

## Middle Pecos Groundwater Conservation District Minutes of April 16, 2013

On this the 16th day of April, 2013, a public hearing and regular board meeting was held by the Middle Pecos Groundwater Conservation District in the office located at 405 North Spring Drive, Fort Stockton, Texas, with the following members present, to-wit:

Jerry McGuairt	President, Precinct 1
John Dorris	Vice President, Precinct 3
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Merrell Daggett	Precinct 2
Weldon Blackwelder	Precinct 3
Evans Turpin	Iraan, City of
Terry Whigham	At Large

Quorum Present.

Members Absent: Alvaro Mandujano, Jr., Janet Groth, Ronald Cooper, and Vanessa Cardwell.

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Melissa Mills, Harvey Gray, Craig Pearson, Gary Drgac, Jeff Williams, Brock Thompson, Kenneth McIntyre, Refugio Rangel, Shirley Smetak and Shawn Yorks.

### **REGULAR BOARD MEETING**

I Call to order at 1:00 p.m. Vice President John Dorris.

II Consider and/or act on **Board Officer positions** for 2013.

Merrell Daggett made a motion to elect Ronald Cooper as President. The motion died on the floor due to a lack of a second to the motion. Ronnie Cooper was unable to be at the meeting today and it was not clear if he would accept the nomination.

M. R. Gonzalez made a motion to elect Jerry McGuairt as President. Motion seconded by Merrell Daggett. Jerry McGuairt accepted nomination. Motion carried. 6 Ayes, and one abstention by Jerry McGuairt.

Evans Turpin made a motion to re-elect John Dorris as Vice President and M. R. Gonzalez as Secretary/Treasurer. Motion seconded by M. R. Gonzalez. Motion carried unanimously.

III Recess from Regular Board Meeting to conduct public hearing

Vice President John Dorris recessed the meeting at 1:08 p.m. to conduct the public hearing.

**HEARING ON DRILLING/PRODUCTION PERMIT APPLICATION**  
**FILED BY KENNETH McINTYRE**

- I Call to Order @ 1:10 p.m. by President McGuairt.
- II Public Hearing on **Kenneth McIntyre's Drilling/Production Permit Application**
- Party representing application: Kenneth McIntyre.
- Protestant to application: None
- Public comment:  
Jeff Williams hand delivered public comment prepared by Ed McCarthy, Jr. of Jackson, Sjoberg, McCarthy & Townsend, L.L.P. on behalf of Fort Stockton Holdings, LP. Fort Stockton Holdings is not protesting the permit. He states that the notice is not properly posted and the application is not properly completed and therefore the hearing should not be held today.
- Mr. Harvey Gray, Pecos County WCID#1 Board President, spoke on behalf of PCWCID#1. They are not protesting the permit, but requests close monitoring.
- General Manager Paul Weatherby stated that the notice was properly posted, and that the application is administratively complete. Kenneth McIntyre made application on April 3, 2013 for a consolidated drilling/production permit. The property consists of 83 acres and is located on the North one-half of section 12, block 50, township 10, T&P Ry. Co. He is requesting 100 acre feet of water annually. Industrial use - 97 acre feet for a water station, and livestock use - 3 acre feet. The aquifer will be determined by the finished well, the aquifers overlap there. The closest producing well is owned by Pecos County WCID#1 on the North side of I-10 and is about 3/4 mile away. Mr. Weatherby recommended that the permit be approved.
- John Dorris pointed out that the term of the permit should not be perpetual as requested.
- III Adjourn Evans Turpin made a motion to adjourn the public hearing. Seconded by Weldon Blackwelder. Motion carried. Public hearing adjourned at 1:30 p.m.

**RECONVENE REGULAR BOARD MEETING**

- IV. Reconvene the regular meeting at 1:30 p.m. by President McGuairt.
- V Comments from **public and media** (limit 5 minutes per person)  
Members of the public may address the Board for a limited time concerning any subject whether or not it is on the agenda. The Board is not allowed to take action on any subject presented that is not on the agenda, nor is the Board required to provide a response.

Dr. Craig Pearson, a Board member of the Upton County Water District, offered public comment regarding the Randy Braden production permit. He stated that Mr. Randy Braden and the water well drillers have likely made a contamination path between the Pecos Valley and Edwards/Trinity aquifers in Pecos County.

Mr. Braden's farming is close the Pecos River, and his property sits on top of the Pecos Valley aquifer and the fresh water sets on top of the saline water. Mr. Braden drilled to use the Edwards/Trinity and has not isolated the salty Pecos Valley water. The U. S. Geological Survey monitor station in the vicinity of Mr. Braden's property where the river crosses the highway takes a measurement every hour and reports show the water is saline-to-very saline over 95% of the time in 2012. Continued exposure of the superior quality Edwards/Trinity aquifer to the contaminants is untenable.

He stated that Mr. Gary Drgac owns the water supply wells that provide drinking water to the Upton County Water District (UCWD) and the citizens of McCamey and southwestern Upton County. Mr. Drgac has consistently requested the Middle Pecos GCD investigate the drilling and production of Mr. Braden's water wells.

