

**Middle Pecos Groundwater Conservation District**  
Minutes of June 21, 2011

On this the 21<sup>st</sup> day of June, 2011, 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
Janet Groth	Precinct 1
Merrell Daggett	Precinct 2
Lynn Holland	Precinct 3
Ronald Cooper	Precinct 4
S. Evans Turpin	City of Iraan
Houston McKenzie	At Large

Member Absent: M. R. Gonzalez, Vanessa Cardwell and Alvaro Mandujano, Jr.

Quorum Present.

Others Present: Paul Weatherby/General Manager, Kristen Fancher/MPGCD Legal Counsel, Melissa Mills, Bob Varmette/Fort Stockton Pioneer, Michael Kimler, Chan Patel, Steve Sellepack, Refugio "Cuco" Rangel, Shirley Smetack, Tom Beard, Ann Daggett, Gregg and Lou Ann McKenzie, Ed McCarthy, Jeff Williams and Gary Bryant.

**Public Hearing was Called to Order at 1:09 PM by Board President Glenn Honaker.**

President Honaker called an executive session pursuant to section 551.071 of the Texas Government Code and would Consult with MPGCD attorney Mrs. Kristen Fancher. Any action needed to be taken will be in open session.

1:12 pm convene into closed Executive Session.

1:49 pm Reconvene in open session. Consulted with attorney Mrs. Kristen Fancher. No action taken in Executive Session.

I Open for Public Comment (Limit 5 minutes per person)  
No public comment.

\*\* NOTE: The Meeting Verbatim is shown as attachment A

II Consider and/or act upon **SandRidge E&P interim amended production permit applications**  
Merrell Daggett made a motion to grant Fort Stockton Holdings LP party status on the production permit applications of SandRidge E&P. Seconded by Lynn Holland.  
The motion carried: 6 For 2 Oppose 3 Absent

III Consider and/or act upon **City of Iraan interim production permit application**  
Houston McKenzie made a motion to approve the production permit for the City of Iraan. Seconded by Evans Turpin. Motion carries unanimously. (Note: The permit is approved for 400 acre feet from the Edwards/Trinity aquifer for Public Supply/Municipal; for the well system of wells 1, 2, 3 and 4)

- IV Consider and/or act upon **Pecos County WCID#1 interim production permit application**  
Merrell Daggett made a motion to grant Fort Stockton Holdings LP party status on the production permit applications of Pecos County WCID#1. Seconded by Lynn Holland.  
The motion carried: 6 For 2 Oppose 3 Absent
- V Consider and/or act upon **Bruce McKee interim production permit application**  
Lynn Holland made a motion to postpone the production permit application for Bruce McKee until a later date when it has been properly notified and posted. Seconded by Merrell Daggett.  
Motion carries unanimously.
- VI Consider and/or act upon **Tony Mandujano interim production permit application**  
Houston McKenzie made a motion to approve the production permit application for Tony Mandujano. Seconded by John Dorris. Motion carried unanimously.  
(Note: the Production Permit is approved for 400 acre feet from the Pecos Valley aquifer for agricultural use for well #5)
- VII Consider and/or act upon **Fort Stockton Independent School District Interim production permit application**  
Merrell Daggett made a motion to grant Fort Stockton Holdings LP party status on the production permit applications of Fort Stockton ISD. Seconded by Lynn Holland.  
The motion carried: 6 For 2 Oppose 3 Absent
- VIII Adjourn. Lynn Holland made a motion to adjourn, seconded by Janet Groth. The motion carried, and the Public Hearings adjourned at 3:12 PM.

### Regular Board Meeting

- I Regular Board Meeting *Call to Order @ 3:35 PM*
- II **Comments from Public and Media (Limit to 5 minutes)** No comments from the public
- III Consider and/or act upon **minutes of:**  
May 4, 2011 Special Called Permit Hearing  
Lynn Holland made a motion to approve the minutes with correction to agenda item #III as follows: Board consensus was there would not be any public comment taken.  
Seconded by Houston McKenzie. Motion carried.  
May 5, 2011 Special Called Permit Hearing  
Lynn Holland made a motion to approve the minutes as presented. Seconded by Houston McKenzie. Motion carried  
May 10, 2011 Special Called Permit Hearing  
Lynn Holland made a motion to approve the minutes with correction to the attendance List as follows: Anna Howard was in attendance on May 10. Seconded by Houston McKenzie.  
Motion carried.  
May 11, 2011 Special Called Permit Hearing  
Lynn Holland made a motion to approve the minutes with correction to the attendance List as follows: Anna Howard was in attendance on May 11. Seconded by Houston McKenzie.  
Motion carried.  
May 12, 2011 Special Called Permit Hearing  
Lynn Holland made a motion to approve the minutes with correction to the attendance List as follows: Anna Howard was in attendance on May 12. Seconded by Houston McKenzie.  
Motion carried.

May 17, 2011 Regular Meeting

Merrell Daggett made a motion to approve the minutes as presented. Seconded by Evans Turpin. Motion carried

June 10, 2011 Special Called Permit Hearing

Merrell Daggett made a motion to approve the minutes with correction to agenda item #III as follows: Houston McKenzie made a motion to allow Fort Stockton Holdings 30,000 acre feet total production. Irrigation use would be deducted from the 30,000 acre feet, and 85% of the remaining balance could be exported (15% deducted for recharge). The motion died for lack of a second. Correction to add to motion: *Leased wells would be dedicated to ag. use.* Seconded by Ronald Cooper to approve the minutes as corrected. Motion carried.

IV Consider and /or act upon **Accounts Payable and Treasurer's Report, and Line Item Transfers for 05-31-2011**

A motion was made by Merrell Daggett, and seconded by John Dorris to approve the Accounts Payable, Treasurer's Report for 5-31-2011 and Line Item Transfers. Motion Carried.

V Consider and/or act upon **Building Lease with Pecos County**

Not available. No action taken.

VI Consider and/or act upon **General Manager's Quarterly Report**

Manager Paul Weatherby presented his Quarterly report to the Board. Janet Groth made a motion to accept the report as presented. Seconded by John Dorris. Motion carried.

VII Consider and/or act upon **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, USGS, Monthly Drought Report/Palmer Drought Severity Index maps, Updates from Legislative Consultant, Update on SB564 and HB1177 regarding elections of MPGCD.**

- Well Registrations are a increasing.
- Production Permits: New production permit applications are coming.
- Drilling Permits: There are exempt requests coming in and possibly a non-exempt request.
- Data Loggers: Included in the Manager's quarterly report.
- Water Quality Analysis: Included in the Manager's quarterly report.
- USGS reports: They are completing water analyses and next week will work on geophysical information regarding rainfall.
- Palmer drought report: Included in the Manager's quarterly report.
- Senate Bill #564 and House Bill #1177 MPGCD legislation to have our election moved to the uniform date in November of even numbered years has been approved by the Governor.

VIII General Manager's report on incoming **Groundwater District-related Correspondence**

- **Legislative Update from Bob Turner**
- **Email from Janet Adams regarding new legislation requiring drillers to publicly disclose the chemicals they use when extracting oil and gas from dense rock formations, bill signed 06-20-2011.**
- **Texas Alliance of Groundwater Districts (TAGD) meeting June 28 & 29, 2011.**

- IX Consider and/or act upon **Agenda for next meeting**  
Auditors Letter for year ending 09-30-2011; Possible New Production Permits; Building Lease with Pecos County; and Interim Permits Hearings for Bruce McKee, Pecos County WCID#1 and SandRidge E&P
  
- X Adjourn. Merrell Daggett made a motion to adjourn, seconded by Evans Turpin. The motion carried, and the meeting adjourned at 4:17 PM.

