

TCEQ DOCKET No. 2025-0373-MIS

PETITION FOR INQUIRY OF	§	BEFORE THE
MIDDLE PECOS	§	
GROUNDWATER	§	TEXAS COMMISSION
CONSERVATION DISTRICT	§	
SUBMITTED BY COCKRELL	§	ON
INVESTMENT PARTNERS, L.P.	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR’S RESPONSE TO PETITION FOR INQUIRY &
MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT’S
RESPONSE**

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to the Restated Petition for Inquiry of Middle Pecos Groundwater Conservation District (Middle Pecos or District) filed by Cockrell Investment Partners, L.P. (Petitioner). This Response also addresses the Response to the Petition for Inquiry filed by Middle Pecos, as well as responses from other entities.

Under Title 30, TEXAS ADMINISTRATIVE CODE (TAC) § 293.23(g), the Commission may either dismiss the petition or appoint a review panel to conduct the inquiry and submit a report.

II. PROCEDURAL BACKGROUND

On March 4, 2025, Petitioner filed a Restated Petition for Inquiry of Middle Pecos Groundwater Conservation District (Petition or PFI) with the Commission. The Petition withdrew Petitioner’s earlier petition filed on December 30, 2024, and simultaneously filed the Petition. The Petitioner alleges that the District failed to adopt rules, that the rules adopted by the District are not designed to achieve the adopted Desired Future Conditions (DFCs), and that the groundwater in the management area is not adequately protected by the rules adopted by the District. These allegations are made pursuant to TEXAS WATER CODE (TWC) § 36.3011(b)(3), (7), and (8), and 30 TAC § 293.23(b)(3), (7), and (8).

30 TAC § 293.23(d) requires the Petitioner to file a certified statement describing why the Petitioner believes that a commission inquiry is necessary, and Petitioner included a certified statement.¹

30 TAC § 293.23(e) requires the Petitioner to provide a copy of the Petition to all groundwater conservation districts (GCD) within and adjacent to the groundwater

¹ PFI at page 12.

management area (GMA) within five days of filing the Petition. Middle Pecos GCD is a member of GMA 3 and GMA 7. 30 TAC § 293.23(e) also requires that the Petitioner provide evidence, within 21 days of filing the Petition, that copies were timely provided to those GCDs. On March 11, 2025, within the 21 days required by 30 TAC § 293.23(e), the Petitioner provided evidence that the petition had been provided, within five days of filing the Petition, to the following GCDs: Middle Pecos GCD; Kimble County GCD; Coke County Underground Water Conservation District (UWCD); Kinney County GCD; Crockett County GCD; Lipan-Kickapoo Water Conservation District; Glasscock GCD; Lone Wolf GCD; Hickory UWCD No. 1; Menard County Underground Water District; Hill Country UWCD; Plateau Underground Water Conservation and Supply District; Irion County Water Conservation District; Real-Edwards Conservation and Reclamation District; Santa Rita UWCD; Garza County UWCD; Sterling County UWCD; Permian Basin UWCD; Sutton County UWCD; Brewster County GCD; Terrell County GCD; Culberson County GCD; Uvalde County UWCD; Jeff Davis County UWCD; Wes-Tex GCD; Clear Fork GCD; Edwards Aquifer Authority; Central Texas GCD; Reeves County GCD; Saratoga UWCD; Bandera County River Authority and Ground Water District; Blanco-Pedernales GCD; Cow Creek GCD; Headwaters GCD; and Medina County GCD. The GCDs that were provided a copy include all GCDs within and adjacent to GMAs 3 and 7, as required by 30 TAC § 293.23(e).

Middle Pecos and all GCDs within and adjacent to GMAs 3 and 7 are affected persons.² On March 18, 2025, the Office of General Counsel mailed a letter providing information on how to file a response on the validity of the specific claims raised in the Petition to all persons listed in the Petition's mailing list, which includes all GCDs within and adjacent to GMAs 3 and 7. The 35-day deadline to file a response to the Petition was on April 8, 2025, and **eight timely responses were received from Middle Pecos, the City of Fort Stockton, Fort Stockton Holdings L.P. & Clayton Williams Farms, Inc., GMA 3 and Reeves County GCD, the GCDs in GMA 7, Pecos County Water Control and Improvement District No. 1, West Texas Water Partnership, and Pecos County.**

III. GROUNDWATER LAW

A. Groundwater Conservation Districts

The Texas legislature recognizes that a landowner, along with his lessees, heirs, and assigns, owns the groundwater below the surface of the landowner's land as real property.³ GCDs are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of the state, and use the best available science in the conservation and development of groundwater.⁴ Local GCDs shall meet at least annually to conduct joint planning and review management plans, accomplishments, and new or amended DFCs.⁵ A GMA is an area designated and delineated by the Texas Water Development Board (TWDB) under Chapter 35 of the TWC as "an area suitable for management of

² TWC § 36.3011(a)(2); *see also* 30 TAC § 293.23(a)(2).

³ TWC § 36.002(a)-(b).

⁴ TWC § 36.0015(b).

