cases, inclusion in the State Water Plan lags behind actual well permitting and production. In the end, the State Water Plan is a planning process, and it is not a substitute for a groundwater district responsibility to adopt fair and impartial rules for the regulation of fugitive, private property. I recommend dropping all local, or "user-based" rules and stay with more regional, reservoir-based approaches.

Existing Rule 16.6 and Rule 16.7

- It is recommended that if the maximum allowable permitted production is to be reduced, then the reduction should apply to all groundwater owners whose land lies within the definable part of the groundwater reservoir in which the DFC could be appreciably affected by withdrawing water from the reservoir, as indicated by known geological and hydrologic conditions and relationships.



Sincerely,

Bob Harden

Bob Harden, P.E.
Harden Hydrology & Engineering, PLLC

The seal appearing on this document was authorized by Robert Harden, P.E. 79290 on April 11, 2023.

Harden Hydrology & Engineering, PLLC
Firm Registration Number: F-19082

Cc: Alan Gardenhire, SLR (via email)