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M. R. Gonzalez, Secretary/Treasurer

\_\_\_\_\_  
Glenn Honaker, President

Date Approved \_\_\_\_\_

Attachment A  
Verbatim of the Public Hearing Held June 21, 2011

President Glenn Honaker:

This permit hearing of the Middle Pecos Groundwater Conservation District is being called to order on June 21, 2011, at 1:09 P.M. Before us today are six (6) applications for production permits—applications for Tony Mandujano, Bruce McKee, City of Iraan, Fort Stockton Independent School District, SandRidge, and Pecos County Water Control and Improvement District No. 1.

I am Glenn Honaker, President of the District's Board of Directors. I am the Presiding Officer of this hearing and I will be officiating over today's hearing, along with a quorum of the Board of Directors who will also officiate and participate in ruling on the applications before us today. Kristen Fancher of the Lloyd Gosselink law firm, our legal counsel, is also with us today and will serve as co-presiding officer to address certain legal matters. These hearings will be governed by applicable statutory law, including the District's enabling act, Chapter 36 of the Water Code, Chapter 551 of the Texas Government Code, the District's Rules, and all other applicable Texas law.

As you know, each of these applicants before us today obtained and is currently operating under an interim permit issued by the Board under Section 36.1071 of the Texas Water Code. These interim permits were issued because we were working to update and get our Management Plan approved by the Texas Water Development Board and then adopt rules to implement the Management Plan. We adopted District Rule 11.7 to address the process that we as a Board will follow in processing the applications of these interim permit holders. District Rule 11.7 requires that we hold a hearing and take action on each application for which an interim permit was issued under the District's rules for permitting, Rules 11.10 and 11.11. The General Manager worked with each of these applicants to pick a date that each of these applicants would be available for this hearing today. Each of the applicants agreed that the hearing could be conducted after the 90 day deadline in Rule 11.7.

At this time, the Board will go into executive session under Section 551.071 of the Texas Government Code for consultation with its attorney. The time is 1:12 PM and we will reconvene the hearing once come out of executive session.

The time is 1:49 PM and we are back on the record to proceed with the permit hearing on the six (6) permit applications before the Board. Our next order of business is to take appearances for those that want to provide public comment or seek party status – so that we can determine whether this hearing will be contested or uncontested. For members of the public, if you want to provide either public comment or become a party to a hearing on one or more of these six applications you have to fill out a registration form that are located on the table near the entrance to the courtroom. Let me be clear about the difference between only providing public comment and becoming a party to the hearing. If you fill out a hearing registration form and only check the box that you want to provide public comment that means that you only have the chance to provide public comment before the hearing begins today and that you will not be considered a party to the hearing on the application. It also means that the Board will not be able to consider your comments in its deliberation on the application. If you fill out a hearing registration form and check the box that you want to be a party to the hearing then that means that you will have to demonstrate whether you have a justiciable interest in the application, and I will discuss what that means here shortly. Being a party to a hearing on an application means that you can put on evidence and cross examine the applicant's witnesses and that the Board can consider your evidence when making a decision on the application. Do we have anyone from the public that has not yet had the chance to fill out one of these forms that intends to fill out a form to either provide public comment or become a party to the

hearing? [No response from the public] Paul, do we have any registration forms that have been turned in to provide public comment only?

Paul Weatherby: No sir.

Glenn Honaker:

Now we'll move on to take appearances from those who want to be a party to the hearing on these applications. Those that are interested in becoming a party to a contested hearing on an application are required to follow District Rule 11.11.4(a) and must be present and be prepared to articulate why he or she should be a party to the hearing. The District has received a written notice of protest from Fort Stockton Holdings, L.P., and we have not received any other notices of protest or any other forms indicating that another person wants to protest any of these applications. Paul, is this correct that we have not received any other notices of protest or hearing forms from any other parties besides Fort Stockton Holdings?

Paul Weatherby: That is correct.

Glenn Honaker:

This is one last chance for members of the public to become a party to the hearing on these applications so speak now or forever hold your peace. [No response from the public]

Section 36.415 of the Texas Water Code requires that we determine whether each person or entity seeking to protest is eligible to protest and has standing. In other words, you do not automatically have a right to protest, but have to meet the test set out in state law under § 36.415 and that is in District Rule 11.11.4(a)(1). So, at this time, let's review Fort Stockton Holdings' protests under the statutory test.

The test for party status says:

You must have "a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within a district's regulatory authority and affected by a permit or permit amendment application, not including persons who have an interest common to members of the public."

Fort Stockton Holdings has filed notices of intent to protest the applications of Tony Mandujano, Bruce McKee, SandRidge, and Pecos County Water Control and Improvement District No. 1, Fort Stockton I. S. D. and the City of Iraan. Let's now give Fort Stockton Holdings the opportunity to discuss why it believes it should be granted party status. Mr. McCarthy, the Board has copies of FSH's written notices. In the interest of efficiency, I would like you to address points that apply to all the applications only once. If you have application-specific points, please bring those to our attention. The first application listed on the agenda is SandRidge E&P interim production permit applications.

Ed McCarthy:

Good Afternoon. My name is Ed McCarthy and I am here on behalf of Fort Stockton Holdings. I have with me representing Fort Stockton Holdings, and appearing to testify if necessary, Jeff Williams. In addition to being part owner and a representative of Fort Stockton Holdings, he also operates the farms here in the Leon-Belding area. Operates their pumps, and is familiar with their permits and has personal knowledge related to these applications.

Mr. Honaker, to address your request that I not be repetitive with comments, I would like to observe that all of my comments for the most part will generally be applicable to each of the 6 applications before you. I will not repeat them. I will do it once, and then would like to have the right to have the record reflect that they apply to all 6 permits.

Glenn Honaker: Ok, great. We will so reflect that.

Ed McCarthy:

First off I would like to bring to the Board's attention and have the Board address the issues that we brought to the District's attention this morning. After reviewing the agenda for today's meeting yesterday, and going back and reviewing the notice of the hearings posted back on June 19<sup>th</sup>, we believe there are multiple errors in the postings. I have concerns whether or not the Board has properly posted the notice for each of the various permits. And therefore, whether they can consider and/or act on the permits today. There are a variety of issues including a variety of issues with respect to date and time. A notice of persons who are apparently not applicants. Notices that conflict in the sense that they on one hand appear to be, and I'm still not clear as to what this hearing is on, as to whether it is on applications for production permits or as the agenda says applications related to interim permits. So there is a lot of confusion out there and we are not exactly certain as to what the hearings are being held on today. We would like to state our justiciable interest for Fort Stockton Holdings with respect to each of them.

Fort Stockton Holdings owns or controls groundwater rights beneath approximately 18,000 acres of land in Pecos County outside of Fort Stockton in the Leon-Belding area. We have more than 40 Historic and Existing Use Permits from the District authorizing our right to produce water for irrigation purposes.

The applications as they are described in the notice posted on June 10<sup>th</sup> have a varying number of quantities of water sought to be produced with respect to SandRidge in particular. They are looking at producing approximately 1458 acre feet of water per year. We have not yet had an opportunity to review the application, to review the hydrology report that we believe should be submitted with the application. And the notice also says that there are land owners other than SandRidge from whose property water will be produced based upon information and a belief we understand that not all the land owners have necessarily authorized these wells. We also understand from former meetings of this Board that there were questions related to set backs and agreements to be reached with respect to setbacks on those wells to protect neighboring landowners and we are concerned about the over all pumping and what the impacts of that may have on the aquifer and to permit holders, including Fort Stockton Holdings and its permits.

