

In the Matter of the Rules and Regulations governing)
the use, control, conservation, preservation, pro-)
tection and recharge of ground water located in the)
aquifers within the Plains Ground Water Management)
District, Kit Carson County, Colorado.)

ORDER OF
DISTRICT BOARD.

STATEMENT.

- BY: (a) Board of Directors, Plains Ground Water
Management District; with the approval of
(b) Colorado Ground Water Commission.

Pursuant to the 1963 Colorado Revised Statutes, Annotated, Chapter 148, Article 18, Sections 29 and 30, and Amendments thereto, the Plains Ground Water Management District, Kit Carson County, Colorado, has the authority to regulate the use, control and conservation of ground water of the District and has the duty and responsibility to consult with the Colorado Ground Water Commission in determining whether proposed restrictions, rules, regulations or guidelines are suitable for the area contained within the District. The District has the authority to regulate the ground water of the District by the following methods:

(a) To provide for the spacing of wells producing from the ground water aquifer or subdivision thereof, and to regulate the production therefrom so as to minimize as far as practical the lowering of the water table or the reduction of the artesian pressure.

(b) To acquire lands for the erection of dams and for the purpose of draining lakes, draws and depressions and to construct dams, drain lakes, depressions, draws and creeks and to install pumps and other equipment necessary to recharge the ground water reservoir and subdivision thereof.

(c) To develop comprehensive plans for the most efficient use of the water of the ground water aquifer or subdivision thereof and for the control and prevention of waste of such water, which plans shall specify in such detail as may be practical, the acts, procedures, performance and avoidance which are or may be necessary to effect such plans, including specifications therefor; to carry out research projects, develop information and determine limitations, if any, which should be made on the withdrawal of water from the ground water aquifers or subdivisions thereof; to collect and preserve information regarding the use of such water and the practicability of recharge of the ground water aquifer; to publish such plans and information bringing them to the notice and attention of the users of such ground water within the District and to encourage their adoption and execution.

(d) To require the owner or operator of any land in the District upon which is located any open or uncovered well to close or cap the same permanently with a covering capable of sustaining weight of not less than four hundred pounds, except when said well is in actual use by the owner or operator thereof.

(e) To promulgate reasonable rules and regulations for the purpose of conserving, preserving and protecting and recharging the ground water of the ground water aquifer or subdivision thereof, in conformity with the provisions of the laws of the State of Colorado.

(f) To prohibit, after affording an opportunity for a hearing before the Board of the local District and presentation of evidence, the use of ground water outside the boundaries of the District where such use materially affects the rights acquired by permit by any owner or operator of land within the District.

(g) In the control and administration of the quantity of the ground water extracted from the aquifer, a management district may adopt such devices, procedures, measures or methods as it deems appropriate to effectuate this purpose.

The Colorado Ground Water Commission does recognize that the interests of the ground water users in the Plains Ground Water Management District will best be served by the Rules and Regulations promulgated by the Board of Directors of the District and adopted in accordance with the Statutes of the State of Colorado as made and provided. The Colorado Ground Water Commission does acknowledge that the District has consulted with the Commission and that after reviewing the proposed Rules and Regulations which are attached hereto, does find and determine that they are suitable for the area and does approve and accept the same as presented, all objections thereto notwithstanding.

The Board of Directors of the Plains Ground Water Management District after duly considering all of the evidence and testimony in support of and in opposition to the proposed rules and regulations presented at the hearing duly held pursuant to notice in the District Courtroom, of the Kit Carson County, Colorado Courthouse in Burlington, Colorado, on April 25th, 1972, does find and determine that the best interests of the ground water users in the District will be served by the promulgation and adoption of rules and regulations. The Board of Directors of the District does further find that the following rules and regulations are hereby promulgated, adopted and approved as the rules and regulations and/or restrictions of the Plains Ground Water Management District subject to objection by any affected party and review by the Colorado Ground Water Commission as provided by Statute of the State of Colorado.