⁵ TWC § 36.108(c).

groundwater resources.”⁶ GCDs shall consider groundwater availability models and other data or information for the GMA and shall propose DFCs for adoption for the relevant aquifers within the GMA.⁷ DFCs are a quantitative description of the desired condition of the groundwater resources in a GMA at one or more specified future times.⁸

The GCDs in a GMA must adopt DFCs by considering several criteria, including uses or conditions within a GMA, water supply needs in the State Water Plan, hydrological conditions, environmental impacts, subsidence, ownership rights, socioeconomic impacts reasonably expected to occur, and the feasibility of achieving the DFC.⁹ The DFCs must also provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area. However, DFCs may provide for the reasonable long-term management of groundwater resources consistent with the management goals under TWC § 36.1071(a).¹⁰

After all the GCDs have submitted district summaries relating to the proposed DFCs, the GCD representatives shall reconvene to review the reports, consider any GCD’s suggested revisions to the proposed DFCs, and finally adopt the DFCs for the GMA. The DFCs must be approved by a resolution adopted by a two-thirds vote of all the GCD representatives. The GCD’s representatives shall file an explanatory report of the proposed DFCs for the GMA to the TWDB.¹¹ After a district receives notification from the TWDB that the DFC’s explanatory report is administratively complete, the district shall adopt the applicable DFCs.¹² Each GCD in the GMA “shall ensure that its management plan contains goals and objectives consistent with achieving the DFCs of the relevant aquifers as adopted during the joint planning process.”¹³ All rulemaking shall consider the goals in the management plan.¹⁴

B. Groundwater Ownership and GCDs

The groundwater ownership right entitles the landowner to drill for and produce the groundwater below the surface but does not entitle a landowner the right to capture a specific amount of groundwater.¹⁵ The TWC authorizes GCDs to place limitations on the right to produce groundwater in an effort to conserve and protect the sustainability of aquifers.¹⁶ The TWC also allows a GCD to issue production permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable DFC.¹⁷ To ensure that a GCD achieves its DFCs, the TWC authorizes a GCD to

⁶ TWC §35.002(11).

⁷ TWC § 36.108(d).

⁸ TWC § 36.001(30).

⁹ TWC § 36.108(d).

¹⁰ TWC § 36.108(d-2).

¹¹ TWC § 36.108(d-3).

¹² TWC § 36.108(d-4).

¹³ TWC § 36.1085.

¹⁴ TWC § 36.101(a)(5).

¹⁵ TWC § 36.002(c) and (d).

¹⁶ TWC § 36.116(a)(2).

¹⁷ TWC § 36.1132.

promulgate rules to regulate the withdrawal of groundwater by setting production limits on wells, limiting the amount of water produced based on acreage or tract size, limiting the amount of water that may be produced from a defined number of acres assigned to an authorized well site, limiting the maximum amount of water that may be produced on the basis of acre-feet per acre or gallons per minute per well site per acre, managed depletion, or any combination of these methods.¹⁸

After the GMA adopts a DFC and submits their explanatory report, TWDB determines the Modeled Available Groundwater (MAG) which is the amount of water that the executive administrator of TWDB determines may be produced on an average annual basis to achieve a DFC established under Section 36.108.¹⁹ The TWC requires that GCDs “shall consider,” among other things, the MAG for the GCD when issuing permits.²⁰

IV. PETITION FOR INQUIRY

TWC § 36.3011 allows an owner of land within a management area to file a petition with the Commission requesting an inquiry into specific actions of a GCD. The Petitioner states that it owns land within the jurisdiction of the District; as such, the ED finds that Cockrell Investment Partners, L.P. is an affected person pursuant to TWC § 36.3011 (a). Petitioner alleges that the District failed to adopt rules, the rules adopted by the District are not designed to achieve the adopted DFCs, and the groundwater in the management area is not adequately protected by the rules adopted by the District. These allegations match the basis for a petition pursuant to TWC § 36.3011(b)(3), (7) and (8) and 30 TAC § 293.23(b)(3), (7), and (8).

The Petitioner made the following claims in his petition:

A. Middle Pecos failed to adopt rules

Each GCD in a GMA shall ensure that its management plan contains goals and objectives consistent with achieving the DFCs of relevant aquifers as adopted during the joint planning process.²¹ All rulemaking shall consider the goals in the groundwater management plan.²² Thus, rulemaking should be consistent with achieving relevant DFCs. Prior to filing the Petition with the Commission, Petitioner filed three petitions for rulemaking with Middle Pecos, pursuant to TWC § 36.1025.²³ The first petition for rulemaking sought rules to increase groundwater monitoring in Management Zone 1 of the District as well as establish monitor well elevation thresholds that trigger production cutbacks.²⁴ The second petition for rulemaking requested the imposition of a tax on permit holders who export water and then establishing a mitigation fund with those tax proceeds.²⁵ The third petition for rulemaking sought to define “unreasonable impacts” to the Edwards Trinity Aquifer by comparing monitor well elevations on September 1 of

¹⁸ TWC § 36.116(a)(2).

¹⁹ TWC § 36.001(25).

²⁰ TWC § 36.1132(b)(1).

²¹ TWC § 36.1085.

²² TWC § 36.101(a)(5).

²³ PFI at page 7.

²⁴ PFI at page 7; *see also* Exhibit 8 to PFI.

