

## Middle Pecos Groundwater Conservation District Minutes of June 18, 2013

On this the 18th day of June, 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
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	Fort Stockton, City of
Evans Turpin	Iraan, City of
Terry Whigham	At Large

Quorum Present.

Members Absent: Merrell Daggett

Others present: Paul Weatherby, Mike Gershon, Melissa Mills, Gail Reeves, Craig Pearson, Gary Drgac, Darrell Peckham, Brock Thompson, Ed McCarthy, Shawn Yorks, Marilyn and John Harris, Hoven Riley and Eric Selinger.

### HEARING ON PRODUCTION PERMIT APPLICATIONS

- I Call to Order at 1:00 p.m. by President Jerry McGuairt
- II Public Hearing on **Bruce Grady dba Four G Oil Co/Grady Fresh Water Production Permit Application**

Party representing application: None

Protestant to application: None

Public comment: None

General Manager Paul Weatherby stated that the notice was properly posted, and that the application is administratively complete. Mr. Grady submitted the application on 05-31-2013. He is requesting 10 acre feet annually from the Pecos Valley aquifer. The use is for industrial purposes to operate a water station located adjacent to Owego Road approximately 2 miles west of Hwy. 67 in Pecos County, Texas. Mr. Weatherby recommended that it be approved.

III Adjourn Weldon Blackwelder made a motion to adjourn the public hearing.  
Seconded by John Dorris. Motion carried. Public hearing adjourned at 1:07 p.m.

I Call to Order at 1:15 p.m. by Jerry McGuairt

II Public Hearing on **John E. Harris Production Permit Application**

Party representing application: John and Marilyn Harris

Protestant to application: None

Public comment: None

General Manager Paul Weatherby stated that the notice was properly posted, and that the application is administratively complete. Mr. Harris submitted the application on 05-07-2013. He is requesting 10 acre feet annually from the Pecos Valley aquifer. The use is for industrial purposes to operate a water station located approximately 18 miles north of I-H 10 at intersection of Hwy. 1901 and Neville Road, in Pecos County, Texas. Mr. Weatherby recommended that it be approved.

III Adjourn Alvaro Mandujano, Jr., made a motion to adjourn the public hearing.  
Seconded by Weldon Blackwelder. Motion carried. Public hearing adjourned at 1:24 p.m.

I Call to Order at 1:30 p.m. by Jerry McGuairt

II Public Hearing on **Hoven Riley Production Permit Application**

Party representing application: Hoven Riley

Protestant to application: None

Public comment: Mr. Ed McCarthy made public comment on behalf of Fort Stockton Holdings. Summation:

- Public comment only. Not protesting application.

- Concerned because the application seeks 999 acre feet from the Edwards Trinity aquifer, and specifically Management Zone 1. The concern is the 999 acre feet is shy of the trigger for a hydrogeological report that would provide information on the effects to the aquifer and surrounding well owners and existing permit holders and for Management Zone 1. Mr. McCarthy would like to see the Board modify its rules to require applicants to bring hydrogeological information as part of the permit process for better evaluation and planning for the Edwards Trinity aquifer and Management Zone 1.

General Manager Paul Weatherby stated that the notice was properly posted, and that the application is administratively complete. Mr. Riley submitted the application on 06-05-2013. He is requesting 999 acre feet annually from the Edwards Trinity aquifer. The use is for irrigation and domestic purposes. The 4 well system is located on the Riley Farm approximately 14 miles west of Fort Stockton and one miles south of I-10, in Pecos County, Texas. Mr. Weatherby recommended that it be approved.

The Board asked Mr. Riley several questions about his operation which he answered. A general summation: The application shows the proposed use of the water for 50 acres of nursery crop and 80 acres for alfalfa. The 80 acres of alfalfa is for a future project. 39 acre feet of water is being requested for domestic use.

III Adjourn Evans Turpin made a motion to adjourn the public hearing. Seconded by John Dorris. Motion carried. Public hearing adjourned at 1:50 p.m.

I Call to Order at 1:50 p.m. by Jerry McGuairt

II Public Hearing on **Eric Selinger dba Imperial Water Station Production Permit Application**

Party representing application: Eric Selinger

Protestant to application: None

Public comment: None

General Manager Paul Weatherby stated that the notice was properly posted, and that the application is administratively complete. Mr. Selinger on behalf of the Imperial Water Station submitted the application on 05-30-2013. He is requesting 40 acre feet annually from the Pecos Valley aquifer for industrial purposes. The well is located 2 miles west of Imperial, TX, adjacent to Highway 11 in Pecos County, Texas. Mr. Weatherby recommended that it be approved.

