

Middle Pecos Groundwater Conservation District
Minutes of March 17, 2014

On this the 17th day of March, 2014, a special called board meeting, a workshop, and public hearings were 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
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Terry Whigham	At Large

Quorum Present.

Member Absent: Evans Turpin

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Edmond McCarthy, III, Ed McCarthy, Jr., Brock Thompson, Mike Thornhill, Jeff Williams, James Cravens, Gary Harrell, Darrell Peckham, Glenn Honaker, David Hess, Neill Woodward, Mayor Bill Lannon, and Polly Taylor with the Fort Stockton Pioneer.

I The workshop was called to order at 1:02 p.m. by President Jerry McGuairt.

II Workshop to review impact of the USGS Study on Pecos County

Public comment was taken at the beginning of the workshop. Ed McCarthy, on behalf of Fort Stockton Holdings, gave statements with regards to the USGS study report on the Edwards Trinity Aquifer in Pecos County:

- Believes that the USGS report confirms the hydrogeologic analyses and conclusions that Fort Stockton Holdings has previously presented to the Board through the studies performed by the Thornhill Group at the Williams Farm in Belding; and by LBG Guyton, R. W. Harden and the Thornhill Group on the larger regional scale.
- The USGS report does not say that there is no local recharge, or that once all the "old water" is used up that the region will be out of water.
- Locally, recharge is limited by the geology. The clay layers do not allow local deep recharge of irrigation return flows.

- The fact that the water is old, and comes from far away supports the conclusion that the aquifer has a lot of water and contains a drought proof sustainable supply - the opposite of the prior thinking of MPGCD.
- We have experienced an extreme drought over the past 5-6 years
 - MPGCD has documented no problems;
 - Aquifer levels remain healthy despite heavy pumping
- The USGS Model does not appear to be well-documented in the report
- The USGS report concludes that there is a hydrogeologic boundary or barrier running through the middle of the Belding Farms area. If it exists, the Report indicates that the barrier cuts off the flow of groundwater recharging from the mountainous regions and flowing from the south and west in a north-easterly direction. Assuming this is true, then pumping in the 1950's in the Belding area had zero impact on Comanche Springs.
- USGS never contacted Williams Farms regarding pumping data even though it is one of the largest pumpers in the region.
- Unfortunately, the USGS Report does not acknowledge or take advantage of the extensive work conducted by LBG Guyton, RW Harden and the Thornhill Group reported in early 2011. A copy of the report was provided to USGS, but no comment or follow-up from USGS occurred.
- The only conclusive statement in the USGS Report is that it raised more questions (in USGS's opinion) than it answered and, therefore, additional studies (preferably conducted by USGS -per USGS) are needed to get the answers
- The USGS work is not, by its own terms, a "predictive model."

There were no further comments for this agenda item.

- III Review developments at stakeholder workgroups or committees of the Texas Water Conservation Association and/or Texas Alliance of Groundwater Districts focusing on permitting; brackish water development; well construction, enforcement and registration and associated TDLR regulation; water use by the oil and gas industry; contested case hearing procedure; aquifer storage and retrieval/recovery; and associated legislative developments

Mike Gershon presented the following to the Board:

- Summary of the legislative interim work on groundwater by Texas Water Conservation Association (TWCA) and Texas Alliance of Groundwater Districts (TAGD):
 - Texas Water Conservation Association
 - * Brackish Groundwater Subcommittee
 - * Texas Department of Licensing and Regulation Well Driller Reg. Subcommittee
 - * Permitting Subcommittee
 - * Contested Case Hearing and Administration Procedures Subcommittee
 - * *Desired Future Conditions Appeals* Subcommittee

- * Oil and Gas Permitting Exemptions Subcommittee
- * Chapter 36, Texas Water Code Clean-Up Subcommittee
- * Aquifer Storage and Recovery Subcommittee

Texas Alliance of Groundwater Districts

- * Brackish Groundwater, Permitting and Aquifer Storage and Recovery Working Group
- * Well Construction, Enforcement, and Registration Working Group
- * Oil and Gas Working Group
- * Groundwater Use Reporting Working Group

A letter from *Roger P. Nevola* urging Texas Water Conservation Association to support that the general regulation of groundwater be turned over to the State of Texas instead of local control by Groundwater Conservation Districts.