²⁵ PFI at page 7; *see also* Exhibit 9 to PFI.

any year to monitor well elevations on September 1, 2018.²⁶ The District articulated its reasons for denying the three petitions for rulemaking in writing, pursuant to TWC § 36.1025(c)(1).²⁷ Petitioner asserts that the District would rather wait and see how the exportation of groundwater affects the Edwards Trinity Aquifer than adopt new rules.²⁸

B. The rules adopted by Middle Pecos are not designed to achieve its adopted DFCs

Each GCD in a GMA shall ensure that its management plan contains goals and objectives consistent with achieving the DFCs of relevant aquifers as adopted during the joint planning process.²⁹ All rulemaking shall consider the goals in the groundwater management plan.³⁰ Thus, rulemaking should be consistent with achieving relevant DFCs. As described in the Petition, the District chose to apply special permit conditions to the Fort Stockton Holdings (FSH) export permit rather than adopt rules that would apply to all permitholders within the District.³¹ The District has not produced technical memoranda or modeling to support the special conditions.³² The special permit conditions allow that if the Edwards Trinity aquifer recharges in the winter, then the FSH export permit will not encounter production cutbacks in the following calendar year.³³ As Petitioner explains, because recharge is only measured in the winter, there is no way for the District to provide year-round protection of the Edwards Trinity aquifer.³⁴ Additionally, Petitioner states that while most GCDs look at drawdown of the aquifer to determine cutbacks, the special conditions only focus on aquifer recharge.³⁵ Thus, Petitioner claims, regardless of declines in aquifer levels, if aquifer recharge occurs in the winter, there is not another opportunity to impose cutbacks until winter of the following year.³⁶ For these reasons, Petitioner claims the District has not adopted rules designed to achieve the DFCs for the Edwards Trinity Aquifer.³⁷

C. The rules adopted by Middle Pecos do not adequately protect groundwater in GMAs 3 and 7

When issuing permits, the District shall manage total groundwater production on a long-term basis to achieve applicable DFCs and consider the MAG determined by TWDB.³⁸ According to the Petitioner, the District has not produced technical memoranda nor models that support the special conditions applied to the FSH export

²⁶ PFI at page 7; *see also* Exhibit 9 to PFI.

²⁷ *Id.*

²⁸ PFI at page 8.

²⁹ TWC § 36.1085.

³⁰ TWC § 36.101(a)(5).

³¹ PFI at page 8.

³² *Id.*

³³ PFI at page 5.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ PFI at page 9.

³⁸ TWC § 36.1132(b)(1).

permit.³⁹ Petitioner cites modeling performed by Wet Rock Groundwater Services demonstrating how minimum recovery in the Edwards Trinity aquifer will lead to overall declines in the aquifer level without triggering production cutbacks from the FSH export permit.⁴⁰ Therefore, Petitioner claims, the special conditions to the FSH export permit are not responsible conservation and management of the Edwards Trinity aquifer.⁴¹

V. MIDDLE PECOS'S RESPONSE

In its response, Middle Pecos responded to the allegations in the Petition which match the basis for a petition pursuant to TWC § 36.3011(b)(3), (7) and (8) and 30 TAC § 293.23(b)(3), (7), and (8). Middle Pecos provided the following responses:

A. Middle Pecos has adopted rules

Middle Pecos states that it has adopted rules.⁴² According to Middle Pecos, Petitioner improperly asks TCEQ to consider Petitioner's TWC § 36.1025 rulemaking petitions to Middle Pecos.⁴³ Middle Pecos properly denied Petitioner's rulemaking petitions and provided explanations for the denials.⁴⁴ Middle Pecos states that there is no right to challenge the District's decision regarding petitions for rulemaking under TWC § 36.1025, so the Petitioner is using the Petition for Inquiry process to seek relief from TCEQ.⁴⁵

B. Middle Pecos has adopted rules that are designed to achieve its adopted DFCs

Middle Pecos states that its rules have been in place for nearly two decades and have allowed the District to achieve its adopted DFCs.⁴⁶ Middle Pecos also states that the DFCs which were adopted in 2013 have not been changed in the GMA updates in 2016 and 2021.⁴⁷ Middle Pecos points to its existing rules, specifically Rules 10.2 and 10.3, which describe the District's authority to restrict pumping on already granted permits to avoid impairment of its DFCs, as proof that it has rules designed to achieve its adopted DFCs.⁴⁸ In response to Petitioner's claim that the District has not produced technical memoranda nor modeling to support the special conditions on the FSH permit, Middle Pecos states that while it is building a new groundwater model, the purpose of the model is to improve the District's ability to achieve the DFCs, not to support the special conditions on the FSH permit.⁴⁹ Instead, the model will improve the District's ability to develop DFCs, delineate management zones, assess groundwater monitoring results,

³⁹ PFI at page 8.

⁴⁰ PFI at page 5; *see also* Exhibits 5 and 6 to PFI.

⁴¹ PFI at page 9.

⁴² Middle Pecos's Response at page 16; *see also* Exhibit 26 to Middle Pecos's Response.

⁴³ Middle Pecos's Response at page 5.

⁴⁴ Middle Pecos's Response at page 20; *see also* Exhibits 36 and 40 to Middle Pecos's Response.

⁴⁵ Middle Pecos's Response at page 21.

⁴⁶ Middle Pecos's Response at page 2.

⁴⁷ *Id.* at page 17.

⁴⁸ *Id.* at pages 21-22.

⁴⁹ *Id.* at page 10.

provide quantitative support of rulemaking decisions, and assist with permitting.⁵⁰ Middle Pecos also explains that Exhibit 10 to the PFI, Middle Pecos's Model Technical Memoranda, consists of model inputs for model grid assumptions and pumping estimates, which was released for peer review.⁵¹ While Middle Pecos acknowledges that the new model was originally proposed in 2019,⁵² it also states that the TWDB has been in the process of updating its Groundwater Availability Model (GAM) since the year 2000, and TWDB does not predict the update to be finished until 2025.⁵³ That is to say, *updates* to groundwater models take years to complete, and the District is developing a *new* model.⁵⁴

