

## Middle Pecos Groundwater Conservation District

Minutes of July 21, 2009

On this the 21<sup>st</sup> day of July, 2009, a Regular Session of the Middle Pecos Groundwater Conservation District, of Pecos County, Texas, met in the Courtroom of the Pecos County Courthouse, Fort Stockton, Texas located at 103 West Callaghan with the following members present, to-wit:

Glenn Honaker	President, Precinct 1
John Dorris	Vice President, Precinct 3
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Jack McIntyre	Precinct 1
Merrell Daggett	Precinct 2
Vanessa Cardwell	Appointed/City of Fort Stockton
S. Evans Turpin	City of Iraan
Houston McKenzie	At Large

Directors absent: Alvaro Mandujano, Jr., Bart Reid, and Lynn Holland

Others Present: Paul Weatherby/General Manager, Melissa Mills/Office Manager, Bob Varmette/Fort Stockton Pioneer, Jeff Williams, Dr. Jim Duke, Ed McCarthy/Fort Stockton Holding Attorney, Robert Rendall/ Fort Stockton Holding Attorney, Joe Milam, Shane Diller, Weldon Blackwelder, Raul B. Rodriguez, Delvin Thurman, Lee Harris, Greg Stanton/USGS, Lowell Woodward, Ruben V. Falcon/Fort Stockton Mayor, Rafael Castillo, Jr., Shirley Smetak, Harvey Gray/Pecos County WCID#1 Board President, Ernest Woodward, Joe Shuster/Pecos County Judge and Charles (Randy) Williams/MPGCD Hydrogeologist.

**Call to Order.** The meeting was called to order at 1:06 pm by President Glenn Honaker. Quorum is present.

### **I Consider and/or act upon minutes June 23, 2009 and June 30, 2009**

Evans Turpin moved, John Dorris seconded that the minutes of June 23, 2009 and June 30, 2009, be approved, and the motion passed unanimously.

### **II Comments from Public and Media (limit 5 minutes per person)**

There were no public comments

### **III Consider and/or act upon Accounts Payable, Treasurer's Report, Line Item Transfers**

Merrell Daggett made a motion to approve the accounts payable, Treasurer's Report and the Line Item Transfers. Seconded by Evans Turpin. Motion passed unanimously.

**IV Consider and/or act upon Appointment of New Director for City of Fort Stockton**

Vanessa Cardwell was present as a candidate for appointment to the open position for the City of Fort Stockton. The term of the appointment will expire at the next regular election for the Board of Directors (May 2010); at that time the position will be up for election to fill the unexpired 2 year time remaining for the City of Fort Stockton position.

Mrs. Cardwell was asked if she fore saw any conflict of interest, and her reply was no.

Houston McKenzie made a motion to appoint Vanessa Cardwell to the position for the City of Fort Stockton; seconded by M. R. Gonzalez; motion carried unanimously. Glenn Honaker administered the Statement of Appointed Officer.

**V Consider and/or act upon Independent Water Study**

Greg Stanton, an Hydrologist with the U.S. Geological Survey, and his team were present to demonstrate the data they can assemble from information they gather. Groundwater Management Area 3 (GMA3) consists of Loving, Winkler, Ward, Crane and Pecos counties. We are the only Groundwater District in GMA3, and as a result we have the responsibility to develop the desired future conditions (DFC) for this management area which is over the Pecos Valley aquifer.

Several of the county commissioners in the GMA3 boundaries have expressed an interest in having an independent water study prepared and they would contribute financially on a cost-share basis.

The primary purpose of the independent water study is to get an updated view of waters being used out of the Pecos Valley aquifer by the counties in GMA3, the study will not include New Mexico.

Presentation only. No action taken.

**VI Consider and/or act upon District Management Plan**

Item tabled. Hydrogeologist Randy Williams is working on the plan and there is nothing to report at this time.

**VII Consider and/or act upon adopting Updates/Additions/Revisions to MPGCD Rule**

A current version of the rule revision from attorney Mike Gershon was presented to the Board of Directors. The two issues that were major talking points were:

a) Standby wells. 15.5.2 "Standby Wells" means wells registered with the District that have been capped due to non-use and that are capable of producing in non-exempt quantities or for a non-exempt use for a beneficial purpose. The end result of discussions is to delete all references in the draft rules that pertain to standby wells.

b) Historical and Existing Use Permits. 11.1.2 – 11.1.4 Our previous rules have been updated to reflect the statutes mandated by the Guitar case. The changes are that a Historic and Existing Use Permit may not be amended to modify the purpose of use for which the Historic and Existing Use Permit was originally granted.