As I said Fort Stockton Holdings is a land owner, and a permit holder and has justiciable interest in the outcome of this proceeding. We are also interested in understanding the hydrogeologic analysis conducted by the District, how it will operate under the rules and the management plan as that may affect future production of Fort Stockton Holdings. For these reasons we believe Fort Stockton Holdings a legitimate personal justiciable interest, not in common with the public. It is entitled to request a contested case hearing on this matter.

I can go on and make a couple of specific comments about the others if you want me to do that. I don't know whether you want me to do that.

Kristen Fancher:

Yes sir, in fact that is some of my questions that I need to go with, when you get to Bruce McKee we'll stop because we have another item that we need to discuss. Please go in order and discuss your specific comments.

Ed McCarthy:

I believe the next one on today's agenda is the City of Iraan. The City of Iraan proposes to produce approximately 400 acre feet of water for public and municipal purposes from the Edwards/Trinity aquifer. Again the wells and permits that Fort Stockton Holdings has are in the Edwards/Trinity aquifer and are regulated by the District. Fort Stockton Holdings seeks to protect and insure its rights to produce from this aquifer and the Districts jurisdiction and operations of its rules, implementation of its management plan will continue to protect Fort Stockton Holdings interests with respect to that. It is unclear also from this notice as to whether this application is for a new permit or for an interim existing permit. It is uncertain how the rules of the District will apply based upon those sanctions of those two types of applications. Summarily as posted, Iraan is posted for an interim permit and a production permit. Obviously, interim permits would question quantity which is not an issue with the District, but under production permits they are.

Kristen Fancher:

Ed would you like for me to wait on my specific questions or the Board's until after you are finished with each one, or would you like to just address them as we go? How would you prefer?

Ed McCarthy: I am at the pleasure of the Board.

Kristen Fancher:

Ok, would y'all like to discuss Iraan here, rather than wait until the end? That's my question. That's the way I recommend doing it.

Glenn Honaker:

I think it would be better that way so we are not going to be confusing issues.

Kristen Fancher:

I'll let you finish on Iraan, I just wanted to check.

Ed McCarthy:

In light of the fact that I am not trying to repeat the initial comments with respect to Fort Stockton Holdings, I believe in summary that completes the comments. I don't know if you want to go back to SandRidge first and ask questions.

Kristen Fancher:

On SandRidge, my question is do you know the distance from Fort Stockton Holdings wells and properties to where SandRidge's production is from?

Ed McCarthy: I do not.

Jeff Williams: Approximately 30 miles.

Kristen Fancher: Ok, the same question for the City of Iraan.

Jeff Williams: 67 miles I guess.

Kristen Fancher: Ok. Does the Board have any questions with regards to SandRidge or the City of Iraan?

Houston McKenzie:

I have a question. It seems to me like most of your points are based on procedural, the way we handle our procedure instead of actual threat to your, Fort Stockton Holdings, how this production permit will affect your water supply. Is that kind of correct?

Ed McCarthy:

I'm not sure I understand the question, the answer would be no, I believe Mr. McKenzie. With respect to the procedural issues related to the notice yes those are purely procedural and jurisdictional that we may not be able to proceed with respect to substantive aspects of the permit, we did not have the opportunity to fully explore the effects of the permit and the hydrology. What we are aware of is the District has DFC's to protect and has managed available groundwater, that it will be managing again and has a management plan to implement that which directly affects the availability of the water and the ability of Fort Stockton Holdings to pump under its permits. Those are direct legal substantive issues not just procedural issues.

How the District will handle that will be a procedural issue in the future. The question related to hydrology and the application and how that will affect Fort Stockton Holdings pumping permits. There are substantive issues directly related to this and the applications.

John Dorris: I have a question. Do you really think the City of Iraan would affect water wells 65 or 70 miles away is going to have any affect on you here?

Ed McCarthy: I am going to have to look at the hydrology.

John Dorris: Do you even know where Iraan is?

Ed McCarthy: Yes sir.

John Dorris: I'm just curious.

Janet Groth: I have a question. Can you be more specific about your issue about the notice location, is it the wording? Or, this looks fine to me, I'm very unclear as to you said the date time and notice of the applicants.

Ed McCarthy: I don't know if you have seen a copy of the letter we filed with the District this morning with the detail.

Janet Groth: Not this morning, No.

Ed McCarthy:

If you'll look at the notice that was posted June 10<sup>th</sup>. It says it's a notice of a production permit. Just below that it says June 21, 2011, at 1 PM. If you go down to the first full paragraph in the second line, it says that the hearing will be on June 10<sup>th</sup> at 10 AM. With respect to the descriptions fully describe what the uses will be. With respect to one, Bruce McAfee, I don't believe there is such a person or at least such an applicant – there is a Bruce McKee, this is one of the errors. This document is posted on the Districts website under a heading that says the hearing to be held June 22, 2011, tomorrow. If you look at

today's agenda it talks about hearing on interim production permits not on production permits. A completely different set of standards and different set of rules. If we had understood these interim permits, because of the nature of interim permits, we have some objections as to how the District does that, and questions the rulings, because you now have a management plan and interim is not appropriate. But we did not challenge it and did not question the issue about the interim permits knowing that in the future the hearings on production permits would be held.

Your rule 11.7 that you have says that the hearing is to be held no later than 90 days from the date the rules was implemented and the management plan adopted. Your rules implementing the management plan were not until February 15<sup>th</sup> – more than 90 days out. The other provisions detailed in the letter that set forth the reasons why 11.7 doesn't apply. It doesn't have a basis for this hearing.

Kristen Fancher:

Janet, I can let you finish, but I can address (Janet: I'm Done).

Janet Groth:

I'm done. I didn't want generalities; I deal with specifics and wanted to know exactly what the problems were.

Kristen Fancher:

I wanted to address this with the Board. As far as the notice, up in the title where it says production permits the reason why there may have been some confusion is the applicants that are listed here currently hold interim permits and today they are before us now to determine whether or not you will grant them a production permit. They would no longer be considered interim; they would get a production permit. That's why there were interim permits, you have already heard these, and they have been before you before which they are in an interim status. That is why the term interim and production permit, based on your rule 11.7 and then the way that you are going to process these interim permits as production permits. So as far as the notice, they are for production permits, but they currently hold interim permits with the exception of SandRidge who holds an interim permits for around 860' number and they are also asking for an additional amount of acre feet that is not under an interim permit. So that's the only application that is not fully under an interim permit, but most of the amount is under a current interim permit. I hope that answers some of the questions, and lets you know why some of these terms are being thrown around.

Ronald Cooper: Paul, did anyone show up this morning at 10:00?

Paul Weatherby: No.

Ronald Cooper: Did you show up at 10:00 Mr. McCarthy?

Ed McCarthy: No, I did not.

Glenn Honaker: You should have been here tomorrow because you said it was the 22<sup>nd</sup>.

Kristen Fancher:

I'll also clarify that the District, and for the record, you probably saw the signs that are posted on the door, and that is consistent with the Texas Open Meeting Act, if times are changed. The times were not changed, and you do have it, it is the 1 PM, and as your notice states that if you have any questions or any thing like that. We also have discussed for the constructed notice and that Fort Stockton Holdings obviously has constructive notice regardless of the errors that they pointed out in your notice because they are here today and they have already filed protests on each of the applications here. So as far as the argument goes that they were affected, they had notice and they are here and have filed protests.

Glenn Honaker:

Didn't I understand that each of the applicants waived the 90 day rule? That they agreed to waive the 90 day deadline.

Kristen Fancher:

Yes, so that we could have them all on one coordinating agenda. That's my understanding.

Glenn Honaker: Thank you.

Janet Groth:

So all the applicants waived the 90 day?

Kristen Fancher:

Paul was the contact, and I'll let Paul address that. Paul was in contact with each one of them as far as time and dates. I believe that some of them weren't even able to meet the 90 days.

