

Middle Pecos Groundwater Conservation District
Minutes of July 15, 2014

On this the 15th day of July, 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
Vanessa Cardwell	City of Fort Stockton
Evans Turpin	City of Iraan
Terry Whigham	At Large

Quorum Present.

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Gary Harrell, Steve and Bertha Chapman, Scott Hart, Ed McCarthy, Jr., Brock Thompson, Jeff Williams, Mike Thornhill, Clarence Stephan, James Cravens, Mayor Bill Lannom, Billy Jackson, Allan Childs, Raul Rodriguez, Sammy Ragsdale, Summer Webb, Ernest Woodward, Lee Harris, Gladys Dorris, Amin Noor, Don Burns, Darrell Peckham, Geena Martinez & Fabian Mendoza with News West 9, and Frank Rodasky with the Fort Stockton Pioneer.

REGULAR BOARD MEETING

- I Call to order@ 10:00 a.m. by Jerry McGuairt.
- II Executive Session pursuant to the Texas Open Meetings Act, Sections 551.071 and 551.074 of the Texas Government Code, to consult with our attorney and to deliberate evaluation and duties of District's employees.

An Executive Session was called at 10:02 a.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 and 551.074 of the Texas Government Code, to consult with our attorney and to deliberate evaluation and duties of District's employees.

Reconvene at 11:04 a.m. President McGuairt stated that no decisions or votes were made in executive session.

III Consider and/or take action on **Personnel Matters Discussed in Executive Session and Annual Review and Compensation of District's Employees.**

NOTE: Agenda item #VIII Consider and/or adopt **Proposed Budget for Fiscal Year Ending 09/30/2014** was combined in this discussion as far as payroll is concerned. A full budget was not included in the following motion or discussion.

Janet Groth made a motion to increase salaried employee's wages by 5%; raise the general manager's salary to \$85,000 annually; and for the District to pay 100% of employee health, vision, dental and life insurance premiums. In addition a Retention Incentive of 1% of the annual salary will be distributed in June each year beginning June 2015. The changes are to be effective August 1, 2014. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

Janet Groth made a motion to have employee evaluations to be conducted each August prior to the August board meeting. The General Manager will be evaluated by a committee of board members that will convey the completed evaluation to the full board at the August meeting each year. The General Manager will conduct employee evaluations on the employees. Seconded by Alvaro Mandujano, Jr. Motion carried without opposition.

NOTE: This year the General Manager's evaluation is due by August 19, 2014 and will be conducted by a committee comprised of Vanessa Cardwell, M. R. Gonzalez, Janet Groth, Jerry McGuairt, and Terry Whigham.

IV Comments from **public and media** No comments

V Consider and/or act upon **Minutes of June 17, 2014**

Merrell Daggett made a motion to approve the minutes. Motion seconded by Evans Turpin. Motion carried. 10 For. 0 Oppose. 1 Abstain (Mandujano).

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

Janet Groth made a motion to approve the accounts payable, treasurer's report and line item transfers for the month ending June 30, 2014. Seconded by John Dorris. Passed unanimously.

VII Consider and/or act on **Ordering a Show Cause Hearing on Alleged Violations by Genesis Exploration LLC.**

Merrell Daggett stepped out of the room to recues himself.

Manager Paul Weatherby presented a power point presentation of pictures depicting the damage. The contamination occurred on Lee Harris' ranch. In January 2014 about 1,000' of pvc pipe was discovered running downhill into a draw and had been happening for several months. Tom Harris reported the incident to the Pecos County Sherriff and the Texas Railroad Commission. The Texas Railroad Commission final report included fines of \$28,400 for pollution, unlawful injection, and unauthorized pit. MPGCD took water samples in the surrounding area and did not find contamination. Mr. Weatherby recommends that MPGCD fine Genesis for intentional discharge and not fixing the problem until they were caught.

Ronnie Cooper made a motion to order a show cause hearing on alleged violations by Genesis Exploration, LLC. Motion seconded by Vanessa Cardwell. Motion carried. 10 For. -0- Oppose. 1 Recusal (Daggett).

The regular meeting was recessed at 11:34 a.m. Merrell Daggett rejoined the Board.

NOTE: The following item(s) were called in a different order than publicized on the posted agenda.

Production Permit Hearing for Clarence Stephan²

I Call to order at 11:35 a.m. on Public Hearing on **Production Permit Application for Clarence Stephan**

Party representing application: Clarence Stephan

Protestant to application: None

Public comment: None

Permit request: **50 acre feet/year** from the **Edwards/Trinity** Aquifer from 1 well located approximately 4 miles east of FM 1776 and 5 miles North of Hwy 285, in Pecos County, Texas. The purpose of this well is for **Industrial Use**.

Assistant Manager Ty Edwards presented the application to the Board. He declared the application administratively complete, and recommended that it be approved.

II Adjourn hearing and consider and/or act on **Production Permit Application for Clarence Stephan**

President Jerry McGuairt adjourned the hearing at 11:39 a.m.