C. Middle Pecos has adopted rules that adequately protect groundwater in GMAs 3 and 7

Middle Pecos states that it has extensive groundwater pumping and elevation data dating back to the 1950s.⁵⁵ The District also states that it has worked with many groundwater experts to evaluate and express opinions on that information, which the District uses to inform its decisions.⁵⁶ With this data, Middle Pecos states that its current rules are designed to allow the District to proactively address changing aquifer conditions, which in turn, protects the groundwater within GMAs 3 and 7.⁵⁷ Middle Pecos then provides examples of specific rules or rule sections which allow the District to protect groundwater. Rule 10.7 and rule section 11 have authorized the District to impose mandatory metering on permitted wells, which provides the District with unaltered pumping and water elevation information on specific wells.⁵⁸ Rule 10.4 provides the District's methodology for reducing production and historic-and-existing use permits.⁵⁹ Rule 10.5 implements the District's authority to establish management zones, which allows for different rules to apply to geographic areas where the conditions in or use of aquifers are substantially different from other geographic areas; the District has established 3 management zones.⁶⁰ Rules 11.9.1, 11.9.2, and 11.9.3 require permit applications to include technical information and hydrogeological reports when an applicant applies to produce 1,000 ac-ft per year or more or when an applicant seeks to amend an existing permit by increasing production by 250 ac-ft per year or more.⁶¹ Rule section 15 authorizes the District to enforce its rules.⁶² While the District works with

⁵⁰ *Id.*

⁵¹ *Id.* at page 10.

⁵² Middle Pecos's Response at page 10.

⁵³ *Id.* at pages 10-11.

⁵⁴ *Id.* at page 11.

⁵⁵ Middle Pecos's Response at page 18.

⁵⁶ *Id.* at page 17.

⁵⁷ *Id.* at page 21.

⁵⁸ *Id.*

⁵⁹ *Id.* at page 22.

⁶⁰ *Id.*

⁶¹ Middle Pecos's Response at page 23.

⁶² *Id.* at page 24.

non-compliant well owners to bring them into compliance, the District has also sued well owners and well drillers to enforce its rules.⁶³

VI. RESPONSES FROM OTHER GCD'S

Any GCD that is within or adjacent to GMAs 3 and 7 may file a response to the validity of the specific claims raised in the petition.⁶⁴

A. Reeves County GCD's and GMA 3's Response

Reeves County GCD is the only other GCD in GMA 3 besides Middle Pecos.⁶⁵ Since Reeves County GCD shares DFCs with Middle Pecos and conducts groundwater planning with Middle Pecos for GMA 3, Reeves County GCD supports Middle Pecos's rules, stating that the rules are strong and backed up by sound science.⁶⁶ Additionally, the response submitted by Reeves County GCD indicates that its general manager, as well as GMA 3's groundwater consultant, Dr. William Hutchison, are of the opinion that Middle Pecos's rules are designed to achieve DFCs.⁶⁷ Reeves County GCD states that Middle Pecos has invested millions of dollars over the course of years to study aquifers and strengthen regional groundwater management in GMA 3.⁶⁸ Reeves County GCD requests that TCEQ deny the Petition.⁶⁹

B. Joint Response of the GCDs in GMA 7

The GCDs within GMA 7 consist of Coke County UWCD, Crockett County GCD, Glasscock GCD, Hickory UWCD No. 1, Hill Country UWCD, Irion County Water Conservation District, Kimble County GCD, Kinney County GCD, Lipan-Kickapoo Water Conservation District, Lone Wolf GCD, Middle Pecos GCD, Menard County UWCD, Plateau Underground Water Conservation and Supply District, Real-Edwards Conservation and Reclamation District, Santa Rita UWCD, Sterling County UWCD, Sutton County UWCD, Terrell County GCD, Uvalde County UWCD, and Wes-Tex GCD (collectively, "GCDs in GMA 7").⁷⁰ The GCDs in GMA 7 state that Middle Pecos has a reputation among local and regional stakeholders for robust rules, transparent processes, and fair decision making.⁷¹ The GCDs in GMA 7 also state that Middle Pecos is a model for conservation and responsible permitting practices for other GCDs.⁷² The GCDs in GMA 7 remark that Middle Pecos's permitting framework is comprehensive and designed to achieve its Desired Future Conditions.⁷³ The GCDs in GMA 7 express concern that the Petitioner is using the process set out in TWC § 36.3011 to attack the

⁶³ *Id.*

⁶⁴ 30 TAC § 293.23(f).

⁶⁵ Reeves County GCD's Response at page 1.

⁶⁶ *Id.*

⁶⁷ Reeves County GCD's Response at page 1.

⁶⁸ *Id.*

⁶⁹ *Id.* at page 2.

⁷⁰ GCDs in GMA 7's Response at footnote 1.

⁷¹ *Id.* at page 2.

⁷² *Id.*

⁷³ GCDs in GMA 7's Response at pages 2-3.

decisions made by Middle Pecos regarding the Petitioner.⁷⁴ The GCDs in GMA 7 then request that TCEQ denies the Petition.⁷⁵

VII. RESPONSES FROM NON-GCD ENTITIES

The city of Fort Stockton, Pecos County, the Pecos County Water Control and Improvement District No. 1, West Texas Water Partnership, and Fort Stockton Holdings, L.P. & Clayton Williams Farms, Inc. all submitted timely responses to the Petition. While none of these entities are GCDs, all express support for Middle Pecos.

VIII. ED'S RECOMMENDATION

After evaluating the claims in the Petition, along with the timely responses, the ED finds that Middle Pecos has adequately demonstrated that it adopted rules, that its rules are designed to achieve the District's adopted DFCs, and that its rules are protective of groundwater in GMAs 3 and 7.

