

Middle Pecos Groundwater Conservation District  
Minutes of May 20, 2014

On this the 20th day of May, 2014, a regular board meeting 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 (Left at 11:38 a.m.)
Evans Turpin	City of Iraan

Quorum Present.

Member Absent: Vanessa Cardwell and Terry Whigham

Others present: Paul Weatherby, Mike Gershon, Gail Reeves, Ty Edwards, Melissa Mills, Ed McCarthy, Jr., Edmond (Eddie) McCarthy, III, Brock Thompson, James Cravens, Doug May, Billy Jackson, Raul Rodriguez, Martin Ibarra, Tim Stalcup, Kristin Allgood, Gil Van Deventor, Raymond Straub, Karl Armstead, Kris Armstead, Janna Stubb and Frank Rodasky with the Fort Stockton Pioneer.

### **REGULAR BOARD MEETING**

- I Call to order at 10:02 a.m. by President Jerry 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.

Mr. Ed McCarthy announced that Jeff Williams was not present today because he and his wife were having their first baby at any moment.

Paul Weatherby introduced Frank Rodasky who is covering our meeting for the Fort Stockton Pioneer newspaper.

- III Consider and/or act upon **Minutes of April 15, 2014**

Evans Turpin made a motion to approve the minutes, with two corrections:  
1) on page 4 – the fifth line from the top should read “Motion passed **without** opposition; 2) page 6 – the 11<sup>th</sup> line from the top should change heaving to heavy. Motion seconded by John Dorris. Motion carried without opposition.

IV Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending April 30, 2014**

Manager Weatherby discussed VISA card procedures, and suggested that each month an itemized report outlining the purchases will be included with the financial report.

John Dorris made a motion to approve the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending April 30, 2014. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

**PUBLIC HEARING AND BOARD ACTION ON PROPOSED RULES**

I Call to order at 10:21 a.m. by President Jerry McGuairt.

II The Middle Pecos Groundwater Conservation District (District) will receive public input on proposed amendments to the District's rules intended to address hydrogeological report and associated permitting requirements

MPGCD Attorney Mike Gershon reported to the Board and Public that nothing new had been added, and that today's hearing is an opportunity to add more comments.

Eddie McCarthy, on behalf of Fort Stockton Holdings, said his comments are the same as the April 15<sup>th</sup> hearing.

III Adjourn hearing and consider and/or act on proposed rules

John Dorris made a motion to adjourn the hearing. Motion seconded by Weldon Blackwelder. Hearing adjourned at 10:30 a.m.

John Dorris made a motion to approve the rules as presented. Motion seconded by Evans Turpin. Motion passed unanimously.

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 10:31 a.m.

Reconvene at 11:15 a.m. President McGuairt stated that no decisions or votes were made in executive session.

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S  
RULES BY MARTIN IBARRA**

- I Call to Order at 11:15 a.m. by President Jerry McGuairt
- II Show Cause Hearing on alleged violations of District's Rules by Martin Ibarra

Manager Paul Weatherby presented a "Notice of Alleged Violation and Notice of Show Cause Hearing" that was mailed to Martin Ibarra.

Party representing Martin Ibarra: Martin Ibarra

Sworn testimony: Martin Ibarra and Tim Stalcup.

Martin Ibarra: The water is not good, and is only being used on the ranch and for cattle and at his trucking company.

Tim Stalcup: Because of the poor water quality, we could not sell water to the oil companies.

Manager Paul Weatherby: He sold a limited amount of water. Once MPGCD issued a cease and desist order on 04-15-14, he did not sell any more water.

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

Janet Groth made a motion to fine Martin Ibarra \$250.00 to cover costs incurred by the District and to deter any future noncompliance. Motion seconded by Ronnie Cooper. 8 FOR. 1 OPPOSE. 2 ABSENT. Motion Carried.

- IV Adjourn

President Jerry McGuairt adjourned the hearing at 11:26 a.m.

**Production Permit Hearing for Martin Ibarra**

- I Public Hearing on **Production Permit Application for Martin Ibarra**

Martin Ibarra withdrew his application.