The Secretary of the Board of Directors of the District is hereby ordered to cause this order and the following rules and regulations to be published in the Stratton Press and the Burlington Record as required by law and to send a copy of this order and the Rules and Regulations to all known ground water users throughout the District by certified mail, return receipt requested. The Secretary is further ordered to send a copy of the transcript of the hearing, together with all written statements filed and accepted at the hearing and a copy of this order and the Rules and Regulations to the Colorado Ground Water Commission pursuant to the Statutes of the State of Colorado as made and provided.

It is the further order of the Board of Directors that the following Rules and Regulations shall become effective on the thirtieth day after the same are approved by the Colorado Ground Water Commission.

Dated this 2nd day of May, A. D. 1972.

PLAINS GROUND WATER MANAGEMENT
DISTRICT
Kit Carson County, Colorado

by Donald V. Bishop
President

ATTEST:

Gary Adolf

Secretary

(Seal)

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RULES AND REGULATIONS
governing
THE PLAINS GROUND WATER MANAGEMENT DISTRICT
Kit Carson County, Colorado.

Rule 1 - Ground Water Users Shall Read and Comply with Rules and Regulations

Every ground water user within the District shall read these Rules and Regulations as set forth herein and shall become familiar with the same, together with all of the sections of the Statutes of the State of Colorado referred to herein. These Rules and Regulations shall apply to all ground water users within the Plains Ground Water Management District, Kit Carson County, Colorado, and all ground water users shall at all times comply with these Rules and Regulations and all applicable Statutes and laws of the State of Colorado regarding the use and appropriation of ground water from aquifers located within the District.

Rule 2 - Definitions

(1) The term "District" refers to the Plains Ground Water Management District, Kit Carson County, Colorado, and the term "directors" shall refer to directors of the District.

(2) The term "ground water user" as used in these Rules and Regulations shall mean any individual, partnership, association, corporation, agency of the State of Colorado, or any political subdivision or public agency thereof, and any agency of the United States of America making a beneficial use, or taking steps or doing work preliminary to making a beneficial use of ground water from an aquifer located within the boundaries or extensions thereof of the District.

(3) The terms "underground water" and "ground water" are used interchangeably in this article and refer to any water under the surface of the ground and located within the District.

(4) The term "aquifer" refers to geologic formation, group of geologic formations or part of a geologic formation containing sufficient saturated permeable material that could yield a sufficient quantity of water that may be extracted and applied to a beneficial use.

(5) The term "subdivision" as used herein is an area within the District.

(6) The term "well" as used in these Rules shall refer to any structure or devise used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer.

(7) The term "water" shall refer to water within the District which is run-off water caused by induced weather action, natural storms and/or usable water from wells which in the natural course of events cannot be deemed tributary to a natural stream or river flowing through the State of Colorado.

(8) The term "usable water" shall refer to any ground water which has been brought to the surface of the ground by wells from aquifers located within the District.

(9) The term "waste" shall refer to any act or omission causing, suffering or permitting any well to discharge water unnecessarily and without beneficial use above or below the surface of the ground or failing to apply or reapply usable water to beneficial use or causing the pollution of water in any aquifer thereby rendering the same unfit for domestic or agricultural use.

(10) The term "historical water level" shall refer to the average elevation of the ground water level in the District before being lowered by the activities of man, as nearly as can be determined by scientific investigation and available facts.

(11) The term "well driller" shall refer to any individual, corporation, partnership, association, political subdivision, or public agency which shall operate a well drilling rig and equipment and which shall dig, drill, redrill, case, recase, deepen or excavate a well or wells for hire or for its own use, or for other consideration.

(12) The terms "replacement or substitute well" shall refer to a new well replacing and existing well.

(13) The term "supplemental well" shall refer to any wells drilled and used in addition to an original well or other diversions for the purpose of obtaining the quantity of the original appropriation of the original well, which quantity can no longer be obtained from the original well.

(14) The term "alternate point of diversion well" shall refer to any well drilled and used in addition to an original well or other diversions, for the purpose of obtaining the present appropriation of that original well from more than one point of diversion.

(15) The term "domestic well or small capacity well" is a term which is interchangeable and shall refer to any well which is drilled and operated under a permit wherein the authorized appropriation of ground water shall not exceed fifty gallons per minute.

(16) The term "high capacity well" shall refer to any well which is drilled and operated under a permit wherein the authorized appropriation of ground water shall exceed fifty gallons per minute.