A. The ED finds that Middle Pecos has adopted rules

Petitioner stated that it had petitioned the District three times to adopt new rules, and the District denied rulemaking on all three occasions.⁷⁶ Petitioner adds that the use of special conditions on the FSH export permit indicate a lack of rules.⁷⁷ In response, Middle Pecos demonstrated that it properly denied Petitioner's rulemaking petitions in accordance with TWC § 36.1025.⁷⁸ Further, Middle Pecos demonstrated that it initially adopted both its procedural and substantive rules in 2004.⁷⁹ This reason for which an affected person may file a petition for inquiry is only whether a district fails to adopt rules.⁸⁰ Middle Pecos has demonstrated that it adopted rules in 2004.⁸¹ Nothing in TWC § 36.3011 nor 30 TAC § 293.23 indicates that "a district fails to adopt rules" is inclusive of rule petitions under TWC § 36.1025. In fact, TWC § 36.3011 (Commission Inquiry and Action Regarding District Duties) became effective in 2015 while TWC § 36.1025 (Petition to Change Rules) became effective in 2023. Thus, a petition to change rules could not have been contemplated when TWC § 36.3011 became effective. Therefore, the ED finds that Middle Pecos has adequately demonstrated that it has adopted rules.

B. The ED finds that Middle Pecos has adopted rules designed to achieve its adopted DFCs

Petitioner stated that due to special conditions on the FSH export permit, Middle Pecos will not achieve its adopted DFCs.⁸² FSH had a historic-and-existing use permit for 47,418 ac-ft per year,⁸³ which was reduced by 28,500 ac-ft per year to accommodate for

⁷⁴ *Id.* at page 4.

⁷⁵ *Id.* at page 5.

⁷⁶ PFI at page 7.

⁷⁷ *Id.* at page 3.

⁷⁸ Middle Pecos's Response at page 20; *see also* Exhibits 36 and 40 to Middle Pecos's Response.

⁷⁹ Middle Pecos's Response at page 16.

⁸⁰ TWC § 36.3011(b)(3); *see also* 30 TAC § 293.23(b)(3).

⁸¹ Exhibit 25 to Middle Pecos's Response.

⁸² PFI at page 3.

⁸³ *Id.* at page 4.

the 28,500 ac-ft per year approved in the FSH export permit.⁸⁴ Middle Pecos responds that the FSH export permit is actually limited to 28,400 ac-ft per year, and that the special conditions and the District's rules could reduce that amount to 0 ac-ft per year if necessary.⁸⁵ FSH's historic-and-existing use permit was, accordingly, limited to 19,018 ac-ft per year to accommodate the export permit.⁸⁶ Thus, FSH would not be allowed to pump more than it had under its historic-and-existing use permit. Additionally, Middle Pecos provided a report conducted by Middle Pecos and GMA 7 in response to comments from Petitioner.⁸⁷ The report compares models of FSH 47,418 ac-ft per year historical-and-existing use permit, which was used for agricultural purposes, with a combination of FSH's 28,400 ac-ft/year export permit, which was given a municipal use schedule, and FSH's 19,018 ac-ft/year historical-and-existing use permit, which was given an agricultural use schedule.⁸⁸ The report concluded that the two modeled impacts were nearly identical.⁸⁹ Additionally, the response submitted by Reeves County GCD, the other member of GMA 3, indicate that its general manager, as well as GMA 3's groundwater consultant, Dr. William Hutchison, are of the opinion that Middle Pecos's rules are designed to achieve DFCs.⁹⁰ Similarly, the GCDs in GMA 7 remark that Middle Pecos's permitting framework is comprehensive and designed to achieve its Desired Future Conditions.⁹¹ Further, Petitioner does not base its argument on Middle Pecos's existing rules, but rather on the fifteen conditions placed on the FSH export permit.⁹² Middle Pecos specifically refers its Rule 10.2 and 10.3 as evidence that it may restrict production to avoid impairment of DFCs.⁹³ Therefore, the ED finds that Middle Pecos has adequately demonstrated that its rules are designed to achieve its adopted DFCs.

C. The ED finds that Middle Pecos has adopted rules that adequately protect groundwater in GMAs 3 and 7

Petitioner states that Middle Pecos has not adopted rules that adequately protect groundwater in GMAs 3 and 7 because Middle Pecos does not know how the FSH permit will impact groundwater.⁹⁴ Petitioner further states that the District has not provided modeling and technical memoranda to support the special conditions on the FSH export permit.⁹⁵ Middle Pecos responds that the modeling and technical memoranda that Petitioner refers to are in fact not meant to support the special conditions to the FSH export permit, but are meant to improve the District's ability to make data-driven decisions.⁹⁶ Further, Middle Pecos provided a copy of modeling results, which were

⁸⁴ *Id.*

⁸⁵ Middle Pecos's Response at page 14.

⁸⁶ *Id.*

⁸⁷ *Id.* at pages 17-18.

⁸⁸ *Id.*; see also Exhibit 30 to Middle Pecos's Response.

⁸⁹ Exhibit 30 to Middle Pecos's Response at page 37.

⁹⁰ Reeves County GCD's Response at page 1.

⁹¹ GCDs in GMA 7's Response at pages 2-3.

⁹² PFI at page 5.

⁹³ Middle Pecos's Response at pages 21-22.

⁹⁴ PFI at page 3.

⁹⁵ *Id.* at page 8.