Also added to the rule: The District may authorize a permit holder to lease or otherwise transfer ownership of a Historic and Existing Use Permit or the amount of groundwater production authorized under such a permit as long as the purpose of use does not change and as long as the withdrawal is made from the same aquifer and within the same management zone, if applicable, if established by the District, and such transfers are subject to the Rule 11.9.1 and Rule 11.10.10.

c) Randy Williams, MPGCD Hydrologist, recommended a detailed formula for Hydrogeological Report Requirements (draft rules section 11.9.3). A hydrogeological report shall be attached to applications meeting the following conditions:

- 1) Requests to operate a nonexempt well with an annual maximum permitted use of at least 1,000 acre feet.
- 2) Requests to amend and increase by at least 250 acre feet the annual maximum permitted use of a Production Permit

Merrell Daggett made a motion to accept the draft rules as presented, seconded by John Dorris. Discussion followed the motion, and Mr. Daggett was asked if his motion included the standby well language and/or the new parts about the Historic and Existing Use permits. More discussions followed.

Merrell Daggett rephrased his motion to accept the rules, but to exclude the standby wells language and to exclude the Historic and Existing Wells changes. There was not a second. More discussions took place. Merrell Daggett withdrew his motion.

Houston McKenzie made a motion to accept the rules, but to exclude the standby wells language and to exclude the Historic and Existing Wells changes; motion seconded by Jack McIntyre. Discussions began.

John Dorris made a motion to accept the rules as presented with the exception of deleting all references to standby wells. Motion seconded by Merrell Daggett. Discussions continued. Question was called by John Dorris to take a vote.

All in favor: 5) Dorris, Daggett, Cardwell, Turpin and Honaker.

All opposed: 3) McKenzie, McIntyre and Gonzalez.

(President Honaker talked with our legal council during the recess called at 3:06 to be sure the Resolution was correct. Since the MPGCD board consists of 11 members, a vote needs a majority of 6 votes to pass. The previous 5 to 3 vote on the motion did not pass.)

## **VIII Consider and/or act upon Fort Stockton Holdings L. P. Application for a Production Permit and Authorizing Export**

On July 13, 2009, we received an Application for a Production Permit and Authorizing Export from Fort Stockton Holdings L. P. They are proposing to produce and export water outside of MPGCD.

We will consult with our Hydrogeologist and Attorney to determine if the application is administratively correct. Once the application is determined to be administratively correct, we will have 90 days to take action.

Fort Stockton Holdings L. P. representatives were given the opportunity to comment. They had no comment.

Returning to agenda item VII. Consider and/or act upon adopting  
Updates/Additions/Revisions to MPGCD Rule

President Honaker stated that a Resolution needed to be passed and signed.

A recess was called at 3:06 p.m. to allow for the review of the Resolution before signing.

The meeting was reconvened at 3:36 p.m.

President Honaker instructed Manager Weatherby to post a Notice of a Rulemaking Hearing to take place on the same day as next regular meeting. Also, Mike Gershon has been asked to prepare a statement to clarify the reason the Historic and Existing Use Permit rule updates are stated as presented.

**IX Consider and/or act upon Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Water Analysis**

Registrations currently total 2,704 (Exempt 1,856 and NonExempt 848). We do have one application for a production permit and export authorization from Fort Stockton Holdings L. P.. We do have some Notices of Intent to drill applications for exempt wells. One more data logger with satellite capability will be installed around in the Sandridge area. The number of monitor wells are being increased. Water analyses are still being performed. There are well owners that need a production permit.

On August 12<sup>th</sup> Mr. Weatherby will be on the agenda for the Brewster County Groundwater Conservation District regarding monitoring our recharge area.

**X General Manager's report on incoming Groundwater District Correspondence** Nothing to Report

**XI Consider and/or act upon Agenda for next meeting**

- a) Rulemaking Hearing
- b) Set a budget hearing
- c) Fort Stockton Holdings Application
- d) District Management Plan

**XII Adjourn**

John Dorris made a motion to adjourn, seconded by Merrell Daggett. The motion carried, and the meeting adjourned at 3:50 pm.

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M. R. Gonzalez,  
Secretary/Treasurer

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Glenn Honaker  
President

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Date Approved