

Middle Pecos Groundwater Conservation District
Minutes of September 17, 2013

On this the 17th day of September, 2013, public hearings 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
Vanessa Cardwell	Fort Stockton, City of
Evans Turpin	Iraan, City of

Quorum Present.

Members Absent: Ronald Cooper and Terry Whigham

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Harvey Gray, Melissa Mills, Gail Reeves, R. Nan Owens, Craig Pearson, Gary Drgac, Bob Renbarger, Brock Thompson, Randy Braden, Zach Brady, Bill Dubose, Jr., Darrell Peckham, and John Lichtenberger. Polly Taylor with the Fort Stockton Pioneer and Court Reporter Linder Lester.

**CONTINUED SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S
RULES BY DUBOSE DRILLING**

NOTE: This hearing was transcribed by Linder Lester. For a copy of the transcription please contact her directly at P. O. Box 2001 Pecos, TX 79772 or linda.courtreporter@gmail.com

- I Call to Order at 10:00 a.m. by President Jerry McGuairt
- II Show Cause Hearing on alleged violations of District's Rules by Dubose Drilling

Party representing Mr. Bill Dubose, Jr.: Mr. Bill Dubose, Jr. (aka Buckshot)

Parties to the hearing that gave sworn testimony: Bill Dubose, Jr., Paul Weatherby, Randy Braden/Lawyer Zach Brady, and Gary Drgac/Lawyer Bob Renbarger.

Executive session called at 10:16 a.m.

Reconvened hearing at 11:08 a.m.

- III Consider and act on **alleged violations by Dubose Drilling**, and consider and act on appropriate penalty or other enforcement remedy to be imposed or pursued in court

John Dorris made a motion to fine Dubose Drilling \$5,000 and to order and enjoin Dubose Drilling to plug wells 2 and 4 in 90 days. And to instruct our General Manager to pursue enforcement against Randy Braden and to impose penalties and plug the same wells. We are talking about to enforce our judgment in court if penalty is not paid and wells not plugged within 90 days.

M. R. Gonzalez seconded the motion. The vote was 7 For and 2 Oppose and 2 Absent. Motion passes.

- IV Adjourn John Dorris made a motion to adjourn the hearing; seconded by Weldon Blackwelder. Motion carries and the hearing was adjourned at 11:45 a.m.

REHEARING ON PRODUCTION PERMIT APPLICATION
FILED BY RANDY BRADEN

NOTE: This hearing was transcribed by Linder Lester. For a copy of the transcription please contact her directly at P. O. Box 2001 Pecos, TX 79772 or linda.courtreporter@gmail.com

- I Call to Order at 11:48 a.m. by President Jerry McGuairt
- II Rehearing on **Randy Braden's Production Permit Application**

Party representing Applicant.: Mr. Randy Braden and his lawyer Mr. Zach Brady.

Party representing Protestant: Mr. Gary Drgac and his lawyer Mr. Bob Renbarger

Other parties to the hearing that gave sworn testimony: Paul Weatherby.

The 10-Day hearing notice has been filed correctly. The following was admitted into evidence: The Middle Pecos GCD digital recordings from January 15, 2013 to February 19, 2013, and documents and testimony that were provided at that time. The applications and associated documents in the file as of the date of the last rehearing are also part of the record.

Evidence submitted by Manager Paul Weatherby today:

- 1: Randy Braden Application for a Production Permit
- 2: ArcGIS Map of Randy Braden Wells
- 3: Photo of Randy Braden well #1, 2, 3, 4, 5, SW1, SW2 and SW3
- 4: Randy Braden: Water Analysis for well#2 & 4 on 04/10/2013