Paul Weatherby:

I contacted each of the applicants and they agreed to a 90 day extension or whatever was needed.

Janet Groth: We requested the extension?

Paul Weatherby:

Yes. I requested for them to agree with the extension and they did.

Kristen Fancher:

I don't know if y'all. Well, at this time we are done with some of the questions, and feel free to ask more, but I would like to let SandRidge get up if they have any cross examination for Mr. McCarthy or Mr. Williams as far as what their justiciable interest is, and same for the Board.

Paul Weatherby:

Kristen, I've got this one about the minutes if you want to ask him.

Kristen Fancher: Ok, We will wait one more second until we have another question.

Paul Weatherby:

Mr. McCarthy, I have a question reference your worrying that SandRidge will impact your water, or the water that is under the Leon-Belding Farms. As you know they have 864 acre feet that they are allowed to produce. You were present on May 18<sup>th</sup>; I have a copy of the minutes here where this application for 864' was presented by SandRidge. I didn't see where y'all were worried about that 864

acre feet and SandRidge affecting your business at that time. That was in May 2010. Then June 15, 2010, this same application was discussed during the hearing of which you were present along with your whole team basically. At that time in June y'all didn't express any concern or protest about this water being used nor the way it was being used or the location of the wells in the county. You never indicated any concerns at that time. And then you were here in September of 2010 where you would have had the opportunity – your hydrologists were here basically your whole team was here including Dr. Duke talking about the Management Zones etc during that meeting. At that time y'all didn't jump up and say that this water from SandRidge was going to affect the Belding Farm operation.

Glenn Honaker: Correction Fort Stockton Holdings.

Paul Weatherby: What did I say?

Glenn Honaker: Belding Farms.

Paul Weatherby: Correction, Fort Stockton Holdings. So from the first date that I mentioned, now you're concerned about it. And I hope that you provide why that all of a sudden we're concerned and for nearly a year back you haven't been concerned. I've had no calls from Jeff on his farming operations that while they were producing the water they are allowed to produce was affecting their water, I've had nobody call me. But today you say it is affecting, or you say it may affect it, I don't understand.

Ed McCarthy:

What we've said Mr. Weatherby is that the applications presented, including SandRidge have the potential to affect the permits and the rights of groundwater of Fort Stockton Holdings. Since the last date that you quote, the District has adopted a brand new management plan, has adopted new rules. We are here today with respect to the notice that was posted on June 10<sup>th</sup>, that's the only issue before you today. The question is not whether the degree to which our application may be affected. The question is do we have a justiciable interest that entitles us standing to request party status and request a contested case hearing. The information I have provided to you and to which Mr. Williams can testify to supports Fort Stockton Holdings has a personal justiciable interest with the potential of the economic impact regarding the matters within the jurisdiction of this Board that we are entitled to request that you explore the process for doing that is request a contested case hearing. This application along with others has been up and down before this Board, and determined to be incomplete by you with respect to additional information that needed to be brought before the Board, information that when these items were posted in some instances SandRidge said we're not prepared to address that issue, need to address the agreements with landowners, need to address setbacks. I believe at one point the City of Iraan needed to come up with a water conservation plan. All those kinds of things that delayed this Board from pursuing production permits at that time. When the Board issued and considered Interim Permits, the question of quantity is not an issue the Board is allowed to consider its rules state that you had drafted, and I am sure you are familiar with, so the question of quantity 800 and some odd is not an issue. The issue is the notice that was posted on June 10<sup>th</sup>, Fort Stockton Holdings is here before you requesting a contested case hearing be granted, and they be granted party status.

Kristen Fancher:

Unless you have other questions, we can ask or allow SandRidge...

Glenn Honaker: I'd like to allow SandRidge,

Kristen Fancher:

I don't know if you do, but at this time if you do questions to cross examine them on what type of justiciable interest and their party status on your application and at this time feel free to do so, and please come up to the microphone so you can respond.

Chan Patel:

My name is Chan Patel with Premier Environmental working on behalf of SandRidge Energy. What I am here to do today is to present our concerned approach that we have taken in order to meet Middle Pecos GCD's rules. From the very beginning we have spoken with Middle Pecos and we have spoken with the land owners and are continuously talking and working with them and updating them as to each and every step that we have taken when it comes to drilling wells. We have followed the rules that Middle Pecos, the District is in charge of groundwater. We have followed all of their rules to meet our request for the production permit.

Kristen Fancher:

I won't interrupt you, but we won't go into that for now as to each of the requirements. At this point we are going to decide whether or not they get to be a party to your application. If you have any thing like specific questions as to why they are affected by your application – that is what this is for.

Chan Patel:

I believe the production that is taking place at SandRidge is being documented to show that it is not even affecting adjacent property owners or ranch wells or monitoring wells that are one mile from the SandRidge production wells. If we are not affecting those wells, I don't think we can be affecting any other wells that are 30 miles away.

Kristen Fancher:

And your question for them is you would like them to respond to that statement I guess?

Chan Patel:

Correct. If we are not – if Middle Pecos Groundwater District is monitoring wells that are about a mile from production wells that are in use, and the monitoring is showing no change that indicates an adverse effect, then how can it possibly affect a well that may be 30+ miles away in your area?

Ed McCarthy:

We are now getting off in the areas regarding specific proof associated with the application. The question is does Fort Stockton Holdings have a justiciable interest? We have permits from this District in the same aquifers that SandRidge desires to pump from. We are entitled to explore that based on our land ownership and groundwater ownership, and permits we have issued by this District, and we feel we have justiciable interest. The same aquifer is going to be used and the District rules apply throughout the aquifer. The management zones have certain impacts and associations with that. The MAG that is out there limits the total amount of pumping and production that can occur. All these things can have impact on Fort Stockton Holdings permits. So we are here today asking for a contested case hearing. Once we see the information, we may withdraw our request, we may settle, we may not desire to prove it, you may decide to issue the permit. All those are substantive matters for the permit and are not questions to be considered in the matter of Fort Stockton Holdings justiciable interest. Thank you.

Glenn Honaker: Thank you Mr. McCarthy.

Chan Patel:

May I say something? The information has been provided to Middle Pecos Groundwater Conservation District on October 7, 2010. The information has been available for them to review for many many months. I don't see why it has not been viewed until this point, and therefore, if that information was readily available then they should have specifics for us as to why we are affecting their area.

The other thing is we are operating the current wells to have no adverse affect, because we want to make sure there are residential wells close to our area that do not have an adverse affect. We also need a sustainable long term supply for the plant itself. So for us to maintain this "no adverse affect", we shouldn't be affecting anything that Middle Pecos would like for us to do.

Kristen Fancher:

Then let me assist you in your question. I guess you would like, and I think you mentioned some of the specifics earlier, but what you would like to hear is some specifics with regard to your application, not just some global generalizations.

Chan Patel:

Right, if they are going to review the application, why haven't they reviewed it before now, they have had plenty of time to review the application and should have reviewed it by now. And then only be allowed to protest based on what we are doing.

Kristen Fancher:

Ed, I think you mentioned some of the specifics before, but do you mind, as far as SandRidge's application goes to mention a some of the specifics you mentioned earlier, maybe repeat those for us.

Ed McCarthy:

Again I would like to start off with the fact that the issue is not what we have or haven't reviewed in the application, that is what this process is about. That's why you give notice of these kinds of hearings and give people who are interested in the permit that may be issued and opportunity to come and request a contested case hearing. It's couched in terms of a protest, contested hearings are public hearings on permits, and may not always be protested. But it's an opportunity to explore the value of the application to determine the final impact.