- II Adjourn hearing and consider and/or act on **Production Permit Application for Martin Ibarra**

Martin Ibarra withdrew his application.

**REGULAR BOARD MEETING CONTINUED**

The regular Board meeting reconvened at 11:27 a.m.

V Consider and/or act upon Tax Abatement Guidelines, Presentation by Doug May

Doug May, Fort Stockton Economic Development Corporation, presented/suggested changes to our current Tax Abatement Guidelines.

Changes proposed on page 1 are shown in red: All applications requesting tax abatement from the District shall be considered on an individual basis with regard to both the applicant's qualification for abatement and the amount of the abatement. **The District has set a limitation value of TWENTY-FIVE MILLION AND NO DOLLARS (\$25,000,000) on all projects to be considered for a tax abatement; meaning that only that value exceeding the limitation value will be considered as eligible for a tax abatement.** The decisions of other taxing units, including the County, to grant or deny tax abatement do not bind the District, and the District shall evaluate all requests within the context of the District's management plan, rules, and statutory mandate.

Changes proposed on page 2 are shown in red: All applications requesting tax abatement from the District shall be considered on an individual basis with regard to both the applicant's qualification for abatement and the amount of the abatement. **The District has set a limitation value of TWENTY-FIVE MILLION AND NO DOLLARS (\$25,000,000) on all projects to be considered for a tax abatement; meaning that only that value exceeding the limitation value will be considered as eligible for a tax abatement.** The decisions of other taxing units, including the County, to grant or deny tax abatement do not bind the District, and the District shall evaluate all requests within the context of the District's management plan, rules, and statutory mandate.

A third suggestion was made for our attorney to poll the Board before Tax Abatements are brought before the Board to make sure there is not a conflict of interest, and make the findings part of the record.

Janet Groth made a motion to adopt the Tax Abatement Guidelines as presented by Mr. Doug May. Motion seconded by Evans Turpin. 6 For. 2 Oppose. 1 Abstain. 2 Absent. Motion carried.

**Production Permit Hearing for City of Fort Stockton**

I Public Hearing on **Production Permit Application for City of Fort Stockton for Well #19**

Note: Production Permit Application for Well 19 was withdrawn by Raul Rodriguez, Fort Stockton City Manager.

**Production Permit Hearing for City of Fort Stockton**

I Public Hearing on **Production Permit Application for City of Fort Stockton for Well #17**

Note: Production Permit Application for Well 17 was withdrawn by Raul Rodriguez, Fort Stockton City Manager.

The meeting adjourned at 11:38 a.m. for a lunch break. Reconvened Regular Board Meeting at 12:34 p.m. Note that Ronnie Cooper did not return.

**REGULAR BOARD MEETING CONTINUED**

VI Consider and/or act upon **Terms of Engagement Letter with Smith & Rives, PC for the upcoming Audit for the Fiscal Year Ending 09-30-2014**

Janet Groth made a motion to accept the Terms of Engagement agreement with Smith and Rives, PC for the audit of the Fiscal Year ending 09-30-2014. Motion seconded by Merrell Daggett. Motion carried without opposition.

VII Consider and/or act upon **Conflict Waiver Agreement with Sledge Fancher PLLC**

Merrell Daggett made a motion to not approve the waiver agreement with Sledge Fancher PLLC. There is a conflict and the Board does not want to waive the conflict. Motion seconded by John Dorris. Motion carried unanimous.

VIII Consider and/or act upon **Requirement of Production Permit and Status– Pecos Pecan LLC**

Party representing Pecos Pecan LLC: James Cravens

Manager Paul Weatherby informed the Board that Pecos Pecan LLC was been waiting for our rule 11.9.3 to be approved before they could proceed with their hydrologist, and they are currently screening hydrologists applications.