- 5: Randy Braden: Water Analysis for well#1, 3 & 5 on 04/22/2013
- 6: Randy Braden: Water Analysis for well#3, 4 & 5 on 05/07/2013
- 7: Randy Braden: Texas Department of Licensing and Regulation Water Analysis for well#1, 3, 4 & 5 on 05/20/2013
- 8: Randy Braden: Water Analysis for well#2, 3, & 4 on 06/11/2013
- 9: Randy Braden: Water Analysis for well#4 on 07/11/2013
- 10: General Manager's suggestions on compliance issues
- 11: Allan Standen: Email on 12/07/2012 regarding aquifers on Braden property
- 12: Upton County Water District: Water analysis on 01/12/2006, 04/25/2012, 12/19/2012
- 13: Order Adopting Written Findings 05/21/2013
- 14: Findings of Fact and Conclusions of Law
- 15: Request for Rehearing
- 16: Randy Braden: Reported Water Usage

Evidence submitted by Mr. Gary Drgac:

- B1: Randy Braden Application for a Production Permit
- B2: Randy Braden Well Registration for Well 1
- B3: Randy Braden Well Registration for Well 2
- B4: Randy Braden Well Registration for Well 3
- B5: Randy Braden Well Registration for Well 4
- B6: Randy Braden Well Registration for Well 5
- B7: Randy Braden Well Registration for Well SW1
- B8: Randy Braden Well Registration for Well SW2
- B9: Randy Braden Well Registration for Well Sw3
- B11: FSA-578 Report of Acreage
- B12: Randy Braden's submitted water usage

Evidence submitted by Dr. Craig Pearson on behalf of Mr. Gary Drgac

- P-1: Dr. Craig Pearson Professional Biography
- P-2: Google map of Braden and Drgac Properties
- P-3: Geology/Simplified Cross Section in the Braden;/Drgac area
- P-4: Well construction diagram
- P-5: Geology Map
- P-6: 2012 Midnight Daily Pecos River Salinity at Girvin Station
- P-7: Braden Property map with well locations
- P-8: Braden wells water samples on May 20, 2013
- P-9: Braden Well Parameters
- P-10: FSA Reported Crop
- P-11: Pumping Potential of Braden Wells

The General Manager's suggestions to bring the Randy Braden farm into compliance with TDLR and MPGCD rules/regulations to assure contamination and production issues are as follows:

1. Agreement between Randy Braden and Acosta Drilling:
 - a. Plug Wells 1 and 5
 - b. Re-enter and attempt to re-work or plug SW#1, SW#2, SW#3
 - c. Drill Replacement well for #5

Dubose Drilling

- a. Plug well #2 (Split costs with Braden)
2. All reports/analysis indicate well 3 & 4 are in compliance and appear to not be a source of contamination or any other issues.
 3. Monthly production reports to be submitted by Randy Braden thru 2013 then same as other irrigators (annual) in the District
 4. MPGCD continue to monitor aquifer levels and analysis on a continuing basis thru December and then semi-annually on the Braden Farm and Drgac properties.
 5. Surrounding areas will be monitored as per the MPGCD Management Plan

Compliance/Enforcement Actions

1. Acosta Drilling complied with non-compliance issues although also meet the above mentioned actions
2. Dubose Drilling's non-compliance issues be reviewed by the MPGCD Board.
3. Randy Braden's non-compliance issues be reviewed by the Board.

Gary Drgac via his attorney Bob Renbarger requested the following Board action:

Based on record evidence, Mr. Drgac requests that all existing wells on the Braden property be plugged and abandoned in accordance with TDLR standards. Mr. Braden should then be required to apply for drilling permits for any desired replacement wells in accordance with MPGCD rules. If the Board does not require the plugging of all wells, then the following actions are requested, in the alternative:

1. SW-1, SW-2 and SW-3. Mr. Braden shall engage a licensed water well driller to do the following: Pull all derelict production equipment from each hole. Measure 1) the total depth of each hole and 2) depth to water, document these measurements. Install pump in each hole, pump a minimum of ten hole volumes, and retrieve water samples from each hole for analysis. Perform and document water analysis from each hole. Upon review of water analyses, determine if Braden desires to maintain any of these holes for production. For holes not determined to be of use, plug according to Texas Department of Licensing and Regulation ("TDLR") standards. For

holes whose total depth places them in the Edwards/Trinity, plug according to TDLR standards or provide a rework plan that will ensure no communications between the Pecos Valley Alluvium and Edwards/Trinity aquifers. For hole(s) determined to be retained for production, document the integrity of casing, determine and document the production capacity of the well(s), that they are solely drilled in the Pecos Valley Alluvium and make application to the MPGCD for production permits.