The critical points are with respect to this same information that we don't have, and I am not limiting it to what we might look at, when I said the application said that it is to produce 1400+ acre feet, we haven't had an opportunity to review the hydrology reports related to it, or how that may affect the Edwards aquifer both locally and on an aquifer wide basis within the District, and how those affects may impact Fort Stockton Holdings operations and under it's permits, under your rules and under having a managed under your management plan.

Kristen Fancher:

Thank you. I don't know if there are any other questions, does the Board have any questions, or can we move on? Back on to Iraan.

Steve Sellepack:

My name is Steve Sellepack with Premier Environmental. The thing I confused about – Fort Stockton Holdings keeps saying they haven't had an opportunity to review this application and the hydrogeologic study. I know that our esteemed colleague was present in the December meeting where the application was deemed administratively complete. Please elaborate.

Ed McCarthy:

I'm not sure what you mean by please elaborate. But again, something that's important to ...

Glenn Honaker: Please be concise.

Ed McCarthy:

I apologize Mr. Honaker. The administrative process calls for things to basically to be done in this order. You post a notice for hearing, your rules contemplate that the people that are interested in hearing will file a request for party status, and present their justiciable interest and we have done that. We are here today requesting that you grant us a contested case hearing on this matter and grant us party status.

Glenn Honaker:

Any further questions on SandRidge application for party status? Ok, let's move on to the City of Iraan, any questions? Is there a representative for the applicant here?

John Dorris: I will represent them. I have a question.

Glenn Honaker: You can ask a question as a Board member. Ok, no one is here representing the City of Iraan. Does the Board have any questions?

John Dorris:

Yes. When did you decide that 4 wells that you don't even know for sure where they are and that 400 acre feet are going to affect your application, which it would be further than 70 miles to your well field? How far away from Fort Stockton is your well field?

Jeff Williams: 8 miles as a crow flies.

John Dorris:

OK, do you agree that it's 65 miles from here to Iraan?

Jeff Williams: Yes, I think so.

John Dorris:

OK, that is 73 miles. Come on, a little 'ole town over there needs to use 400 acre feet of water, 65 miles away. I just wonder when you made this decision that this was going to affect you. Plus, I take issue that I think the City of Iraan probably had some kind of Drought Plan, don't you Evans?

Evans Turpin: Yes.

John Dorris

See Evans is a former Mayor. So I think that they did have. Now I think they are very conservative with their water use over there. I just wonder when it became such an issue.

Evans: A sign on a board in town right now says "Conserve Water".

Glenn Honaker: Do you have a response Mr. McCarthy?

Ed McCarthy: The issue about when we became concerned is with the filing of a notice filed June 10<sup>th</sup>. With respect to the quantity being used, this Board and this District has indicated that there are concerns of limiting quantity of water available from the Edwards/Trinity aquifer. As a permittee, a land owner and groundwater owner with rights in the Edwards Trinity aquifer, Fort Stockton Holdings believes it has justiciable interest in these proceeding, and has asked for a contested hearing in order to explore those issues. Thank you.

Glenn Honaker: Kristen did you have anything?

Kristen Fancher:

No, I think that the distance was my question. Do y'all have any further questions? If not we can move down the list.

Mr. McCarthy we might ask you to come back up and address the next one on that list.

Glenn Honaker: Pecos County Water Control and Improvement District #1.

Ed McCarthy:

I would adopt my earlier comments with respect to Fort Stockton Holdings interests in groundwater with respect to the Edwards Trinity, and also add that those issues alone show our justiciable interest with respect to this application and we request a contested case hearing.

Glenn Honaker: Cuco, do you have any questions?

Refugio "Cuco" Rangel: I did not hear him.

Ed McCarthy:

I previously, I don't want to be repetitive, Fort Stockton Holdings owns and controls groundwater beneath approximately 18,000 acres of land here in Pecos County. We have multiple wells, in excess of 40 permits authorizing production from the Edwards/Trinity aquifer. The application that Pecos County WCID#1 has filed seeks to increase its pumping from that aquifer and that has a potential to impact the rights of Fort Stockton Holdings groundwater, its permits and how this District operates its management plan, rules, the implementation, and the affect it may have on their permits.

Refugio "Cuco" Rangel:

So what you are saying is that we need to prove to you some how by doing a broad investigation or something saying that it will not affect y'all's water?

Ed McCarthy: You need to prove to the District that your permit will comply with the rules in the management plan requirements that the District adopted/established. Our right is to play the role of having be a party and exploring those issues and how they may affect our water rights and permits.

Refugio "Cuco" Rangel:

Ok. And one thing is that, if I have heard right, you are objecting to all this because something wasn't posted right?

Ed McCarthy: No sir. We raised objections with respect to the postings and how it was done. Prior to doing that we subsequently requested contested case hearing on the application and party status in that hearing in order to protect the rights of Fort Stockton Holdings. It wasn't until yesterday that when we got the agenda which reads different from the posting, that we went back and noted the errors in the posting that we brought to the Districts' attention.

Kristen Fancher: Basically what we are doing right now is determining whether they get to come in and be a party to the hearing on your application. So if you have any questions specific as to how they would be affected, and cross examining him as to his interest in your application, this is the time for you to ask those kinds of questions of him.

Refugio Rangel: One thing I will say is what we are requesting is a small dab as to what they have been requesting. I do not see why we would affect them. What we want in a year, if they get the 43 million, they will be pumping in 4 days what we pump in a year. So I don't think this increase we affect them any. That is my personal comments.

Glenn Honaker: How far is – where is your well field located Cuco?

Refugio "Cuco" Rangel: We have two well fields. From the Kennedy Exit it is 15 or 16 miles from their land. And the Mendell is about 21 miles out. So you could say any where from 16 to 20 miles out.

Kristen Fancher: Glenn asked the question on distance, and that was my question, and he answered that. I don't know if y'all have any other evidence about the distance of their well field.

Glenn Honaker: Would y'all agree with that?

Janet Groth: What aquifer?

Refugio "Cuco" Rangel: On some reports it says we are pumping out of the Dockum, and also from the Edwards/Trinity.

Glenn Honaker: OK, Thank you.

Kristen Fancher: And Paul, these before us are Edwards/Trinity, right? (Paul Weatherby nodded). OK.

Paul Weatherby: Ok, again I want to ask did you not feel like you had a justiciable interest of a potential impact on your operations from their wells pumping in these same meetings I mentioned before back in 2010 when you were present when these permits were granted? Did the question come up, you and your whole team were here, "hey we need to protest this, that could impact us.". It didn't. I ask why didn't it?

Ed McCarthy: Mr. Weatherby, I will give you the same answer that since those dates, this District has adopted additional rules in the management plan and taken various positions that indicate that there is potential impact to the groundwater that is produced by Fort Stockton Holdings under its permits as a land owner, as a groundwater owner, as a permit owner.

Paul Weatherby: And when was that?

Ed McCarthy: When was what?

Paul Weatherby: The management plan you are talking about, when was it adopted?

Ed McCarthy: October. And it was approved in December/January time frame. And the management implementation rules were adopted in February of this year.

Paul Weatherby: So now we are in June, and you've got a problem with it.

Ed McCarthy: We are in June, and you posted a notice on June 10<sup>th</sup> calling for a hearing today, which is why we are here Mr. Weatherby.

Paul Weatherby: But could you not have done this anytime when these wells were first presented at a hearing and we were discussing them? Could you not have done it then?

Ed McCarthy: Mr. Weatherby, you posted a notice on June 10<sup>th</sup>

Paul Weatherby: I didn't ask that, I asked could you have done that legally, prior to this notice today, as being present at these hearings

Ed McCarthy: Mr. Weatherby, the question is immaterial.

Paul Weatherby: So you do want to answer

Ed McCarthy: No, the question is immaterial.

