

## Plum Creek Conservation District Mitigation Plan Rules

### Purpose:

The purpose of this mitigation plan is to provide for a means to allow a water well owner or water well user who has been granted legal authority to use the well, and who alleges that his/her , water well has been negatively impacted by the pumping of a neighboring water well, the opportunity to apply for and seek mitigation.

### Definitions:

**Area of Inquiry:** means the circumference or arc of property from the “Well Under Consideration” where calculations made by the District using standard methods show that continuous production at maximum production rates for a seven day period from a Tier II permitted well, or Tier I permitted well subject to mitigation that is located anywhere along the circumference’s boundary could result in a 5 foot draw down at the “Well under Consideration”. The “Area of Inquiry” determination is to be used for notice purposes and to delineate the tracts of land to be included in the mitigation assessment report. It is not a determination of actual impacts of production from the well.

**Board:** means the governing body of the District as prescribed by the District’s enabling legislation.

**Mitigation Assessment Report:** An assessment performed by the District that includes a description of the allegations, a map showing registered and permitted well locations, a listing of landowners within the “Area of Inquiry”, water use and production rate records for registered and permitted wells located in the “Area of Inquiry”, , a description of the hydrogeology, a listing of records and evidence, an analysis of the relationship between the “Well Under Consideration”, the “Well Under Investigation” and any other registered or permitted well in the “Area of Inquiry”, and recommended options for mitigation, if any, dependent upon available data.

**Registered Well:** means an exempt well that has been registered with the District.

**Permitted Well:** means a non-exempt well that has been issued a permit or other authorization by the District.

**Well under Consideration:** means the registered or permitted well that is being assessed for mitigation consideration.

**Well under Investigation:** means a well being assessed for adversely impacting a registered or permitted well.

The Plum Creek Conservation District mitigation plan involves a process of eight(8) phases which are (1) Well Examination, (2), Pre-Qualification (3) Data Compilation, (4)Mitigation Meeting, (5) Board Report, (6)Rehearing Request, (7)Final Board Ruling, and (8)Compliance.

**Well Examination:**

1. The “*Well Under Consideration*” will be inspected for performance and structural integrity by a licensed well driller and/or pump installer using a standard checklist form developed by PCCD. The cost of the inspection will be paid by the District only if the well has been determined to be structurally sound; however, if the well has structural issues, then the well owner will be responsible for the costs.
2. If the well has not been drilled, equipped, and/or completed according to PCCD rules and *Texas Administrative Code 16, Chapter 76*, mitigation may be discontinued.
3. A water level reading will be taken and recorded.
4. Total dissolved solids (TDS) and/or other water quality contaminants will be tested for and recorded.
5. The Mitigation process will proceed to the next phase, Pre-Qualification, if the well has been determined to be structurally sound; otherwise, mitigation is discontinued.

**Pre-Qualification:**

1. A well that is being considered for mitigation must be registered or permitted, and located in an “*Area of Inquiry*” and within the boundaries of PCCD. If the well meets these qualifications, then the mitigation process will proceed to the next phase, Data Compilation; otherwise, mitigation is discontinued.

**Data Compilation:**

1. The District will gather information from its records that are pertinent for mitigation purposes.
2. Additional information will also be acquired from other sources if available.
3. The landowner of the “*Well Under Investigation*” will be required to submit information about their well on a form supplied by the District.
4. The landowners in the “*Area of Inquiry*” will be requested to submit information about their well on a form supplied by the District.
5. All of the information gathered will be documented in a mitigation assessment report and sent to the owner of the “*Well under Consideration*”, the “*Well Under Investigation*”, and registered and permitted wells within the “*Area of Inquiry*”.

**Mitigation Meeting:**

1. Following a 90 day period, a meeting will be scheduled between the “*Well Under Investigation*” landowner, the “*Well Under Consideration*” landowner and PCCD staff.
2. A summary of the mitigation assessment report will be given by the District.
3. The District will moderate among the parties in order to facilitate a possible mitigation solution.
4. Minutes of the meeting will be taken and distributed to all parties.
5. Additional meetings will be scheduled and held if necessary.
6. Following the mitigation meeting/s, a meeting will be scheduled at a PCCD Board of Directors’ meeting.

**Board Report:**

1. A summary of the mitigation assessment report will be given by the District.
  2. Minutes of the meeting will be distributed to Board members and a report will be given to PCCD Board of Directors as to the outcome of the mitigation meeting.
- 
1. If the parties have not come to an agreement, the Board may elect to either 1) direct the parties to continue trying to resolve any remaining issues and reconvene at a future Board meeting 2) revise the permit or impose pumping

restrictions on any well permitted by the District that is found to be contributing to conditions requiring mitigation 3) impose civil penalties if there have been rule infractions or violations of State law 4) declare that mitigation is not necessary at this time, 5) require additional testing be done, and reconvene at a future Board meeting or 4) consider other remedies for mitigation including some combination of other remedies listed. If there is mediation under the auspices of the District, costs of such mediation shall be apportioned at the meditation, with no costs attributed to the District.

3. If the parties have reached a verbal agreement, then the Board may choose to 1) approve the terms in which the parties have agreed upon and draft a legal agreement to be signed 2) include additional terms or 3) direct the parties to reconsider the agreement.
4. If the Board has made a ruling or an agreement has been approved by the Board then mitigation moves to the Compliance phase.

#### **Rehearing:**

1. Should one or more of the parties disagree with the decision of the Board, they may request a re-hearing by submitting a written request within twenty (20) days following the date of the Board's decision only if there is new valid information that was not included in the assessment report, mitigation meeting minutes or brought forth in the Board meeting.

#### **Final Ruling:**

2. Following no more than a 60 day period from the mitigation re- hearing, the Board will make A determination that may 1) direct the parties to continue trying to resolve any remaining issues and reconvene at a future Board meeting 2) revise the permit or impose pumping restrictions on any well permitted by the District that is found to be contributing to conditions requiring mitigation 3)

impose civil penalties if there have been rule infractions or violations of State law 4) declare that mitigation is not necessary at this time, 5) require additional testing be done, and reconvene at a future Board meeting or 4) consider other remedies for mitigation including some combination of other remedies listed. If there is mediation under the auspices of the District, costs of such mediation shall be apportioned at the meditation, with no costs attributed to the District.

**Compliance:**

The District will ensure that all parties are in compliance with the terms, conditions, and requirements of a mitigation agreement or Board ruling.

- 1) The District will submit a report documenting the completion or progress of the mitigation agreement or Board ruling.