2. Well #1, Pecos Valley Alluvium and Edwards/Trinity commingled well. Mr. Braden shall engage a licensed water well driller to do the following: Pull all production equipment from well. Measure total depth of well and fluid level in the well, document these measurements. Drill out production casing string, gravel pack, and bentonite plug (if present) to the total depth of the well. Plug the well from total depth to surface by circulating curing retarded cement through tubing, retrieve tubing.

3. Well #2, Pecos Valley Alluvium and Edwards/Trinity commingled well. Mr. Braden shall engage a licensed water well driller to do the following: Pull all production equipment from well. Measure total depth of well and fluid level in the well, document these measurements. Drill out production casing string, gravel pack, and bentonite plug (if present) to the total depth of the well. Plug the well from total depth to surface by circulating curing retarded cement through tubing, retrieve tubing.

4. Well #3, Pecos Valley Alluvium and Edwards/Trinity commingled well. Mr. Braden shall engage a licensed water well driller and a licensed geoscientist to do the following: Pull all production equipment from well. Measure total depth of well and fluid level in the well, document these measurements. Determine if annular fill behind production casing is adequate to prevent communication of Pecos Valley

Randy Braden via his attorney Zach Brady requested the following Board action:

1. Request 940 acre feet of production with the permit conditions that have been discussed.
2. We volunteer to plug wells 1, 2 and 5.
3. Would like to rework SW3 and seal off the Pecos Valley aquifer and recomplete in the Edwards/Trinity. If that works we would like to come back to the Board and ask the same for SW1 and SW2.
4. We would like to continue production out of well #3.
5. Well#4 produces good water and we would like to continue producing from the well. If you choose not to allow this, we would ask for the ability to drill a replacement well in the vicinity.

6. Well 5: We would like to drill a replacement well for well 5, after wells 1, 2 and 5 are plugged.

III Adjourn John Dorris made a motion to adjourn the hearing; seconded by Janet Groth. Motion carries and the hearing was adjourned at 3:43 p.m.

Recess called at 3:43 p.m. Reconvene at 3:55

John Dorris made a motion to continue the rehearing until the next meeting.
Motion seconded by Alvaro Mandujano, Jr.
Motion carried with a vote of 8 For, 1 Oppose.

HEARINGS AND BOARD ACTION ON PRODUCTION PERMIT APPLICATIONS

I Call to order at 3:55 p.m. on Public Hearing on **Production Permit Application for Hector Ruiz**

Party representing application: None.

Protestant to application: None

Public comment: None

Hector Ruiz on behalf of Jesus Martinez has made application for a Production Permit for 220 acre feet per year from the Pecos Valley aquifer for Irrigation purposes. The two well system is located 3 miles west of Hwy. 1776 on Weatherby Road and 1 mile south of Pecos County, Texas.

II Adjourn hearing and consider and/or act on **Production Permit Application for Hector Ruiz**

Alvaro Mandujano, Jr. made a motion to adjourn the hearing. Seconded by Merrell Daggett. Motion carried.

Evans Turpin made a motion to approve the production permit for Hector Ruiz as presented 220 acre feet per year from the Pecos Valley aquifer for a two well system for Irrigation purposes. Seconded by Alvaro Mandujano, Jr. Motion carried.

Note: John Dorris left the meeting. A quorum remained.