⁹⁶ Middle Pecos's Response at page 10.

provided to Petitioner through GMA 7, comparing the impact of FSH's old historical-and-existing use permit to the impact of FSH's new historical-and-existing use permit with FSH's export permit.⁹⁷ Further, Reeves County GCD states that Middle Pecos has spent millions of dollars over the course of years to study groundwater and strengthen regional groundwater management.⁹⁸ The GCDs in GMA 7 state that Middle Pecos is a groundwater management leader and serves as a model example of conservation and responsible permitting practices for other GCDs.⁹⁹ Moreover, Petitioner does not base its arguments on Middle Pecos's existing rules, but rather on a claim that Middle Pecos must provide modeling and technical memoranda to support the fifteen special conditions to the FSH export permit.¹⁰⁰ In this claim, however, Petitioner provides no authority requiring Middle Pecos to produce such evidence in support of the special conditions. Middle Pecos, on the other hand, provided a list of its rules and rule sections that are used to protect groundwater.¹⁰¹ Therefore, the ED finds that Middle Pecos has adequately demonstrated that its rules adequately protect groundwater in GMAs 3 and 7.

IX. REVIEW PANEL

Within 90 days of receiving a petition for inquiry, the Commission shall either dismiss the petition or select a review panel, which will consist of a chairperson and four other members.¹⁰² If the Commission determines to not dismiss the petition, it must issue an order appointing the members of the review panel and directing them to, not later than the 120th day after appointment, "review the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the Commission."¹⁰³

Within 45 days of receiving the report, the ED or the Commission "shall take action to implement any or all of the panel's recommendations."¹⁰⁴

The Commission, after notice and hearing in accordance with Chapter 2001, Government Code, shall take action the Commission considers appropriate, including:

- (1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions;
- (2) dissolving the board in accordance with Sections 36.305 and 36.307 and calling an election for the purpose of electing a new board;
- (3) requesting the attorney general to bring suit for the appointment of a receiver to collect the assets and carry on the business of the GCD; or

⁹⁷ Exhibit 30 to Middle Pecos's Response.

⁹⁸ Reeves County GCD's Response at page 1.

⁹⁹ GCDs in GMA 7's Response at page 2.

¹⁰⁰ PFI at page 8.

¹⁰¹ Middle Pecos's Response at pages 21–24.

¹⁰² TWC § 36.3011(c); *see also* 30 TAC § 293.23(g).

¹⁰³ TWC § 36.3011(e).

¹⁰⁴ TWC § 36.3011(h); 30 TAC § 293.23(i).

- (4) dissolving the district in accordance with TWC §§ 36.303(a), 36.304, 36.305, and 36.308.¹⁰⁵

A. Review Panel Member Solicitation

Although the Executive Director is recommending that the Petition for Review be denied, consistent with prior practice on Petitions for Inquiry the Executive Director solicited nominations for review panel members in the event the Commission decided to appoint a review panel. From March 24, 2025, to April 1, 2025, the ED solicited nominations for volunteers to serve on a five-member review panel to consider the Petitioner's Petition for Inquiry. One nomination was received. Due to the limited response to the first request, the ED issued a second solicitation for volunteers from April 4, 2025, through April 9, 2025. Two nominations were received from the second solicitation. The completed nomination forms are attached as Attachment A.

The TWC requires the commission to appoint a director or general manager of a district located outside the management area that is the subject of the petition; and may not appoint more than two members of the review panel from any one district.¹⁰⁶ All nominees willing to serve on the review panel are from GMAs other than GMAs 3 or 7 or GCDs adjacent to GMAs 3 or 7; and none of the nominees are from the same district.

B. Suggested Review Panel Members

If the Commission decides to appoint a review panel in response to this Petition, the ED recommends the following three nominees for consideration by the Commission in order of tenured experience with respect to groundwater district service:

1. Tim Andruss, General Manager, Victoria County GCD; GMA 15.
2. Lynn Smith, P.G., General Manager, Rolling Plains GCD; GMA 6.
3. Laura Martin, General Manager, Gonzales County UWCD; GMA 13.

The disinterested staff nonvoting recording secretary available and willing to serve is Peggy Hunka, P.G. of the Water Availability Division.

The recommended review panel members have indicated to the ED that they do not own land or have any other holdings or interests within or adjacent to GMAs 3 or 7, and they are willing to travel and serve at their own expense.

C. Insufficient Review Panel

Should the Commission decide to appoint a review panel, it will consist of only three members and not the required five members. The ED recognizes that a review panel of fewer than five voting members is not consistent with TWC § 36.3011(c); however, the ED believes she has exhausted the available options to obtain members willing to serve on a review panel.

X. RECOMMENDATION

The ED has thoroughly reviewed both the Petition for Inquiry as well as Middle Pecos's response and the responses from the City of Fort Stockton, Pecos County, Pecos County

¹⁰⁵ 30 TAC § 293.22(e)(1-4).

¹⁰⁶ TWC § 36.3011(d).

Water Control and Improvement District No. 1, Fort Stockton Holdings, L.P. & Clayton Williams Farms, Inc., West Texas Water Partnership, Reeves County GCD and GMA 3, and the GCDs in GMA 7. The ED finds that Middle Pecos has demonstrated that it adopted rules, that its rules are designed to achieve the District's adopted DFCs, and that its rules are protective of groundwater in GMAs 3 and 7. The ED recommends the Petition be denied.

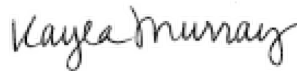
Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Kelly Keel,
Executive Director

Philip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division

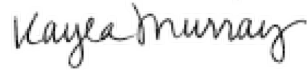
By: 

Kayla Murray
Staff Attorney
Environmental Law Division
State Bar No. 24049282
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-4761
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 22, 2025, the Executive Director's Response To Petition For Inquiry & Middle Pecos Groundwater Conservation District's Response was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was served to all parties listed in the attached Service List via electronic transmission.