Janet Groth: I have a question, when the original applications were filed, was there a procedure in place where anyone could have protested those original applications?

Kristen Fancher: Yes, the way that you process them is the exact same as you process them for any application. So there is an opportunity to protest them. But the key difference here is that because they are interim permits you were not allowed to limit or discuss quantity at all, so if someone wanted to come in and say "I am affected" we could have had a hearing as whether or not we would grant the interim permit and then they could come back and try to get a production permit later, we could have done that. There was that opportunity, and you did process it the same way you do all your other applications but you just weren't able to look at the quantity. That's the only difference here.

Janet Groth: So there was an opportunity to protest the original application in total.

Kristen Fancher: Yes.

Janet Groth: They couldn't have addressed specifically how much, and now we are looking at either in total or in specifics.

Kristen Fancher: Right. At two different stages ...

Janet Groth: I understand now, there was an opportunity earlier, not as specific as the opportunity is now.

Kristen Fancher: That's exactly right.

John Dorris: Mr. President, I have a question.

Glenn Honaker: Yes John.

John Dorris: When we are asked questions, we are expected to give clear concise answers. Can we not compel Mr. McCarthy to give straight clear concise answers to Mr. Weatherby?

Ed McCarthy: I'll be happy to answer the question; I was trying to avoid this. During that time period according to the General Manager, the pleading filed with this District, it would have been illegal, and in fact was illegal for you to grant the permits or to consider permits. That's the position taken by Mr. Weatherby. At the time the interim permits were granted, allegedly granted, you didn't even have the rules for that. The answer is you didn't have a process. You were operating out of bounds, out side of your rules, and outside of chapter 36.

Janet Groth: I don't think we were operating outside of chapter 36.

John Dorris: No, according to our...

Glenn Honaker: Wait, wait, wait just a minute, y'all asked for his answer, now let him answer.

John Dorris: We'll give him a rebuttal.

Glenn Honaker: Were you through Mr. McCarthy?

Ed McCarthy: Again, we are here because of the notice posted on June 10<sup>th</sup> Mr. Honaker.

Glenn Honaker: I don't think we are here today to argue legal issues.

Kristen Fancher: Right, we've discussed with you before what an argument is, we've given that to you before.

Glenn Honaker: We each have our opinions.

Janet Groth: Yes, and we respect all of them.

Glenn Honaker: Yes, we respect all of them, and they will be played out. I'm sure, some where, at some time, but not today.

Kristen Fancher: As far as the legality goes, y'all know that we respectfully disagree with Mr. McCarthy. We have made that clear in the past. Are there any other specific questions...

Glenn Honaker: Any other questions on Pecos County Water Control and Improvement District #1? Yes, Cuco.

Refugio "Cuco" Rangel: I have one question. I have heard 90 days, are we going to have to wait 90 days to get another hearing on the application?

Glenn Honaker: You are operating under an interim permit aren't you?

Refugio "Cuco" Rangel: Yes.

Glenn Honaker: OK. It is a "What if" situation. If party status is granted, then yes, we are going to have to delay action on the production permit. But you can continue to operate under your interim permit until we act on the production permit. Did I answer your question?

Refugio "Cuco" Rangel: Yes.

Janet Groth: I would like to apologize to Mr. McCarthy for interrupting him, I'm sorry.

Ed McCarthy: No problem.

Glenn Honaker: Bruce McKee is supposed to be next, but I think I'm going to go out of order right now and go to Tony Mandujano. Mr. McCarthy would you care to reiterate?

Ed McCarthy: I will adopt my previous comments with respect to Fort Stockton Holdings. I would also like to add applicable to all of these that this Board has set a very low threshold with respect to granting party status and what is a justiciable interest including not only entities outside of the county ...

Paul Weatherby: Hold on, I can't hear...

Ed McCarty: I would, with respect to Mandujano's application, previous comments with respect to Fort Stockton Holdings and the basis for its request. I would also like to add that for this application and for the other applications, I would like to remind the Board that this Board has set a very low threshold with respect to granting party status and what it believes to be a justiciable interest including not only entities outside of the county. Granting party status to entities and individuals that do not have permits in the District, do not own property, are not within the county, and not within the jurisdiction of the District. But is somehow believed to have some affiliation that would give them party status, Fort Stockton Holdings is here and has much more substantial direct interest which under your rules would entitle us to a party status, but doesn't mean that if we continue to object to any of these applications, that our objections will be granted, and the permits will be granted. The issue before you is a request for party status in a contested case hearing.

Glenn Honaker: OK, Thank you. Is there a representative for the applicant? No, OK.

Paul Weatherby: Mandujano? I've got a question. Just to clarify on the Mandujano application...should or should not party status be granted, do you understand that his application is agricultural purposes? Because the letter you sent me, you were concerned about his application for industrial use. That is what you put in your letter, speaking of typos etcetera, that you have mentioned on our postings, I wondering if you are clear that Mandujano's application is for agricultural use and not industrial.

Ed McCarthy: I stand corrected Mr. Weatherby, and I understand it to be for agricultural use. We re-urge our issues and change the word industrial to agricultural.

Paul Weatherby: OK, can we stand corrected on the typos on our postings?

Ed McCarthy: Mr. Weatherby, I am not here challenging your postings for purposes of our asking you to set aside these proceedings. My presence here waves any error with respect to that issue. I'm trying to bring to the Districts attention some matters that even in these proceedings that could jeopardize them if someone else who doesn't have the ability to be here today like myself to come and challenge them and also bring them to your attention for future reference, that's all I am doing. There is a great deal of confusion, it is not one error, and I'm not...I'll stand corrected with respect to my industrial and should be agricultural use.

Glenn Honaker: I have a couple of questions for you. Where are you producing your water out of? What aquifer?

Ed McCarthy: Primarily out of the Edwards/Trinity, and we have wells that are designated as being other aquifers. Which raises questions as to what aquifers some of the wells are out of.

Glenn Honaker: All of your geologists couldn't figure out which aquifer you are pumping out of?

Ed McCarthy: We believe they are all out of the Edwards/Trinity. Some of the earlier permits issued by the District had erroneous references.

Glenn Honaker: OK. Are you aware of the aquifer the Mandujano well is pumping out of?

Ed McCarthy: I am aware that the notice indicates Pecos Valley aquifer, but I don't know for a fact that is the aquifer. Also don't know how that impacts the Districts implementation of the MAG we'll be getting from the Texas Water Development Board or it's management plan. Which could impact total production and impact Fort Stockton Holdings ability to produce the permits that you have issued.

John Dorris: May I ask a question? What depth is the Edwards/Trinity? And what depth is the Pecos Valley aquifer?

Glenn Honaker: I can tell you what my wells are, but I'm not a geologist.

John Dorris: Any idea where they would be to know what the depth of the aquifers are?

Paul Weatherby: There's no way to put a blanket number on the depth of an aquifer. Basically your Pecos Valley aquifer is shallower than your Edwards/Trinity.

John Dorris: Quite a bit of difference though.

Paul Weatherby: Well, I'm not going to say quite a bit. I'm not a hydrologist or geologist.

Evans Turpin: It's younger in age but could be the same depth.

John Dorris: Where is Mr. Mandujano's farm located Mr. McCarthy, do you know?

Ed McCarthy: I do not know the specifics of it.

John Dorris: You don't. Do you Jeff?

Jeff Williams: It's north.

John Dorris: How far north?

Jeff Williams: It's probably 30 miles north.

John Dorris: 30 miles north. How would producing water from a well that is in a different aquifer 30 miles from where your well field is, how would that affect you?

Paul Weatherby: Let me answer something. I may be out of place or out of turn here, because Mr. McCarthy has made it clear that the specific of the application, he's not dealing with today. He's dealing with the fact that he is asking for justiciable interest in the fact that there's going to be some pumping out of the aquifer, and he wants to see if that is going to affect him or not. Today is not the day we determine that.