(17) The term "municipal well" shall refer to any well which is drilled within the boundaries of a municipal corporation and owned and operated solely by the municipality.

Rule 3 - Removal of Ground Water from the District

No ground water shall be removed from aquifers within the boundaries of the District and put to a beneficial use outside of the boundaries of the District, unless authority is first obtained from the Board of Directors of the Plains Ground Water Management District, after a hearing upon the application for any such use in accordance with the Statutes of the State of Colorado as made and provided under Chapter 148, Article 18, Section 29, 2 g as amended, as contained in the 1963 Colorado Revised Statutes, Annotated. To so remove or attempt to remove and use ground water without direct authorization and approval of the Board of Directors of the District shall be unlawful.

Rule 4 - Well Spacing

No well other than a replacement well, small capacity well or municipal well shall be drilled within a one-half mile radius of an existing high capacity well, unless upon hearing before the Directors, the applicant for such well can prove that the drilling of any such well will not cause unreasonable injury to prior appropriators and that such well will not cause the depletion of the aquifer from which water is to be pumped in excess of the prescribed rate of aquifer depletion.

Rule 5 - Water Measuring Devices

The Board of Directors of the District shall have the right to require all high capacity wells and/or small capacity wells located within the District to be measured, but only after securing the approval of the Ground Water Users in the District. The question of "measuring water" shall be submitted to a vote of the Ground Water Users holding a permit or permits to use ground water from aquifers within the District and if more votes are cast for the measurement of water that against, such votes shall be deemed "approval of ground water users in the District." If more votes are cast against the measurement of water that for, such vote shall be deemed a denial of approval of ground water users in the District. In the event that the Board of Directors shall receive approval for the measurement of the water from the ground water users in the District, the Board of Directors by resolution shall have the right to institute control measures to prescribe satisfactory and economical methods for the measurement and reporting of water levels in and the amount of water withdrawn from high capacity and/or small wells.

Rule 6 - Replacement or Substitute Wells

No replacement or substitute wells shall be drilled within the District unless the replacement or substitute well shall be drilled within three hundred feet (300') of the original well. All replacement wells shall be equipped with flow meters or other measuring devices according to specifications as may from time to time be determined by the Board of Directors of the District by resolution and no replacement well shall be allowed to yield more than the historical beneficial use of the original well. The original well shall be abandoned and capped according to specifications as may from time to time by resolution be determined by the Board of Directors of the District.

Rule 7 - Supplemental Well

No supplemental well shall be drilled within the District.

Rule 8 - Alternate Point of Diversion Well

No alternate point of diversion well shall be drilled within the District.

Rule 9 - Annual Appropriation

The annual appropriation of water from all wells, other than municipal wells and small capacity wells, may be set by resolution of the Board of Directors of the District, but at no time shall the annual appropriation of water exceed two and one-half (2 1/2) acre feet per acre irrigated unless the ground water user has been given this right and authority by the State Engineer of the State of Colorado or the Ground Water Commission of the State of Colorado, or both under the provisions of the 1963 Colorado Revised Statutes, Annotated, Chapter 148, Article 18, Sections 7 and 8, as amended.

Rule 10 - Land to be Irrigated

The ground water user may use his annual appropriation of water on any land that he may choose, so long as the use of the water is not outside of the boundaries of the District, except as provided in Rule 3 hereof, and that such use does not exceed his annual appropriation.

Rule 11 - Rate of Aquifer Depletion

The rate of aquifer depletion within the District shall be that established from time to time by the Colorado Ground Water Commission unless the Board of Directors shall find that such rate is excessive and therefore, detrimental to the existing supply of water located within the aquifer of the District.

Rule 12 - Aquifer Withdrawal Information

The Board of Directors of the District shall have the right by resolution to require all ground water users to submit reports on forms furnished by the ground water district regarding the use of the ground water by ground water users and any and all information pertinent to the amount of ground water withdrawn from any aquifer within a given period. The purpose of such information is to provide adequate information and data for the proper management and conservation of the ground water resources located within the District.

Rule 13 - Waste of Water - Conservation

No ground water user shall waste water which is pumped from aquifers located within the District.

