

## Middle Pecos Groundwater Conservation District Minutes of May 21, 2013

On this the 21st day of May, 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
Janet Groth	Precinct 1
Merrell Daggett	Precinct 2
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Evans Turpin	Iraan, City of
Terry Whigham	At Large

Quorum Present.

Members Absent: Ronald Cooper, and Vanessa Cardwell.

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Melissa Mills, Harvey Gray, W L. Stribling, Craig Pearson, Gary Drgac, Randy Braden, Zach Brady, Darrell Peckham, Jeff Williams, Brock Thompson, Ed McCarthy, Ray House, Jr., Wayne Tinkler, Alyson McDonald, Harvey Pearson, Bob Scogin and Tom Frist.

### REGULAR BOARD MEETING

1 Call to Order at 1:00 PM by President Jerry McGuairt

11 Comments from public and media

Dr. Craig Pearson, Upton County Water District Board member, he is speaking as a representative of the citizens of McCamey and southwestern Upton County.

Summary: Mr. Randy Braden and the water well drillers that he contracted with have created a contamination path from the shallow saline Pecos Valley Alluvium Aquifer into the underlying Edwards Trinity Fresh water aquifer on his property in Pecos County. Dr. Pearson handed out two pages to the Board and advised "The first one is the local geology that is based upon a 1961 study by the TWDB. It is a model of what is going on in and around the Pecos River gorge, the Pecos Alluvium which is overlying the older settlement and of particular interest is the Trinity Edwards with fresh water and geology below that. It is

an unusual situation stratigraphically and hydrogeologically because we have a salt water system overlying a fresh water system. The source of the salt water is from the Pecos River and is the reason for our main concern."

"Second is a one year sample at midnight of the Pecos River salinity, total dissolved solids, and on a daily basis ranges anywhere from 15 to 25 thousand parts per million which is saline to highly saline waters overlying our fresh water, the Edwards Trinity aquifer. The waters in the Pecos River and the Pecos Alluvium are saline to very saline 95% of the time in 2012 based on USGS information. Continued exposure to our superior quality Edwards Trinity to these contaminants is irreparable in the view of the Upton County Water Board."

"The major area of concern raised by the water analysis data is that the commingled waters of the Pecos Valley Alluvium and the Edwards Trinity in Mr. Braden's wells, show very high total dissolved solids measurements."

Mr. W. L. Stribling with the Texas Department of Licensing and Regulations commented that TDLR is looking into Mr. Braden's wells. There are no conclusions at this time, they are obtaining water samples and gathering information.

III Consider and/or act upon Minutes of April 16, 2013

Merrell Daggett made a motion to approve the minutes of April 16, 2013 as presented. Seconded by John Dorris. Abstentions: Janet Groth and Alvaro Mandujano, Jr. Motion carried.

IV Consider and/or act upon Accounts Payable and Treasurer's Report – April 30, 2013

Merrell Daggett made a motion to approve the accounts payable and Treasurer's report for the month ending 03-31-2013. Seconded by Alvaro Mandujano, Jr. Motion carried.

V Recess at 1:21 PM

Reconvene into Open session at 1:21 PM

HEARING ON LEE BAKER (c/o JESUS RUIZ) PRODUCTION PERMIT APPLICATION

1 Call to order 1:33 PM by president Jerry McGuairt

11 Public Hearing  
Party representing applicant: No one present.

Protestant: None

Uncontested Application.

Mr. Jesus Ruiz submitted an application for a production permit on behalf of Lee Baker on 04/16/2013. Jesus Ruiz leases the land to farm. Mr. Lee Baker sent a letter giving Mr. Ruiz the authority to apply for the production permit. He is requesting 500 acre feet annually from the Pecos Valley aquifer. It is a 3 well system located in Block 48-8 T&P, section 9 survey approximately 4 miles west of Hwy. 1776 on the north side of Weatherby Road in Pecos County. The use is for agricultural/irrigation.

There were no questions or comments from the public or the board. Manager Paul Weatherby recommended that the application be approved.

III Adjourn. Evans Turpin made a motion to adjourn the public hearing. Seconded by Weldon Blackwelder. Motion carried. Public hearing adjourned at 1:40 p.m.

The Board recessed at 1:40 PM.

Reconvened at 1:45 PM.

HEARING ON RAY HOUSE, JR. PRODUCTION PERMIT APPLICATION

I Call to order at 1:45 PM.

II Public Hearing

Party representing applicant: Ray House, Jr.

Protestant: None

Uncontested Application.

Mr. Ray House, Jr., submitted an application for a production permit on 04/25/2013. He is requesting 50 acre feet from the Edwards Trinity aquifer for a 2 well system that is located at 1995 North Front Street in Fort Stockton, TX. The use is Industrial.

There were no questions or comments from the public or the board. Manager Paul Weatherby said the application is administratively complete and recommended that the application be approved.

III Adjourn John Dorris made a motion to adjourn the public hearing. Seconded by Alvaro Mandujano, Jr. Motion carried. Public hearing adjourned at 1:52 PM.

The Board recessed at 1:52 PM.

Reconvened at 2:00 PM.