On behalf of the UCWD, and the citizens of McCamey and southwestern Upton County, I ask that the Middle Pecos GCD enforce its rules and follow its Rules Enforcement Policy and immediately file an injunction to require that Mr. Braden and/or his contractors drill out the casing and annular fill material and completely plug from total depth to the surface with cement, any and all of the water supply wells drilled on Mr. Braden's property since the inception of the Middle Pecos GCD.

He also requests for Middle Pecos GCD to contact the Texas Department of Licensing and Regulation and any other state agencies, such as the TCEQ, that could help to try and address this situation and the issues with the water well drillers who are involved in this situation.

Finally, he asks for the Middle Pecos GCD to obtain water samples and analysis of the groundwater being pumped from any of the wells on Mr. Braden's property.

VI Consider and/or act on **Kenneth McIntyre's Drilling/Production Permit Application**

John Dorris made a motion to approve the drilling/production permit as presented with a one year term. 100 acre feet of water annually. Industrial use - 97 acre feet for a water station, and livestock use - 3 acre feet. Motion seconded by Merrell Daggett. Motion carried without objection or abstention.

VII Consider and/or act on **Minutes of March 18, 2013**  
Merrell Daggett made a motion to approve the minutes of March 18, 2013 as presented. Seconded by Weldon Blackwelder. Motion carried.

VIII Consider and/or act upon **Accounts Payable and Treasurer's Report for the Month Ending 03-31-2013**  
Merrell Daggett made a motion to approve the accounts payable and Treasurer's report for the month ending 03-31-2013. Seconded by John Dorris. Motion carried.

IX Consider and take action as appropriate regarding **Gary Drgac's Request for Findings and Conclusions in the Matter of Randy Braden's Application**

Merrell Daggett made a motion to have *Fact and Findings and Conclusions* ready by the May 21st meeting with the intent to adopt them at the May meeting.

Discussion: The June meeting will most likely be when the decision to have a rehearing will occur and if a rehearing is to occur, it can also happen in June.

Motion seconded by John Dorris. Motion carried without objection or abstention.

X **Executive/Closed Session** to address Acosta Drilling enforcement matter, including the initiation of a lawsuit against Acosta Drilling pursuant to Texas Water Code § 36.102, District Rule 15.3.6; to address personnel issues; and to consult with legal counsel

President McGuairt called for an Executive session at 2:43 p.m.

Reconvene at 3:32 p.m. President McGuairt stated that no decisions were made in executive session.

- XI Consider and/or act upon **initiation of lawsuit pursuant to Texas Water Code § 36.102 and District Rule 15.3.6 against Acosta Drilling for failure to comply with District Rule 11.1 and the failure to pay the assessed enforcement penalty**

Merrell Daggett made a motion to proceed with the lawsuit against Acosta Drilling for failure to comply with District Rule 11.1 and the failure to pay the assessed enforcement penalty. Motion seconded by John Dorris. Motion carried without objection or abstention.

- XII Consider and/or take action on **personnel and staffing**

Manager Weatherby told the Board he is currently taking applications for an office assistant and will proceed with taking applications for an assistant manager in the near future.

No action taken.

- XIII Update on **developments for Groundwater Management Area 3**

There is concern for the Pecos Valley aquifer in the Cayanosa area because there is no monitoring North of the area. Due to the Colorado River Municipal Water District (CRMWD) and the T-Bar wellfield for the City of Midland, the Texas Water Development Board has installed satellite telemetry wells to monitor water levels - one in Ward County and one in Winkler County. The Ward County telemetry well sits in the middle of the CRMWD well field. An open records request has been submitted to the City of Midland requesting information on the producing wells and the projected wells in the T-Bar field that will be producing from the Pecos Valley aquifer. Establishing the telemetry wells is the only evidence we can produce in support of the establishment of the Priority Groundwater Management Area.

Crane, Ward and Winkler counties have declined to seek a Groundwater District. Loving and Reeves counties are getting theirs through the current legislature without opposition.

XIV Consider and/or act upon **General Manager's Quarterly Report**  
The General Manager's Report for the first quarter of 2013 was presented to the Board.

John Dorris made a motion to approve the General Manager's Report. Motion seconded by Merrell Daggett. Motion carried.

XV Consider and/or act upon **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, USGS update, Legislative Update and Artesian Wells**

- Well Registrations: Progress report included in their notebook.
- Data Loggers: Continuing.
- Water Quality Analysis: Continuing.
- USGS: No update.
- Artesian Wells: Being evaluated

XVI **General Manager's Correspondence and Report**

- RigData report: In their notebook.

XVII **Directors' comments**

The personnel committee had nothing to report

XVIII Consider and/or act upon **agenda for next meeting**

Randy Braden: Facts, Findings and Conclusions  
Several Production Permits  
Update on Acosta Drilling issues

XIX **Adjourn** Merrell Daggett made a motion to adjourn, seconded by John Dorris. The motion carried, and the meeting adjourned at 4:05 p.m.

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M. R. Gonzalez, Secretary/Treasurer

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Jerry McGuairt, President

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