

Middle Pecos Groundwater Conservation District

Minutes of May 18, 2010

On this the 18th day of May, 2010, a Public Hearing and 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
Merrell Daggett	Precinct 2
Alvaro Mandujano, Jr	Precinct 4
Ronald Cooper	Precinct 4
S. Evans Turpin	City of Iraan

Quorum Present. Members Absent: Vanessa Cardwell, Houston McKenzie, Jack McIntyre and Lynn Holland

Others Present: Paul Weatherby/General Manager, Melissa Mills/Office Manager, Bill Dugat III/Special Legal Counsel for MPGCD, Bob Varmette/Fort Stockton Pioneer, Jeff Williams, Dr. Jim Duke, Fort Stockton Holdings-Attorneys/Ed McCarthy, Bruce Scrafford, and Robert Rendell; Cynthia Hollander, Chan Patel/Premier Environmental Services-Texas, Gregg McKenzie, Melanie McKenzie, Rod Ponton, Chuy Garcia, Conrad Arriola, Harvey Gray, L. B. Ryan, Ruthie Ryan, Jake Wedemeyer, Darrell Peckham/FSH Hydrogeologist, Tom Beard and Rafael Castillo.

Public Hearing *Call to Order* at 1:05 PM by President Honaker.

- I **Open for Public Comment.** No public comment.
- II **Consider and/or act upon** SandRidge E&P amended production permit application

President Glenn Honaker presided over the hearing.

SandRidge E&P ("SandRidge") has filed an AMENDED application for production to withdraw and beneficially use up to 864.04 ac ft per year. SandRidge intends to use this water for Industrial Use in support of SandRidge's operations at their Century Plant located approximately two miles east of the intersection of State highway 285 and Puckett Road in Pecos County. This production request is an increase of 235 ac ft per year from the previously approved production permits on March 16, 2010, of 629.04 ac ft per year allowed for CPWW # 4, CPWW # 5, and CPWW #2, due to the addition of two production wells; Moore Ranch CPWW # 11 and Harral Ranch CPWW # 12, to the system permit.

Manager Paul Weatherby, once sworn in, stated that the application is administratively complete and recommended that the amended production permit be approved.

The board asked about the close neighbors and how pumping would affect them. Mr. Chan Patel was sworn in to testify, he represents SandRidge. He testified that 24 hour pump tests have not adversely affected the neighboring wells. The drawdown experienced quickly recovered.

Being no additional testimony, Alvaro Mandujano, Jr. made a motion to approve the amended application for an increased production of 235 ac ft per year to withdraw and beneficially use up to 864.04 ac ft per year for the well system that includes CPWW#4, CPWW#5, CPWW#2, CPWW#11, and CPWW#12 from the Edwards-Trinity aquifer. The motion was seconded by Evans Turpin. The vote was 4 in Favor: J. Dorris, M. R. Gonzalez, A. Mandujano, Jr., E. Turpin. 2 Oppose: R. Cooper, M. Daggett. President Honaker did not vote. 4 absent. A majority of the MPGCD board is 6 members, therefore the vote did not have a majority of the full board to pass. The amended production permit is continued to June 15, 2010.

III Consider and/or act upon City of Iraan production permit application for Wells 1, 2, 3, 4

Manager Paul Weatherby was sworn in. The application was submitted on March 3, 2010. It was posted accordingly. They have provided the maps, the rights to use the water, and analytical data on analysis of all the wells; and since the last meeting they have provided a copy of their drought contingency plan making the application administratively complete.

Evans Turpin made a motion to approve The City of Iraan production permit and authorize withdrawal of approximately 400 acre-feet annually from a four Well System out of the Edwards-Trinity aquifer. The motion was seconded by John Dorris. 7 votes For. Motion passed.

IV Adjourn. John Dorris made a motion to adjourn the hearing, seconded by Alvaro Mandujano, Jr.. The motion carried, and the meeting adjourned at 1:37 pm

Regular Board Meeting *Call to Order* immediately following the Public Hearing at 1:38 PM

Note: The agenda order was changed as follows...