HEARING ON MENDEL FAMILY TRUST  
(C/O WAYNE TINKLER) PRODUCTION PERMIT APPLICATION

1 Call to order at 2:00 PM

11 Public Hearing

Party representing applicant: Wayne Tinkler

Protestant: None

Uncontested Application.

Mr. Wayne Tinkler has submitted a request for a production permit on behalf of the Mendel Family Trust. Mary Jane Rozypal sent an email on behalf of the Mendel Family Trust giving Mr. Tinkler the authority to apply for the production permit and manage the water on their behalf. Mr. Tinkler is requesting 15 acre feet from the Pecos Valley aquifer for Industrial Use. Location of the well is on the Mendel Ranch, approximately 15 miles west of Fort Stockton on I-10 (Kennedy Exit), 1/2 mile north of I-10 and 1 mile east, in Pecos County, Texas.

There were no questions or comments from the public or the board. Manager Paul Weatherby said the application is administratively complete and recommended that the application be approved.

III Adjourn Merrell Daggett made a motion to adjourn the public hearing.  
Seconded by John Dorris Motion carried. Public hearing adjourned at 2:10 PM.

RECONVENE REGULAR BOARD MEETING @ 2:10 PM

VI Consider and/or act upon Lee Baker (c/o Jesus Ruiz) Production Permit Application

Janet Groth made a motion to approve the production permit as presented: 500 acre feet annually from the Pecos Valley aquifer. 3 well system located in Block 48-8 T&P, section 9 survey approximately 4 miles west of Hwy. 1776 on the north side of Weatherby Road in Pecos County. The use is for agricultural/irrigation.

Motion seconded by M. R. Gonzalez. Motion carried.

VII Consider and/or act upon Ray House Jr. Production Permit Application

Janet Groth made a motion to approve the production permit as presented: 50 acre feet from the Edwards Trinity aquifer for a 2 well system that is located at 1995 North Front Street in Fort Stockton, TX. The use is Industrial.

Motion seconded by Alvaro Mandujano, Jr. Motion carried.

VIII Consider and/or act upon Mendel Family Trust (c/o) Wayne Tinkler Production Permit Application

M. R. Gonzalez made a motion to approve the production permit as presented: 15 acre feet from the Pecos Valley aquifer for Industrial Use. Location of the well is on the Mendel Ranch, approximately 15 miles west of Fort Stockton on I-10 (Kennedy Exit), 1/2 mile north of I-10 and 1 mile east, in Pecos County, Texas.

Motion seconded by Evans Turpin. Motion carried.

IX Consider and/or act on Findings of Fact and Conclusions of Law requested by Gary Drgac in the contested hearing on Randy Braden's Application

John Dorris made a motion to enter into the **Order to Adopt Written Findings and Conclusions** with the accompanying **Findings of Fact and Conclusions of Law** documents as amended with Mike Gershon's and Paul Weatherby's input. The motion was seconded by Alvaro Mandujano, Jr. Motion carried without objection.

X Executive/Closed Session to address with legal counsel litigation, enforcement matters and request for settlement offer by/on Acosta Drilling Inc. pursuant to Texas Water Code 36.102, District Rule 15.3.6

President McGuairt called for an Executive session for the purposes authorized under the Texas Open Meetings Act, V.T.C.A., Government Code, Chapter 551.071 to consult with attorney at 2:32 PM

Reconvene at 3:31 PM. President McGuairt stated that no decisions or votes were made in executive session.

XI Consider and/or act upon litigation pursuant to Texas Water Code 36.102 and District Rule 15.3.6 against Acosta Drilling Inc for failure to comply with District Rule 11.1, failure to pay assessed enforcement penalty and approval of a settlement offer and agreement with Acosta Drilling Inc

Merrell Daggett made a motion to proceed with action against Acosta Drilling. The motion was withdrawn by Mr. Daggett for a lack of a second.

Merrell Daggett made a motion to serve Acosta Drilling with the approved document (letter) dated May 21, 2013, and to give him 30 days to pay by cashiers' check. Motion seconded by Alvaro Mandujano. Motion carried without objections.

XII Consider and/or act upon Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Water Analysis, USGS Update, Artesian Wells

- Well Registrations: Progress report included in their notebook.
- Data Loggers: No new data loggers installed.
- Water Quality Analysis: Continuing.
- Production Permits: There are currently 7 permits in progress.
- Palmer Drought Map: Map included in their notebook

XIII General Manager's Correspondence and Report

- There will be a USGS meeting with MPGCD on June 3 from 4:30 - 7:30 PM at the office of MPGCD to review the modeling progress
- A GMA7 meeting is scheduled for June 20th.
- Texas Water Development Board Technical Note 13-01 is being provided to the Directors. It is a summary of groundwater conditions in Texas.
- On August 27-29, 2013, the Texas Alliance of Groundwater Districts (TAGD) will hold the Texas Groundwater Summit in San Marcos, TX

XIV Director's Comments - No comments

XV Consider and/or act upon Agenda for next meeting - None

XVI Adjourn M. R. Gonzalez made a motion to adjourn the meeting which was seconded by Merrell Daggett. The motion carried, and the meeting adjourned at 3:48 PM.

  
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M. R. Gonzalez, Secretary/Treasurer

  
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Jerry McGuairt, President

Date Approved 6-18-2013