The Board asked Mr. Selinger several questions about his operation which he answered. A general summation: Eric Selinger is a licensed irrigator out of Midland. He has been working in the Midland area where there is not a water district, he was unaware of our groundwater district. There are 5 more wells on the property, but the water station is using a new well that has been drilled.

- III Adjourn John Dorris made a motion to adjourn the public hearing. Seconded by Weldon Blackwelder. Motion carried. Public hearing adjourned at 2:00 p.m.

### **REGULAR BOARD MEETING**

- I Call to order at 2 p.m. by President Jerry McGuairt
- II Comments from **public and media** (limit 5 minutes per person) None
- III Consider and/or act on **Bruce Grady dba Four G Oil Co/Grady Fresh Water Production Permit Application**

Janet Groth made a motion to approve the production permit as presented: 10 acre feet annually from the Pecos Valley aquifer. The use is for industrial purposes to operate a water station located adjacent to Owego Road approximately 2 miles west of Hwy. 67 in Pecos County, Texas. Water production will be reported monthly.

Motion seconded by Alvaro Mandujano, Jr. Motion carried.

- IV Consider and/or act on **John E. Harris Production Permit Application**

John D. Dorris made a motion to approve the production permit as presented: 10 acre feet annually from the Pecos Valley aquifer. The use is for industrial purposes to operate a water station located approximately 18 miles north of I-H 10 at intersection of Hwy. 1901 and Neville Road, in Pecos County, Texas. Motion seconded by Evans Turpin. Motion carried.

V Consider and/or act on **Hoven Riley Production Permit Application**

Mr. Paul Weatherby suggested the permit might be approved for 450 acre feet because that is what he has been using for the last 3 or 4 years with the understanding that Mr. Riley can amend his request when needed.

M. R. Gonzalez made a motion to approve the production permit for 450 acre feet. Discussion pointed out that if alfalfa was planted soon, then he would need his water permit in place for the additional crops. There was not a second to the motion, and Mr. Gonzalez amended his motion to approve the permit for 500 acre feet. The motion was seconded by Janet Groth. More discussion ensued. M. R. Gonzalez and Janet Groth withdrew the motion from the table.

Ronnie Cooper made a motion for 750 acre feet per year be granted. Seconded by Terry Whigham.

More discussion, summarized as follows: He is currently using approximately 439 acre feet. Approve 450 acre feet knowing that Mr. Riley can come back and ask for an amendment to the permit if needed. Other sentiments were that the Board did not need to second guess his business, and if Mr. Riley has plans to plant a new crop soon, he will need the water in place, and it will take a substantial amount to get the new crop established.

Janet Groth requested to go into executive session prior to the vote. MPGCD attorney, Mike Gershon, said this would be fine.

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 2:21 PM.

Reconvene at 2:53 PM. President McGuairt stated that no decisions or votes were made in executive session.

Further discussion: Mrs. Groth calculated and proposed 725 acre feet (443 acre feet current use, 280 acre feet for alfalfa crop for 1/2 year, and 2 acre feet for domestic use).

Ronnie Cooper amended his motion to 725 acre feet per year be granted. Seconded by Terry Whigham. Motion carries without objections.

The permit for Hoven Riley is granted for 725 acre feet annually from the Edwards Trinity aquifer. The use is for irrigation and domestic purposes. The 4 well system is located on the Riley Farm approximately 14 miles west of Fort Stockton and one miles south of I-10, in Pecos County, Texas.

VI Consider and/or act on **Eric Selinger dba Imperial Water Station Production Permit Application**

Janet Groth made a motion to approve the production permit as presented: for 40 acre feet annually from the Pecos Valley aquifer for industrial purposes. The well is located 2 miles west of Imperial, TX, adjacent to Highway 11 in Pecos County, Texas. Motion seconded by Vanessa Cardwell. Monthly reporting required. Motion carried.

VII Consider and/or act on **Minutes of May 21, 2013**

M. R. Gonzalez made a motion to approve the minutes of May 21, 2013 with corrections to be made. The correction needs to be made regarding Mendel Family Trust (c/o) Wayne Tinkler Production Permit Application on page 4 agenda item 2, and page 5 agenda item 8. The correction is shown as the *mark through*: 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. Seconded by John Dorris. Motion carried.

VIII Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending 05-31-2013**

Ronnie Cooper made a motion to approve the accounts payable and Treasurer's report for the month ending 05-31-2013. Seconded by Evans Turpin. Motion carried.