John Dorris: Well, that's what I am trying to figure out is why he needs a justiciable interest about a well that is that far from him in a different aquifer.

Paul Weatherby: He's just concerned about it.

John Dorris: OK, well I appreciate that.

Kristen Fancher: Those are things that under the justiciable interest that you can consider distance and aquifers and things like that. Does anyone have any more questions on Mandujano?

Glenn Honaker: Does anyone have any more questions on Mandujano? OK, let's move on to Fort Stockton Independent School District. Any specifics on that one Mr. McCarthy?

Ed McCarthy: This application indicates that it is pumping from the Edwards/Trinity Mr. Honaker and I would reiterate my earlier comments regarding Fort Stockton Holdings permits and groundwater.

Glenn Honaker: Thank you sir. Is there a representative for Fort Stockton Independent School District here? I don't see anyone, so they can't cross. Does the Board have any questions?

Janet Groth: Where are Fort Stockton ISD wells?

Glenn Honaker: Paul do you know where they are located?

Paul Weatherby: Two of the wells are over here at what we call the Middle School on the west side of town, in the area of the Middle School and the nursing home. The other two are over on the north side of the high school football stadium. One well is actually between the stadium and the college. The other well is right on the service road on the north end of the driving range that the high school uses for the golf team.

Glenn Honaker: What kind of mileage would that be from Fort Stockton Holdings property?

Paul Weatherby: Well, it would be about 15 miles and 17 miles.

Glenn Honaker: Do you agree with that Jeff?

Jeff Williams: Yes, I'd say 14 to 17.

Paul Weatherby: The high school wells are about a mile and a half to two miles away from Middle School. So you've got 14 to 15 miles here, 16 to 17 here, whatever.

Kristen Fancher: Y'all have covered my questions.

Glenn Honaker: Now we can go to Bruce McKee. Mr. McCarthy.

Ed McCarthy: Is it Bruce McKee or Bruce McAfee? The posting show an interim permit for Bruce McAfee.

Glenn Honaker: Point well taken and that did lead to confusion in the postings. I would recommend that the Board postpone this permit.

Lynn Holland: Do you need a motion for that?

Glenn Honaker: Yes please.

Lynn Holland: I move that we postpone Bruce McKee's permit application until a later date when it has been properly notified and posted.

Kristen Fancher: It terms of properly notified, to correct the name primarily and also to indicate the location, it says located at and we would fill in that blank to give those members of the public and idea of where that well is located.

Glenn Honaker: I have a motion, do I hear a second? I have a second? Sorry I didn't hear that Merrell. Any further discussion from the Board on the motion to postpone McKee?

Paul Weatherby: I need to mention, I did talk to Mr. McKee about 11 o'clock 11:15 this morning by phone reference this typo on his name. He had seen that, and of course it didn't bother him any. He saw that it was correct on the agenda and other places everywhere else in the world except there. He

understood and didn't complain. I told him that there was a chance that it would be postponed and he did not have a problem with that.

Glenn Honaker: OK, any further discussions? If not, all in favor of postponing the Bruce McKee production permit to a later time, after proper notice posting, signify by saying aye. (Board members voted aye verbally) Opposed? (No one opposed) Motion carries.

Ok, I think that is it. Did you have anything else Mr. McCarthy?

Ed McCarthy: Not at this time, Thank you Mr. Honaker

Glenn Honaker: Did you have one more for Mr. McCarthy.

Paul Weatherby: Again, just for clarification just in case things go on to where you request open records and copies of all this stuff – I believe you would in your letter addressed to me the other day on the Pecos County WCID#1. If you look at your letter, you eluded to it being for industrial purposes only. I want you to acknowledge that it is for public supply.

Ed McCarthy: I acknowledge that Mr. Weatherby.

Paul Weatherby: What ever you ask for, if you ask for industrial – you are not going to get much.

Ed McCarthy: I appreciate that. I stand corrected, thank you.

Paul Weatherby: That's all.

Kristen Fancher: At this time the Board can deliberate and make a decision on FSH's request for party status. Again, FSH is the only party that filed one today, so we are only dealing with each of their requests, but we are going to deal with them on the 5 applications and Bruce McKee we will deal with in July, either before or after the July board meeting. We will deal with it then. So as far as the City of Iraan, Fort Stockton ISD, SandRidge, Pecos County WCID#1 and Mr. Mandujano those are the 5 we are dealing with today.

John Dorris: On party status?

Glenn Honaker: Yes, on party status.

John Dorris: Do you want a vote on each one or all together?

Glenn Honaker: We can do a lump motion or we can have separate motions.

John Dorris: I think we should do them separate.

Janet Groth: I have a question before we do all that for discussion. This is a legal question. Do you believe that the posting errors are a problem, a legal issue that might be brought up again at some point down the road?

Kristen Fancher: Right, as Mr. McCarthy mentioned, as far as Fort Stockton Holdings goes he mentioned that they waved their notice, they are here today and they got their constructed notice at a minimum. You do run the risk of other parties out there that may say "Oh, I didn't have notice". I think that the Board does have arguments on some of those things. What's required in Chapter 36 and your rules, some of the things addressed by Mr. McCarthy are not required in either one of those. But, you do run the risk. What that means is that if for whatever reason y'all felt like "OK, another party comes in besides FSH comes in and says I didn't get notice and I'm affected, then you could make the decision as to whether you wanted to reissue the notice and then I guess reconduct the hearing. If you did not have contested hearings on the applications, now on the ones if you did decide you will have contested hearings they could come in later and request party status before the hearing on the application and then you would deal with it then and then what would be if you decided like if they had an interest and they didn't get the notice in time, then you could reissue your notice which is the 10 day and then you could make a decision. What it might require on those that uncontested would be for you to take another look at them again later. But, that is if you decide that someone else comes in, or if someone besides FSH comes in, and we feel like there are errors and truly didn't have notice, despite some of the language in this notice and you felt like you wanted to give them another chance. Those are some of the things we would have to consider later on.

Janet Groth: So there is a remedy available.

Kristen Fancher: There is a remedy available. It might require you to some extent to start over, but right now...

Glenn Honaker: If we have a request.

Janet Groth: I just wanted to make sure that the door hadn't been slammed shut. And since it hasn't, I am OK with that.

Glenn Honaker: Houston, did you have something?

Houston McKenzie: In the past months we have listened to all kinds of testimony from Fort Stockton Holdings that 47 thousand acre feet wouldn't bother anybody around. Now they have come and they are worried about these little permits.

Glenn Honaker: We're, wait, that is not what we are talking about today.

Houston McKenzie: But I feel like this is kind of like harassment. I don't know. Are we talking about whether or not to grant them party status?

Glenn Honaker: Yes, we are talking about whether or not to grant them party status.

Houston McKenzie: I feel like it, I can understand where they are coming from because they probably feel like they weren't treated fairly, and maybe they weren't, but I hate to see us get into playing games. That is what it looks like to me. I hate to see us get to this point where we are all going to look at every little thing, cross your "t" and dot your "i". So I am against giving them party status myself.

John Dorris: Well, I am sure against a permit that is 70 miles away, or one that is 30 miles away and in a different aquifer.

Lynn Holland: Mr. Chairman, I would like to move that we deny the Fort Stockton Holdings LP request for party status on the City of Iraan and Mandujano.

John Dorris: I'll second that motion.

Glenn Honaker: I have a motion and a second to deny party status to Fort Stockton Holdings on the City of Iraan production permit and Tony Mandujano production permit. Any further discussions? If not, all in favor say aye. (All Board members said aye). All opposed (No opposition). Party status is denied in the City of Iraan production permit and Tony Mandujano production permit applications.