A handwritten signature in black ink that reads "Kayla Murray". The signature is written in a cursive, flowing style.

Kayla Murray, Staff Attorney
Environmental Law Division
State Bar No. 24137368

Mailing List
Middle Pecos Groundwater Conservation District
TCEQ Docket No. 2025-0373-MIS

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**Groundwater Conservation Districts within
Groundwater Management Area 7:**

Ty Edwards
Middle Pecos Groundwater
Conservation District
P.O. Box 1644
Fort Stockton, Texas 79735
mpgcd@mpgcd.org

Janae Wells
Coke County Underground
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P.O. Box 1214
Brady, Texas 76825
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Paul Tybor
Paul Babb
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Conservation District
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Fredericksburg, Texas 78624
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pbabb@hcuwcd.org

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icwcd@verizon.net

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kimblecountygcd@gmail.com

Genell Hobbs
Kinney County Groundwater
Conservation District
P.O. Box 369
Brackettville, Texas 78832
kinneyh2o@att.net

Leon Braden
Lipan-Kickapoo Water
Conservation District
8934 Loop 570
Wall, Texas 76957
lkwcd@frontier.com

Sue Young
Lone Wolf Groundwater
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139 W 2nd St.
Colorado City, Texas 79512
sueyoung@lwgcd.org

Meredith Allen
Menard County Underground Water District
P.O. Box 1215
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manager@menardcountyuwd.org

Jon Cartwright
Plateau Underground Water
Conservation and Supply District
P.O. Box 324
203 SW Main St.
Eldorado, Texas 76936
jonc@plateauuwcsd.com

Joel Pigg
Real-Edwards Conservation and
Reclamation District
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manager@reocrd.org

Jonna "JJ" Weatherby
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Conservation District
P.O. Box 849
Big Lake Texas 76932
srwcdist@verizon.net

Diana Thomas
Sterling County Underground Water
Conservation District
P.O. Box 873
Sterling City, Texas 76951
scuwcd@verizon.net

Meridith Allen
Sutton County Underground Water
Conservation District
301 S. Crockett Ave.
Sonora, Texas 76950
manager@suttoncountyuwcd.org

Debbie Deaton
Damon Harrison
Terrell County Groundwater
Conservation District
P.O. Box 927
Sanderson, Texas 79848
debbiedeaton@hotmail.com
damonwcs@gmail.com

Vic Hilderbrans
Uvalde County Underground Water
Conservation District
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Dale Adams
Wes-Tex Groundwater
Conservation District
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Sweetwater, Texas 79556
dale.adams@co.nolan.tx.us

Roland Ruiz
Edwards Aquifer Authority
900 E. Quincy
San Antonio, Texas 78215
r Ruiz@edwardsaquifer.org

**Groundwater Conservation Districts within
Groundwater Management Area 3:**

Greg Perrin
Reeves County Groundwater
Conservation District
119 South Cedar St.
Pecos, Texas 79772
info@reevescountygcd.org

**Groundwater Conservation Districts
adjacent to Groundwater Management Area
7:**

Dicky Wallace, President
Kathy Nelson
Garza County Underground Water
Conservation District
Garza County Courthouse, 2nd Floor
300 West Main
Post, Texas 79356
kathy.nelson@co.garza.tx.us

Angela Lance
Permian Basin Underground Water
Conservation District
P.O. Box 1314
Stanton, Texas 79782
permianbasin@pbuwcd.com

Robbyn Hill
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Conservation District
P.O. Box 465
Alpine, Texas 79831
bcbgwcd@gmail.com

Haley Davis
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P.O. Box 1295
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Janet Adams
Jeff Davis County Underground Water
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P.O. Box 1203
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janet@fdwsc.com

Belynda Rains
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Mitchell Sodek
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Saratoga Underground Water
Conservation District
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Lampasas, Texas 76550
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David Mauk
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Groundwater District
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dmauk@bcragd.org

Micah Voulgaris
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Gene Williams
Headwaters Groundwater Conservation District
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Conservation District
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gmmcgcd@att.net

**Groundwater Conservation Districts
Adjacent to Groundwater Management
Area 3:**

Janet Adams
Jeff Davis County Underground Water
Conservation District
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**Additional Entity Submitters from Previous
Petition:**

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Pecos County WCID No.1
Pcwcid1@gmail.com

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County of Pecos
judge@co.pecos.tx.us

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Meridith Allen
opmanager@suttoncountyuwcd.org

Adam Friedman
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Bradford Eckhart
Kayla Murray
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Kyle Lucas
TCEQ Alternative Dispute Resolution MC 222
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512/239-0687 FAX 512-239-4015
Kyle.lucas@tceq.texas.gov

Attachment A



Review Panel Nomination Form for Groundwater Conservation District Directors or Managers

Nominee Information	Person Nominating Information
<i>Name:</i> Tim Andruss <i>Title:</i> General Manager	<i>Name:</i> Mark Meek <i>Title:</i> President
<i>Address/City/State:</i> P.O. Box 69, Victoria, Texas 77902	<i>Address/City/State:</i> P.O. Box 69, Victoria, Texas 77902
<i>Nominee's Groundwater Management Area:</i> GMA 15	<i>Affiliation:</i> Victoria County GCD
<i>Nominee's Groundwater Conservation District:</i> Victoria County GCD	<i>Phone:</i> 3617828488 <i>Fax:</i>
<i>Tenure with District:</i> 17 years	<i>Email:</i>
<i>Phone:</i> 361-579-6863 <i>Fax:</i>	
<i>Email:</i> tim.andruss@vcgcd.org	