REGULAR BOARD MEETING

I Call to order following hearings

NOTE: Agenda items #3, #4 and #5 were transcribed by Linder Lester. For a copy of the transcription please contact her directly at P. O. Box 2001 Pecos, TX 79772 or linda.courtreporter@gmail.com

Agenda Item #3 was taken up out of regular order:

III Presentation of Solar Project by Barilla Solar, LLC

John Litchenberger with the Solar Project by Barilla Solar, LLC gave a presentation.

- Located in Western Pecos County
- First solar project for the company in Texas
- Initial phase is 30 - 50 Mega Watts
- Commercial operation could begin as early as Summer of 2014
- Water requirements are 150 acre feet during the construction phase. This is mostly for dust control. Water is needed for about 7 months between November of this year and summer of next year. Not much water needed afterwards for production. The water wells are existing wells owned by the McCoy Ranch in section 22.
- There will be approximately 450,000 panels on 300 acres.

IV Consider and/or act upon **University Groundwater Management Plan**
Tabled. No action taken.

V Consider and/or act upon **Pyote Well Service, LLC Application for Salt Water Injection Well**

Mr. Weatherby presented a letter sent to David Hill with the Railroad Commission that was sent September 6, 2013. The letter is in opposition to the drilling of the salt water injection well. Allan Standen also presented a draft response to the application for injection well.

Merrell Daggett made a motion to file a formal protest and to make an appearance if necessary. Motion seconded by Janet Groth. Motion carried.

II Comments from **public and media** (limit 5 minutes per person)
No comments

VI Consider and/or act on **Minutes of August 20, 2013**
Evans Turpin made a motion to approve the minutes of August 20, 2013. Seconded by Weldon Blackwelder. Alvaro Mandujano abstained. Motion carried.

VII Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending 08-31-2013**

Merrell Daggett made a motion to approve the Accounts Payable and Treasurer's Report and Line Item Transfer for 08-31-2013. Seconded by Evans Turpin. Motion carried.

VIII Consider and/or act upon **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis**

- Well Registrations: Ongoing progress.
- Data Loggers: We have fixed some and bought one.
- Water Quality Analysis: Continuing to gather samples.
- Production Permits: There are permits in progress.
- Drilling Permits: There are no Non-Exempt drilling permits at this time.
- Palmer Drought Map: Map included in their notebook

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

- Memorandum dated August 6, 2013 regarding "Draft Testing and Analysis Observations and Comments
- Email correspondence regarding A TXDOT reservoir well in the Bakersfield area.
- RigData report dated 09-13-2013
- Comments sent to the Railroad Commission on 09-12-2013. The comments are on the proposed amendment 16 T.A.C. Rule 3.9 and 3.46. The district is concerned about the possible impacts to groundwater resources resulting from increased underground oil and as waste disposal.
- Texas Water Development Board Technical Note 13-01 and 13-02 which is a summary of Groundwater Conditions in Texas for the years 2010-2011 and 2011-2012.
- USGS "A Conceptual Hydrogeologic Model" was presented for their review.

X **Directors' comments**

Evans Turpin inquired about the facing issues in the oil and gas industry. Mr. Weatherby said a Groundwater Advisory Unit within the Railroad Commission did not have a formal meeting on that, and that he is staying on top of the issue.

XI Consider and/or act upon the **Signing of the Ratification for Tax Rate of \$0.025 (two and one-half cents) per \$100 valuation for 2013.**

Janet Groth made a motion to sign the supporting resolution signifying the property tax rate remains at a tax rate of \$0.025 (two and one-half cents) per \$100 valuation, which is effectively a 5.30% decrease in the tax revenue.

Motion passed as follows: 8 For. -0- Against. 3 Absent.

Note: John Dorris returned to the meeting at 5: 15 p.m.

Note: Janet Groth had to leave the meeting at 5:20 p.m. (A quorum remained.)

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

- Continuation of Randy Braden's rehearing
- 4 or 5 production permits applications to hear

XIII **Adjourn** Merrell Daggett made a motion to adjourn at 5:25 p.m. Seconded by Evans Turpin. Motion Carried.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____