No action taken

IX Consider and/or act upon **Requirement of Production Permit and Status – Curtis Skeen**

Manager Paul Weatherby: Mr. Skeen lives in Carlsbad, NM. In years past the 257 acres of farmland, which is located near Pecos Pecan, was farmed by Mr. Dan Percy. The farmland has two water wells, and has operated without a production permit. 01-24-2014 Mr. Curtis Skeen was notified by phone and by certified mail that he needed a production permit. We called several weeks later, and he didn't remember getting the letter and packet, so we re-mailed it on 03-31-2014. Several days later Assistant Manager Ty Edwards called him and when Ty identified himself, Mr. Skeen hung up on him.

M. R. Gonzalez made a motion to authorize Paul Weatherby to proceed with Show Cause and Enforcement hearing for June 17<sup>th</sup>. Motion seconded by John Dorris. Motion carried unanimously.

X Consider and/or act upon **Requirement of Production Permit and Status – Texas Fresh Farms**

Manager Paul Weatherby: This property is at Girvin, and was previously owned by John Berry. It is next to the old Grady Farm. The wells have been properly transferred into the name of Texas Fresh Farm. The farm was notified that a production permit would be required for the 3,700 trees planted on a drip section. The farm is in full operation with 47 rows of 80 trees. The well is for the orchard and for his water station. Most of the water being produced is being sold. Mr. Weatherby recommended that a Notice of Violation Show Cause Hearing with Enforcement Action letter be sent.

Janet Groth made a motion to authorize Paul Weatherby to proceed with Show Cause and Enforcement hearing for June 17<sup>th</sup>. Motion seconded by John Dorris. Motion carried unanimously.

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

- Well Registrations: Ongoing progress.
- Data Loggers: One installed in Imperial and one on Tom Beard.
- Water Quality Analysis: Continuing to gather samples.
- Risk Management/Insurance: Already discussed
- San Angelo Meeting: Mr. Weatherby was invited to attend a meeting in San Angelo on May 2<sup>nd</sup>. Those present were Raul Rodriguez, Danny Valenzuela (San Angelo City Manager), Ricky Dickson (Water Utilities Director) and Alan Murphy (with an engineering firm). General discussion

was in reference to the West Texas Partnership panel researching availability of groundwater for San Angelo, Abilene and Midland. Emphasis was on the Capitan Aquifer and not the Edwards Trinity or the Pecos Valley aquifers.

- GMA 7 meeting: On May 1<sup>st</sup> a GMA 7 meeting was held in Fredericksburg. Relevant and non-relevant aquifers were discussed in each county in reference to the *Desired Future Conditions* process. It was mentioned that all 21 Districts in GMA 7 contribute \$2,619 over a 3 year period to employ Bill Hutchison to prepare and submit the *Desired Future Conditions* for GMA 7. I voted “FOR” hiring Bill Hutchison.
- Oil/Gas & Plants & Water Stations water usage reported: A chart showing water usage being reported was presented to the Board for their review.

XII **General Manager’s Correspondence and Report**

- TAGD meeting on Tuesday, May 27<sup>th</sup>. Paul will be going for the “Public Funds Investment Training” only.
- May 22<sup>nd</sup>: Educational program to the 5<sup>th</sup> and 6<sup>th</sup> grades in Imperial, TX
- TWDB: A public comment letter regarding the SWIFT application process for funding water projects that require long term production of groundwater was submitted to TWDB on 04-11-2014 by Paul Weatherby.
- State Representative Lyle Larson came by our office. We discussed the brackish desalination and aquifer storage and recovery legislation as well as aquifer formations, users, permitting, and Desired Future Conditions.

XIII **Directors’ comments**

- Can violation considerations be discussed today regarding the City of Fort Stockton? Attorney Mike Gershon replied “No”.

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

- Violation considerations for City of Fort Stockton operating a water station without a production permit.
- Violation considerations for Plantation Petroleum.
- Violation considerations for Genesis
- Energy Equity: Water station in Imperial – needs production permit.
- Start meeting at 10 a.m.

XV **Adjourn**

Merrell Daggett made a motion to adjourn. Motion seconded by Weldon Blackwelder. Motion carried and the meeting adjourned at 1:13 p.m.

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M. R. Gonzalez, Secretary/Treasurer

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Jerry McGuairt, President

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