Questions about Nominee	Yes	No	Comments
Is nominee willing to serve on a review panel in accordance with Texas Water Code, §36.3011 and Title 30, Texas Administrative Code, §293.23?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is nominee willing to serve as chairman of a review panel?	<input type="checkbox"/>	<input type="checkbox"/>	
Is nominee willing to travel and serve at own expense?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Does nominee own land or have any other holdings or interests in Groundwater Management Areas 3 and 7 ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or <u>interests</u> adjacent to Groundwater Management Areas 3 and 7 ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or interests in the Middle Pecos Groundwater Conservation District ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Please make a brief statement of the nominee's background and qualifications to serve on a review panel: The nominee has served as the General Manager of the Victoria County GCD, Texana GCD, Refugio GCD, and Calhoun County GCD for many years. The nominee has participated in the permitting processes for the GCDs including historic use protect permitting cases, non-historic use production permitting cases, and casing involving waivers and special permitting conditions. The +			

Send Nomination Forms To:
<div style="display: flex; justify-content: space-between;"> <div> Peggy Hunka, P.G., MC-147 Texas Commission on Environmental Quality PO Box 13087 Austin TX 78711-3087 Cell: 512-468-7282 Tel: 512-239-2789 </div> <div style="text-align: center;">- or -</div> <div> peggy.hunka@tceq.texas.gov (put "Nominations" in the subject line) </div> </div>



Review Panel Nomination Form for Groundwater Conservation District Directors or Managers

Nominee Information	Person Nominating Information
Name: Laura Martin Title: General Manager	Name: self Title:
Address/City/State: PO Box 1919	Address/City/State:
Nominee's Groundwater Management Area: GMA13	Affiliation:
Nominee's Groundwater Conservation District: Gonzales County UWCD	Phone: Fax:
Tenure with District: 10 years	Email:
Phone: 830-672-1047 Fax: 830-672-1387	
Email: generalmanager@gcuwcd.org	

Questions about Nominee	Yes	No	Comments
Is nominee willing to serve on a review panel in accordance with Texas Water Code, §36.3011 and Title 30, Texas Administrative Code, §293.23?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is nominee willing to serve as chairman of a review panel?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is nominee willing to travel and serve at own expense?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Does nominee own land or have any other holdings or interests in <u>Groundwater Management Areas 3 and 7</u> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or interests adjacent to <u>Groundwater Management Areas 3 and 7</u> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or interests in the <u>Middle Pecos Groundwater Conservation District</u> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Please make a brief statement of the nominee's background and qualifications to serve on a review panel: Employee of GCWUCD for 10 years, 3 years as general manager, graduate of the Texas Water Foundation-Texas Water Leaders Program. Completed the process of a contested case hearing through the State Office of Administrative Hearings.			

Send Nomination Forms To:		
Peggy Hunka, P.G., MC-147 Texas Commission on Environmental Quality PO Box 13087 Austin TX 78711-3087 Cell: 512-468-7282 Tel: 512-239-2789	- or -	peggy.hunka@tceq.texas.gov (put "Nominations" in the subject line)



Review Panel Nomination Form for Groundwater Conservation District Directors or Managers

Nominee Information		Person Nominating Information	
<i>Name:</i> Lynn Smith, PG General Manager	<i>Title:</i> Lynn Smith, PG General Manager	<i>Name:</i> Lynn Smith, PG General Manager	<i>Title:</i> Lynn Smith, PG General Manager
<i>Address/City/State:</i> 614 N Plants, Seymour, TX 76380		<i>Address/City/State:</i> 614 N Plants, Seymour, TX 76380	
<i>Nominee's Groundwater Management Area:</i> GMA 6		<i>Affiliation:</i> Self	
<i>Nominee's Groundwater Conservation District:</i> Rolling Plains GCD		<i>Phone:</i> 9402734230	
		<i>Fax:</i> 9402734230	
<i>Tenure with District:</i> 2 years with RPGCD, 8 years with MGCD		<i>Email:</i> lynn@rollingplainsgcd.gov	
<i>Phone:</i> 940-273-4230		<i>Fax:</i> 940-273-4230	
<i>Email:</i> lynn@rollingplainsgcd.gov			

Questions about Nominee	Yes	No	Comments
Is nominee willing to serve on a review panel in accordance with Texas Water Code, §36.3011 and Title 30, Texas Administrative Code, §293.23?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	I previously served on the Starr Review Panel.
Is nominee willing to serve as chairman of a review panel?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is nominee willing to travel and serve at own expense?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Does nominee own land or have any other holdings or interests <u>in</u> Groundwater Management Area 3 and 7 ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or interests <u>adjacent</u> to Groundwater Management Area 3 and 7 ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does nominee own land or have any other holdings or interests in the Middle Pecos Groundwater Conservation District ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Please make a brief statement of the nominee's background and qualifications to serve on a review panel: I have 10 years experience as a General Manager in Texas, 2 years with Rolling Plains GCD and 8 years with Mesquite GCD. Prior to the role at MGCD, I worked for a geoscience/engineering firm in Texas for 18 years as a Project Manager. There, I performed work in most of the southern and southwestern US, primarily focusing on hydrogeology and geophysics projects. I am a licensed professional geoscientist in Texas.			

Send Nomination Forms To:	
Peggy Hunka, P.G., MC-147 Texas Commission on Environmental Quality PO Box 13087 Austin TX 78711-3087 Cell: 512-468-7282 Tel: 512-239-2789	<div style="text-align: center;">- or -</div> peggy.hunka@tceq.texas.gov (put "Nominations" in the subject line)