Pineywoods Groundwater Conservation District

All legal documents affecting the legal authority to produce groundwater on real property in Angelina and Nacogdoches counties will be required to be filed in the county deed records.

PROPOSED DISTRICT RULE 5.4(m): the applicant must provide evidence that they have the legal authority to produce the groundwater associated with the land surface and the permit application. The applicant must also provide any documents that transfers that right to own, control, or produce the groundwater rights to another person/entity that are associated with the land surface and the permit application. A permit may be amended or revoked if the groundwater rights or right to produce are legally transferred to another person/entity. The applicant shall attest to the information required in this rule by a District-provided affidavit form and submit the affidavit with the permit application. All legal documents affecting the legal authority to produce groundwater on real property in Angelina and Nacogdoches counties are required to be filed with the applicable county deed records in full compliance with Chapter 12 of the Texas Property Code regarding the recording of instruments;

TEXAS WATER CODE*

Sec. 36.002. OWNERSHIP OF GROUNDWATER.

(a) The legislature recognizes that a landowner owns the groundwater below the surface of the landowner ’s land as real property.

TEXAS PROPERTY CODE*

Sec. 13.001. VALIDITY OF UNRECORDED INSTRUMENT.

(a) A conveyance of real property or an interest in real property or a mortgage or deed of trust is void as to a creditor or to a subsequent purchaser for a valuable consideration without notice unless the instrument has been acknowledged, sworn to, or proved and filed for record as required by law.

Sec. 13.002. EFFECT OF RECORDED INSTRUMENT.

An instrument that is properly recorded in the proper county is:

(1) notice to all persons of the existence of the instrument; and
(2) subject to inspection by the public.

Sec. 11.001. PLACE OF RECORDING.

(a) To be effectively recorded, an instrument relating to real property must be eligible for recording and must be recorded in the county in which a part of the property is located.

Sec. 12.001. INSTRUMENTS CONCERNING PROPERTY.

(a) An instrument concerning real or personal property may be recorded if it has been acknowledged, sworn to with a proper jurat, or proved according to law.
(b) An instrument conveying real property may not be recorded unless:
(1) it is signed and acknowledged or sworn to by the grantor in the presence of two or more credible subscribing witnesses or acknowledged or sworn to before and certified by an officer authorized to take acknowledgements or oaths, as applicable; and
(2) any individual presenting the instrument in person for recording presents a photo identification to the county clerk as required by Section 191.010, Local Government Code.

*(applicable excerpts of statutes)