All ground water users shall construct their wells, recovery pits, reservoirs, or water producing devices and use the same in such manner as to prevent waste and shall do everything necessary and proper to preserve the quality and quantity of the ground water resources within the District.

Rule 14 - Permit - Well Driller

No well shall be drilled within the District unless drilled under a permit issued by the State Engineer of the State of Colorado under application approved by the Colorado Ground Water Commission and unless such well is drilled by a well driller, recognized, licensed and bonded under the Statutes of the State of Colorado.

A copy of the "Statement of Beneficial Use of Ground Water" and "Well Completion and Pump's Installation Report" shall be filed with the District within ten days after the completion of any high capacity well and no continued beneficial use of water from a high capacity well shall be allowed until and unless the said statement and report have been filed with the District.

Rule 15 - Open Wells to be Capped

Any owner or operator of any land within the District upon which is located any open or uncovered well or abandoned well is and shall be required to close or cap the same in such a manner as may be prescribed by resolution of the Board of Directors of the District, except when such well is in actual use by the owner or operator thereof; no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement. Officers, agents and employees of the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule which comes to their attention, thereby requesting such owner and/or operator to close or cap such wells permanently with a covering in compliance herewith. In the event that any owner or operator fails to comply with such request within ten (10) days after such written notice, any officer, agent or employee of the District may go upon the said land and close or cap said well in the manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the sum of Three Hundred Dollars (\$300.00) for any single closing. Any officer, agent or employee of the District is authorized to perfect said lien by filing a materialmen's or mechanic's lien under the Statutes of the State of Colorado as made and provided.

Rule 16 - Compliance

The Board of Directors of the District shall have the authority to compel compliance with these Rules and Regulations by an action brought in the District Court of Kit Carson County, Colorado, after a hearing on such violation has been held by the District. The District shall hold a hearing upon the violation and shall give the Respondent violator twenty (20) days notice of said hearing. Such hearings shall be conducted within the principal office of the District and shall be conducted in such a manner as to afford the violator an opportunity to be heard. Thereafter and within thirty (30) days after the hearing, the Board shall render its final determination and serve a copy of the determination and order of the Board upon the violator. In the event that the violator shall fail, refuse, or neglect to comply with the order of the said Board, as contained therein, then and in that event, the Board shall have the right and option of compelling compliance of such order by an action brought in the District Court of the County of Kit Carson and State of Colorado.

Further, in the event that the Respondent violator is dissatisfied with the decision or order of the said Board of Directors of the District, he may appeal the same in the District Court of Kit Carson County, Colorado, within ten (10) days from the receipt of the order of the said Board.

After making a request of the ground water user and within a reasonable time thereafter, any member of the Board of Directors, Manager of the District or authorized representative of the Board of Directors shall have the right to enter upon the land upon which any well or wells may be located for the purpose of inspecting any such wells and water works used in connection therewith.

Rule 17 - General Rules of Procedure for Hearing Before the Board of Directors of the District

Hearings may be conducted in such manner as the Board deems most suitable to the particular case at the principal office of the Board of the District and the technical rules of Court and civil procedure need not apply. It is the purpose of the Board to obtain all relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either party.

Any party at interest in a proceeding may appear either in person or by an attorney or both in such proceeding. A party at interest is any person within the boundaries of the District who is or may be affected by such proceeding. At the discretion of the Board, any one not a party at interest in a proceeding may appear.

Evidence and testimony will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties of the proceeding.

The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a

witness that is clearly irrelevant, incompetent or immaterial, the hearing officer conducting the hearing may forthwith terminate such line of interrogation.

A hearing officer can be designated by the Board of Directors of the District to conduct the hearing.

Evidence may be stipulated by agreement of all parties in interest.

Rule 18 - Severability

If any section, sentence, paragraph, clause, or part of these Rules and Regulations should be held or declared invalid or unconstitutional for any reason by a final judgment of the Courts of this State or of the United States, such decision or holding shall not affect the validity of the remaining portions of these Rules and Regulations and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause or part thereof may be declared invalid or unconstitutional.

PLAINS GROUND WATER MANAGEMENT

DISTRICT

Kit Carson County, Colorado

Donald V. Bishop

by _____
President

ATTEST:

Gary Adolf

Secretary

(Seal)