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

- Well Registrations: Progress report included in their notebook.
- Data Loggers: Installing a new data logger.
- Water Quality Analysis: Continuing to gather samples.
- Production Permits: There are currently 6 permits in progress.
- Palmer Drought Map: Map included in their notebook
- USGS: They will be in Fort Stockton at 1 p.m. on June 24th to meet with Paul Weatherby.
- Legislative: Ty Embry prepared an update, it is in their notebooks. Mike Gershon pointed out that our new enabling legislation is Chapter 8851 in the Special District Local Law, and it clarifies our election date.

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

- **Brief the Board regarding Gary Drgac's Request for Rehearing in the Matter of Randy Braden's Application for a Production Permit (No action to be taken).**

Mike Gershon advised the Board they had 90 days to decide.

- **Artesian Wells Update**

Paul Weatherby reported that he and Jerry McGuairt attended a meeting called by Tyron Lewis along with Texas Commission on Environmental Quality, Texas Water Development Board, Texas Railroad Commission, Texas Parks and Wildlife and others. The topic of discussion was orphan wells in the Permian Basin. No action taken.

- **Update on Randy Braden's Plugging Progress on Wells SW1 and SW2**

The following is an email from W. L. Stribling with the Texas Department of Licensing and Regulation (TDLR), to Paul Weatherby on 06-17-2013:

*"Thought I'd send you an update as to the status of the Bradens wells. I have received the water quality reports on Drgac's wells, which gives us a base line of what we were looking for in the Edwards water, however, other than one well, I cannot locate any report information on the wells or any of the reports on any recompletions of the wells except for one, which for I believe Well #1 for Mr. Drgac (the well where we met Drgac at).*

*I had a meeting with Zach Brady, Mr. Bradens' attorney on Friday (6/14) to discuss the wells and "possible" outcome. After some discussion, we were pretty much on the same page. I told Brady that we (I) was going to try and work with Acosta and Dubose on the wells to either, plug, re-drill or refund money. He was acceptable with that but has expressed that Braden wanted to keep a few wells, along with recompleting a few for irrigation, this is what was discussed:*

*Wells SW 1,2, & 3 Braden has been in contact with another drilling company (just talking at this point) to remove the equipment in these wells and video them, then determine if they are salvageable and if so, recomplete them for use. I had told Brady that we considered these abandoned wells that needed to be plugged, but we (the State) was willing to allow Braden to bring them into compliance for use if desired.*

*Wells #1 &2, Braden would like to plug (one of these is an Acosta drilled well) these wells,*

*Well #3 Braden would like to re-work,*

*Wells #4 & 5 Braden would like to keep after further inspection to see if it is feasible (will have to approach Acosta on Wells #2 & 5 resolution on these wells) to re-complete.*

*There appears to be a shallow abandoned windmill well next to well #4 that Braden is going to plug.*

*I told Mr. Brady we were fine with these plans and that the main arguments over these would be with your district and permitting.*

*The bottom line for us Paul is this, Yes, there are violations, and I could send the over to enforcement, but it would be several months before anything happened and the outcome would not be beneficial to either Braden or your district (Acosta and Dubose may get a monetary penalty, but more than likely not be made to correct the wells or plug them). I would much rather get the wells plugged or re-completed before anything went to enforcement.*

*If you have any questions, let me know.*

*W.L. Stribling, Water Well Driller/Pump Installer Program, Compliance Division, TDLR"*

Mike Gershon: The special permit conditions put on the Braden Production Permit subject it to a rehearing request. My recommendation is to not enforce the special permit conditions. The rehearing request has another 60 days to address that. We did not discuss the substance of the rehearing request today. There is an ongoing assessment of the Braden property. We have been advised that Mr. Braden may attempt to complete SW1 and SW2 instead of plugging them.

XI **Directors' comments**

Weldon Blackwelder: Requested an update on the Braden Well water sample if available.

Paul Weatherby: We have continued to take analysis on all wells in the area and we have not found contamination.

Janet Groth: Requested Upton County water samples to review on a graph for the past 10 years to see the water quality trend.

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

There are possibly other production permits that will be ready for hearing. Acosta Drilling may be on the agenda



XIII **Adjourn** Evans Turpin made a motion to adjourn the meeting which was seconded by John D. Dorris. The motion carried, and the meeting adjourned at 4:03 PM.

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M. R. Gonzalez, Secretary/Treasurer

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Jerry McGuairt, President

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