Merrell Daggett: I move to grant Fort Stockton Holdings LP party status on the applications of SandRidge E&P, Fort Stockton ISD, and Pecos County WCID#1.

Lynn Holland: I'll second.

Glenn Honaker: I have a motion by Merrell and a second by Lynn to grant party status to Fort Stockton Holdings on the SandRidge E&P production permit, Pecos County WCID#1 production permit, and the Fort Stockton ISD production permit.

Janet Groth: I am trying to look at my notes, Fort Stockton ISD is in the Edwards/Trinity, ok.

Glenn Honaker: All in favor to grant party status for SandRidge E&P, Pecos County WCID#1 and Fort Stockton ISD say aye. (6 Board members said aye). Opposed? (2 opposed). Motion carried.

So with that decision there will be contested hearings for those three production permits. Parties, I am requesting that you get together, each applicant with Fort Stockton Holdings and decide how you want this procedural schedule to proceed from this point forward. Mr. McCarthy I know you are familiar with the Districts approach, and Kristen Fancher can work with the applicants and helping them is they have any questions on the process. I would like the parties to tell me how they will be able to coordinate and get back to me with a time frame and a process and what we need.

Kristen Fancher: We are interested in, and I'll explain for PCWCID#1 and SandRidge since you two are here today. We'd like for y'all to get together and decide what kind of process you would like to have in terms of timing, and whether you want to have any discovery – I know you will probably need to talk to your legal team, but, and then coordinate with them, and if you can't reach some sort of conclusion, then please send up separately what you request; in terms of timing, what you would like the hearing to be – whether you want discovery, what types and the specifics on generally how you would like to have the hearing to proceed. Then if Fort Stockton Holding and the parties are quite a bit different, then we get back together, and we work with Glenn to issue an order that sets a procedural schedule that sets the time of the hearing, whether any types of discovery and all that like depositions are required, whether y'all want it, and then we go forward from there. So really we like to know from y'all do you think you can get that to us by tomorrow, Thursday, Friday? We would definitely like it to be by the end of the week. So, I hope that we can get a date today as to when we can expect that.

SandRidge representative: We will need to talk to our legal team first.

Kristen Fancher: Do you mind emailing or getting with us as to when you think the timing would be?

SandRidge representative: We can email.

Kristen Fancher: Perfect.

John Dorris: The hearings for them will be at the convenience of this board, correct?

Kristen Fancher: Yes. I've noticed that in the past you have it around your regularly scheduled board meeting. We can talk about that.

Glenn Honaker: Yes, we can talk about that. Let's see what we are going to be looking at. Then we can make that decision better. Correct me if I am wrong, but y'all have interim permits and continue what you are doing.

Kristen Fancher: And as far as in the additional, in the documents requesting as far as the schedule indicate in the second phase as to what kind of timing you are looking at for the project. This is not in regards to your interim permit, but the additional amount above that you are asking for as an amendment. Just give us an idea as to what your preferred timing is.

SandRidge representative: Inaudible

Kristen Fancher: It will be done all at one time. Now we might make distinction as to this has been an interim permit phase, but as far as the facts and such, it all going to be addressed at the same hearing. The 14 hundred whatever.

Chan Patel: Inaudible

Kristen Fancher: No, just like you have done, you add it on top of that. The interim permit is based on the management plan and rules and the time in between the two. Now that we have an adopted management plan and adopted rules, there are no more interim permits, only production permits.

Glenn Honaker: Any further questions?

Now we'll move on to conduct the hearing on the uncontested applications. Again, we have considered these applications previously and made a decision on each application prior to today, but as interim permits because § 36.1071 of the Texas Water Code only lets us issue interim permits on these applications while we developed our Management Plan and rules. Under Rule 11.7, each of these applicants was authorized to produce whatever they needed on an interim basis. Today, we are going to make a permanent decision on these applications as we do with all other non-interim permit applications under Rule 11.11.10. First let's begin with the application of the City of Iraan. Paul, can you start us off and brief the Board on the City of Iraan's application and your recommendation on it?

Paul Weatherby: The City of Iraan came before us on a production permit application on March 3, 2010. It was concerned with wells 1, 2, 3 and 4 which is a combined well system. They are located about 4 or 5 miles north of town. Maps are included with the application.

Evans Turpin: About 6 miles North West.

Paul Weatherby: We went over the maps and everything at that time, and I have them available if you would like to look at them again. On May 18, 2010, we reviewed and approved this application and it went into interim status. I recommend it be approved.

Houston McKenzie: I make a motion to approve the production permit for the City of Iraan.

Evans Turpin: Second that.

Glenn Honaker: Motion and a second, second by Evans to approve the City of Iraan.

Janet Groth: Houston made the motion. Are we recording this?

Glenn Honaker: Yes. Motion by Houston, second by Evans to approve the City of Iraan's Production Permit. Any further discussion by the Board? If not, all in favor say aye (All board members said aye). Opposed: None. Motion carries unanimously. (Approved for 400 acre feet from the Edwards/Trinity aquifer for municipal use).

We will now look at the Tony Mandujano permit application. Paul would you present this for us please.

Paul Weatherby: Tony Mandujano submitted this for Well #5 for 400 acre feet from the Pecos Valley aquifer. He presented this August 17, 2010. This was a new well. The Board reviewed the file back in August. He went through the map, the notice of intent, etcetera etcetera. It was administratively complete, and we granted him on August 17, 2010, no let me correct that to November 17, 2009, we granted his application for 400 acre feet. I recommend it be approved.

Houston McKenzie: I make a motion that the Production Permit for Tony Mandujano be approved.

John Dorris: Second.

Glenn Honaker: Motion by Houston, second by John to approve the Tony Mandujano production permit. Any further discussion from the Board?

Houston McKenzie: Paul, do we have any monitor wells up there?

Paul Weatherby: Yes, we have numerous monitor wells around the area. Including bi-annual monitoring and continuous monitoring. We have one on this particular well that we are talking about, it's probably 2 miles or a mile and a half from there.

Houston McKenzie: What is the trend on the water level there?

Paul Weatherby: I've got that in my quarterly report. The normal trend right now of all of our water levels has dropped a little bit in that area as it has any where – where they are irrigating. There is nothing abnormal. It drops about 30 feet, and some of them drop about only 8 or 10 feet. We have one particular well that will drop probably 80 feet while they are pumping in that area, but it recovers within just a few hours. And these are Pecos Valley aquifer.

Houston McKenzie: You don't feel there is any threat to the aquifer with this permit?

Paul Weatherby: No, not at all. He hasn't produced this well yet, because he is waiting on his production permit. It is ready to produce.

Houston McKenzie: Didn't we give him an interim permit?

Paul Weatherby: Yes, but Mr. Mandujano chose, I'm not going to say he didn't like the word interim, he just said that at that time he didn't really need the water to pump immediately. So he would wait until he got his production permit. Which is his choice.

Glenn Honaker: Any further questions? If not, all in favor of granting a production permit for Tony Mandujano say aye. (All Board members said aye). Oppose: None. Motion carries unanimously.

Melissa Mills: Who made the motion?

Glenn Honaker: Houston made the motion. John seconded it.

OK, that wraps up our hearing for today. Again, the parties to the contested hearing are supposed to get back with our attorneys on their preferred procedural schedule as soon as possible and we will move forward with those applications after I issue an Order on the procedural schedule. Do I have a motion to adjourn this hearing?

Lynn Holland: I make a motion to adjourn the public hearing.

Merrell Daggett: Second.

Glenn Honaker: All in favor say aye. (All Board members said aye). Motion carries. Public hearing adjourns at 3:12 PM.