IV Review TWDB's Total Estimated Recoverable Storage reports and District's timeline and goals for developing Desired Future Conditions

Mike Gershon presented the board with data from the Texas Water Development Board's (TWDB) reports and Desired Future Conditions resolution from GMA3 and GMA7 that show 1) Desired Future Conditions (DFC), 2) Modeled Available Groundwater (MAG), and 3) Total Estimated Recoverable Storage (TERS) for the Edwards-Trinity aquifer, Pecos Valley aquifer, Capitan Reef aquifer, Dockum aquifer, and the Rustler aquifer.

Mr. Gershon also presented a 2013 - 2016 timeline and considerations regarding water availability (DFC's and MAG's) and conforming MPGCD's regulatory programs (management plans and permitting and spacing rules). He explained that the legislature has amended chapter 36 of the Texas Water Code and the deadline to propose DFC's for relevant aquifers to the TWDB for adoption is May 1, 2016. A timeline to help the District to achieve the May 1, 2016 deadline was offered for the Board's consideration.

Allan Standen, MPGCD hydrogeologist, said he should have a data set built in 6 to 8 months to better understand the volume of water in the aquifers present in Pecos County.

V Review permitting conditions and procedure designed to address localized drawdown and well interference with existing users
To be continued on March 18, 2014 regular Board meeting.

- VI Adjourn workshop
Alvaro Mandujano, Jr. made a motion to adjourn the workshop. Weldon Blackwelder seconded the motion. The motion carried at the workshop adjourned at 2:50 p.m.

The Board recessed at 2:50 p.m. The Board reconvened at 3:00 p.m.

Production Permit for Neill Woodward

- I Call to order at 1:15 p.m. on Public Hearing on **Production Permit Application for Neill Woodward**
The production permit application hearing for Neill Woodward was called to order at 3:00 p.m.

Party representing application: Mr. Neill Woodward

Protestant to application: None

Public comment: None

Assistant Manager Ty Edwards presented the application to the Board.

The application requests 10 acre feet/year from the Edwards Trinity Aquifer for 1 well located approximately 5.7 miles south of Girvin on Market Rd 11 and .8 miles west of pavement, in Pecos County, Texas. The purpose of this water well is for Industrial Use for a water station. The application is declared administratively complete, and Mr. Edwards recommended that it be approved.

No further public comment.

- II Adjourn hearing and consider and/or act on **Production Permit Application for Neill Woodward**

John Dorris made a motion to adjourn the hearing. Seconded by Merrell Daggett. Motion carried. Hearing adjourned at 3:05 p.m.

John Dorris made a motion to approve the production permit as presented for 10 acre feet/year from the Edwards Trinity Aquifer for 1 well located approximately 5.7 miles south of Girvin on Market Rd 11 and .8 miles west of pavement, in Pecos County, Texas. The purpose of this water well is for Industrial Use. Monthly reporting required. Motion seconded by Alvaro Mandujano, Jr. Motion passed without opposition.

Production Permit for David Hess

I Call to order at 3:07 p.m. on Public Hearing on **Production Permit Application for David Hess.**

Party representing application: Mr. David Hess

Protestant to application: None

Public comment: Alvaro Mandujano, Jr. said he would like to see the monthly reporting requirement changed to quarterly reporting.

Assistant Manager Ty Edwards presented the application to the Board.

The application requests a 30 acre feet/year from the Pecos Valley Aquifer for a 3 well system located approximately 1.9 miles east of FM 1776 on FM 1450 and north 2 miles of pavement, in Pecos County, Texas. The purpose of this well system is for Industrial Use for a water station. David Hess currently has a Historic and Existing Production Permit for 680 acre feet for irrigation use. The land is currently under CRP. The application is declared administratively complete, and Mr. Edwards recommended that it be approved.

No further public comment.

II Adjourn hearing and consider and/or act on **Production Permit Application for David Hess**

Merrell Daggett made a motion to adjourn the hearing. Seconded by Ronnie Cooper. Motion carried. Hearing adjourned at 3:13 p.m.