Agenda item #II: Comments from Public and Media There were no comments

Agenda item #III Consider and /or act upon Requests for Reconsideration of party status filed by Brewster County Groundwater Conservation District and Rio Grande International Study Center and Request for Party Status filed by City of Alpine in connection with Fort Stockton Holding L.P.'s pending permit application

Rio Grande International Study Center (RGISC)

RGISC's request is based on the following factors:

- Its mission is to "preserve, protect and foster respect for the Rio Grande-Rio Bravo, its watershed, environment and cultures through research, education, and bi-national stewardship and alliances with individuals, agencies and government";

- Fort Stockton passed a resolution “joining forces” with RGISC in its plea for a moratorium and intervention to prevent water from being transported from the Pecos and Rio Grande watershed. The two rivers are the source of water for millions and habitats for wild species;
- Pumping the Edwards-Trinity Aquifer threatens the Pecos River, which contributes to the Rio Grande watershed; and
- RGISC’s “research and education” component are at stake in that further hydrological studies should occur before considering the permit application.

RGISC does not raise any new issues that were not raised April 20, 2010. The basis for the Board's denial on April 20th included:

- RGISC is not located in Pecos County;
- RGISC has no members in Pecos County;
- RGISC has no property interest in Pecos County;
- RGISC cannot have standing based upon inquiry to scientific, or environmental absent an interest in property affected by MPGCD;
- RGISC's interest in the Rio Grande is an interest common to the general public.

Mr. Bill Dugat, special counsel to the Board during the Fort Stockton Holdings hearings, explained that unless the Board wants to reconsider its April 20, 2010 decision, it should deny the reconsideration requests. If the Board takes no action, the requests are denied automatically within 90 days of the date of submission.

If the Board wants to reconsider its request for reconsideration, the rehearing must occur within 45 days. The General Manager must post notice of any hearing at least 10 days prior to the rehearing date. RGISC and Brewster County GCD may appeal the final Board action within 60 days after the decision is final. The Board can also deny the motion which starts a time clock for the party to take judicial action if they would like to appeal it.

President Honaker reminded the board that MPGCD jurisdiction falls within the boundaries of Pecos County.

Attorney for Fort Stockton Holdings, Ed McCarthy, presented written response to all 3 requests for reconsideration/consideration for party status to the Board and to the parties that were present. A basic summary of the written responses being that the rulings made on April 20, 2010 should stand as they are.

Alvaro Mandujano, Jr. made a motion to deny the granting of party status to RGISC. Motion died due to a lack of a second to the motion.

President Honaker asked if there was a motion to grant party status, there was none. No action taken.

Brewster County Groundwater Conservation District (BCGCD) requested reconsideration of party status

BCGCD's request is based on the following factors:

- BCGCD and MPGCD have an Interlocal, well-monitoring agreement to collect data to evaluate and better manage Edwards-Trinity Aquifer in Brewster and Pecos Counties;

- BCGCD's groundwater supply is directly connected to Fort Stockton's area of pumping due to flow of recharge. The water supply in Brewster County is threatened due to potential excessive extraction;

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- BCGCD expressed concern about managing groundwater in its district if the permit were granted and changing its desired future condition; and
- Board resolution authorizes BCGCD's General Manager to make all reasonable efforts to continue to participate in the pending permit application as a party or in another capacity.

The only new issue raised by BCGCD is the Interlocal agreement with MPGCD.

The basis for the Board's denial of party status on April 20, 2010 included:

- General Manager did not know how the District's vested interest and how economically BCGCD would be impacted;
- BCGCD does not know the long-term or adverse impact, until the USGS study is completed.
- BCGCD has no property interest or regulatory authority in Pecos County;
- Brewster County, where BCGCD is located, is located "Upstream" from Pecos County; and
- BCGCD's concern over "desired future conditions" is best addressed in the joint planning process hearing conducted by GMA 4.

The Board deliberated the request from BCGCD. Alvaro Mandujano, Jr. made a motion to deny the granting of reconsideration of party status to BCGCD. Motion died due to a lack of a second to the motion.

John Dorris made a motion to grant a reconsideration hearing date of June 15, 2010 to allow for additional evidence. The motion was seconded by Ronnie Cooper. The vote was 5 in Favor: J. Dorris, M. R. Gonzalez, E. Turpin, R. Cooper, M. Daggett. 2 Oppose: A. Mandujano, Jr. and G. Honaker. 4 absent. A majority of the MPGCD board is 6 members, therefore the vote did not have a majority of the full board to pass.

City of Alpine has filed a Request for Party Status.

- Letter dated May 7, 2010 requests party status for the city of Alpine.
- City of Alpine did not participate in the April 20th, 2010 preliminary hearing or request party status at or before that hearing.
- District Rule 11.10.4 states that a potential party must attend the permit hearing prepared to articulate their legal right and justiciable interest to participate. City of Alpine did not appear at the hearing. Rule 11.10.4(a)(1) states that it is also recommended that a person seeking party status file a notice of protest at least two days prior to the hearing. City of Alpine failed to do so.