Terry Whigham made a motion to approve the application as presented for 30 acre feet/year from the Pecos Valley Aquifer for a 3 well system located approximately 1.9 miles east of FM 1776 on FM 1450 and north 2 miles of pavement, in Pecos County, Texas. The purpose of this well system is for Industrial Use for a water station. Monthly reporting required. Motion seconded by M. R. Gonzalez. Motion carried without opposition.

The agenda item for the Pecos SS, LLC production permit was not called to order or mentioned. The meeting went from David Hess' production permit hearing to the Special Called Board Meeting.

Production Permit for Pecos SS, LLC

- I Call to order at 1:45 p.m. on Public Hearing on **Production Permit Application for Pecos SS, LLC**
- II Continue hearing on **Production Permit Application for Pecos SS, LLC to March 18, 2014 at 9 a.m.**

SPECIAL CALLED BOARD MEETING

- I Call to order at 3:15 p.m. by President McGuairt.
- II 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.

No public comment.

- III Consider and/or act upon **Minutes of February 18, 2014**

Merrell Daggett made a motion to approve the minutes of February 18, 2014, as presented. Motion seconded by John Dorris. Motion carried: 8 For. -0- Oppose. 2 Abstain. 1 Absent.

- IV Consider and/or act upon **Accounts Payable and Treasurer's Report for the Month Ending February 28, 2014**

Weldon Blackwelder made a motion to approve the accounts payable and treasurer's report for the month ending February 28, 2014, as presented. Motion seconded by Ronnie Cooper. Motion carried.

- V Consider and/or act upon Pecos County Study Agreement with Allan Standen

Allan Standen presented a fixed cost contract to the Board for services to provide the delineation of groundwater resources of Pecos County, Texas based on available oil, gas, and groundwater wells, geophysical logs, and published reports. The period of service for this contract shall begin on March 1, 2014. The final report will be delivered March 2015. Progress report will be presented during October 2014.

Alvaro Mandujano, Jr. made a motion to enter into the Pecos County Study Agreement with Allan Standen. Motion seconded by Janet Groth. Motion passed without opposition.

- VI Consider and/or act to adopt and/or provide guidance to General Manager and consultants on District's policy positions on today's Workshop Agenda Item III

Merrell Daggett made a motion to table this agenda item. Seconded by Ronnie Cooper. Motion passed without opposition.

- VII Consider and/or act upon **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, Legislative Update, takings lawsuit (Edwards Aquifer Authority v. Bragg petition filed in Texas Supreme Court)**

Assistant Manager Ty Edwards addressed the Board:

- The U. S. Drought Monitor Map was presented to the Board.
- Well Registrations have been received for half of DHR.

Mike Gershon, MPGCD attorney, addressed the Board with an update on the first ever groundwater takings judgment appealed to Texas Supreme Court which is the Edwards Aquifer Authority vs. Bragg. In brief summary, the Texas Supreme Court will consider the first-ever appeal/petition for review on a groundwater takings judgment. Earlier this month the Edwards Aquifer Authority appealed the San Antonio Court of Appeals' decision in EAA v. Bragg by filing a petition for review with the Texas Supreme Court. The S. A. Court of appeals had agreed with the trial court that the Bragg pecan farm should be compensated for EAA's denial of 301.77 acre feet of Bragg's claim for 421.97 acre feet of groundwater from the Edwards-Balcones Fault Zone Aquifer. However, the S. A. Court of Appeals had disagreed with the trial court's approach to calculating damages and had remanded back to the trial court with instructions to recalculate the damages. The trial court had previously awarded \$732,493.40.

- VIII Consider and/or act upon **General Manager's Correspondence and Report**

- Board members were given a list of directors terms that expire in November 2014
- Update on the Genesis incident of possible water contamination that is being investigated by the Railroad Commission. A complaint letter and legal package is being mailed 3-14-2014.
- There is a Region F meeting on March 20, 2014 in Big Spring, TX.
- The Texas Workforce Commission has set our tax rate at 02.3% for 2014.

IX **Directors' comments** No comments

X Consider and/or act upon **agenda for next meeting**
This will be considered at the March 18, 2014 meeting.

XI **Adjourn**
M. R. Gonzalez made a motion to adjourn at 3:53 p.m. Motion seconded by Merrell Daggett. Motion carried.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____