Alvaro Mandujano, Jr. made a motion to deny the granting of party status to the City of Alpine. Seconded by Merrell Daggett. Motion carried unanimously. Party status is denied.

Agenda Item #IV: Consider and/or act upon update by Board President as the Presiding Officer on the procedural schedule in connection with Fort Stockton Holding L.P.'s pending permit application

Hearing Date on the Merits: September 30 and October 1, 2010
October 7 & 8, 2010
Begin at 8 a.m. each day

Testimony and Closing Arguments: Oral testimony before the Board

Recess called at 2:44 p.m.

Reconvene at 3:04 p.m. Quorum of the Board present.

Agenda Item #1: Consider and/or act upon minutes of March 16, 2010 and April 20, 2010
Evans Turpin moved, Merrell Daggett seconded that the minutes of March 16, 2010 and April 20, 2010, be approved as presented, and the motion passed unanimously.

Agenda Item #V Consider and/or act upon Accounts Payable and Treasurer's Report for 04-30-2010 and Line Item Transfers

Ronnie Cooper made a motion to approve the accounts payable and Treasurers' Reports, and Line Item Transfers. Seconded by John Dorris. Motion passed unanimously

Agenda Item #VI Consider and/or act upon Appointment of Director of Precinct 1
Tabled. No action taken.

Agenda Item #VII Consider and/or act upon Administer Oath of Office for Board Members

The following Board Members were administered the *Statement of Elected Officer* and the *Oath of Office* by Vice President John Dorris:

Glenn Honaker	Precinct 1
Merrell Daggett	Precinct 2
Ronnie Cooper	Precinct 4
Evans Turpin	City of Iraan

There were two Board Members absent that will be sworn in at the next meeting: Lynn Holland – Precinct 3, and Vanessa Cardwell – City of Fort Stockton.

Agenda Item #VIII Consider and/or act upon MPGCD Board Reorganization

Merrell Daggett made a motion to reelect all officers by acclamation (Glenn Honaker/President; John Dorris/Vice President; M. R. Gonzalez/Secretary-Treasurer). Seconded by Ronnie Cooper. Motion carried unanimously.

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Agenda Item #IX Consider and/or act upon Public Officials' Errors & Omissions Policy

The General Manager reported that several bids are still out, and recommended that the item be tabled until the June 15th meeting.

Alvaro Mandujano, Jr. made a motion to table the item until the June 15th meeting. Seconded by Evans Turpin. Motion carried unanimously.

Agenda Item #X Consider and/or act upon Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, District's development of Desired Future Conditions, Management Plan, USGS Progress Report on the Pecos County Groundwater Availability Study

Manager Weatherby reported that:

- Well registrations are still being received.
- Production Permits: SandRidge has 20 days to appeal the Production Permit that we heard today
- Drilling Permits: There have been several new exempt wells drilled in the county, they are complying with out *Notice of Intent to Drill* and Registrations
- Data Loggers are still being installed on monitor wells.
- Water Quality Analysis: Still being preformed with no problems
- Desired Future Conditions: GMA 3 held a meeting in Monahans on May 3rd with a good turn out and productive meeting. GMA7 is still in the process of being developed. There will be a GMA 7 meeting in Fredericksburg, Texas on May 21st.
- Management Plan: Verbally placed in compliance to get the plan to TWDB and TCEQ. Should have a draft in soon.
- The Drought Index map is in your folder for review. It shows us to moderately moist currently.
- The U.S. Geological Survey (USGS) submitted a progress report for the Edwards/Trinity project from April 1 to May 12, 2010. The report was submitted to the Board for their review.

Agenda Item #XI General Manager's report on incoming Groundwater District-related Correspondence

Manager Paul Weatherby took the floor.

- Rig Data report: Show the active wells in Pecos County.
- Pecos County Appraisal District as submitted the estimated taxable property values for the upcoming year.
- SandRidge (for the Century Plant & the Legacy Plant) sent us a certification that the tax abatement agreements have been received and all parties have signed the necessary papers.

XII Consider and/or act upon Agenda for next meeting

- Hearing on SandRidge Production Permit
- Precinct 1 director to fill open position

- Public Officials' Errors & Omissions Policy
- Amend Budget
- Oaths of Office for Holland and Cardwell

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XIII Adjourn . Alvaro Mandujano, Jr. made a motion to adjourn, seconded by Merrell Daggett. The motion carried, and the meeting adjourned at 3:56 pm.

M. R. Gonzalez,
Secretary/Treasurer

Glenn Honaker
President

Date Approved