Merrell Daggett made a motion to approve the production permit application for **50 acre feet/year** from the **Edwards/Trinity** Aquifer from 1 well located approximately 4 miles east of FM 1776 and 5 miles North of Hwy 285, in Pecos County, Texas. The purpose of this well is for **Industrial Use**. Motion seconded by Janet Groth. Motion carried.

REGULAR BOARD MEETING CONTINUED

- IX Consider and/or act upon **Renewal or New Directors and Officers' and District's insurance Policies**.

Janet Groth made a motion to renew the Directors' and Officers' and District's Insurance Policies and to authorize Paul Weatherby to sign the new contract when it is received. Motion seconded by John Dorris. Motion carried unanimously.

- XI Consider and/or act on **Order of General Election for November 4, 2014**
Evans Turpin made a motion to order the General Election for November 4, 2014. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

- XII Consider and/or act upon **General Manager's Quarterly Report**
Merrell Daggett made a motion to accept the General Manager's Quarterly Report as presented. Motion seconded by John Dorris. Motion carried unanimously.

Merrell Daggett made a motion to recess for lunch. Motion seconded by John Dorris. Motion carried unanimously.

Production Permit Hearing for Texas Fresh Farms, LLC

- I Call to order at 1:00 p.m. on Public Hearing on **Production Permit Application for Texas Fresh Farms, LLC**

Party representing application: Alex (Amin) Noor, owner of Texas Fresh Farms, LLC

Protestant to application: None

Public comment: Ernest Woodward felt that several of the surrounding land owners were not notified. Ty Edwards explained that we are required to notify the neighbors within a 1/2 mile radius, and that they were notified.

Amin Noor, dba, Texas Fresh Farms LLC has made application for a **Production Permit** for **970 acre feet/year** from the **Pecos Valley Aquifer** for a 2 well system located at the intersection Owego Rd and CR 1759, in Pecos County, Texas. The purpose of this water well is for Irrigation and Industrial Use.

Assistant Manager Ty Edwards presented the application to the Board. The aquifers naturally comingle in this area. He will have about 1,000 head of cattle on the property and 3,700 trees planted on a drip section. The farm is in full operation with 47 rows of 80 trees. 950 acre feet is requested for the orchard and 20 acre feet is requested for his water station. The application is declared administratively complete, and recommended that it be approved.

II Adjourn hearing and consider and/or act on **Production Permit Application for Texas Fresh Farms, LLC**

Alvaro Mandujano, Jr. made a motion to adjourn the hearing at 1:13 p.m. Motion seconded by John Dorris. Motion carried.

Alvaro Mandujano, Jr. made a motion to approve the application as presented. Motion seconded by Terry Whigham. Motion failed with a vote of 4 For. 7 Oppose.

John Dorris made a motion to grant the permit with an addendum to check the integrity/validity of the casing by camera"ing" the well. Motion seconded by Janet Groth. Motion carried unanimously.

**CONTINUATION OF SHOW CAUSE HEARING ON ALLEGED VIOLATION OF
DISTRICT'S RULES BY TEXAS FRESH FARMS, LLC**

I Call to Order at 10:30 a.m.

II Show Cause Hearing on alleged violations of District's Rules by **TEXAS FRESH FARMS, LLC**

Party representing application: Alex (Amin) Noor, owner of Texas Fresh Farms, LLC

Protestant to application: None

Public comment: None

Paul Weatherby said in the beginning there were communication problems, but now Mr. Noor is complying, and recommends that no enforcement or fine is needed.

Ty Edwards reported that the water station had been in operation since January of 2014. Mr. Noor was asked if he knew of the Middle Pecos GCD when he bought the property, and he replied "no".

- III Consider and act on **alleged violations by TEXAS FRESH FARMS, LLC**, 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 Texas Fresh Farms, LLC., \$400 for selling water without a permit. The motion was seconded by Vanessa Cardwell. More discussion among the Board resulted in a vote of 2 For. 9 Oppose. Motion failed.

- IV Adjourn
Evans Turpin made a motion to adjourn the hearing. Seconded by John Dorris. Motion carried. The hearing adjourned at 1:24 p.m.

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S
RULES BY CITY OF FORT STOCKTON**

- I Call to Order at 1:24 p.m.
II Show Cause Hearing on alleged violations of District's Rules by **CITY OF FORT STOCKTON**

Party representing application: Raul Rodriguez, Fort Stockton manager
Bill Lannom, Fort Stockton Mayor
Billy Jackson, Fort Stockton City Councilman

Protestant to application: None

Public comment: None

The following were sworn in: Raul Rodriguez, Mayor Bill Lannom & Billy Jackson

Assistant Manager Ty Edwards presented the violations to the Board.

- A. June 6, 2013: Contract signed with J. Cleo Thompson for water
- B. January 2014: Pump was installed in the well.
- C. March 2014: Contract signed with Brigham Resources
- D. April 2014: 2 wells found to be operating and 1 well exporting water without a proper production permit.

- E. May 20, 2014: Wells 17 and 19 were scheduled for a public hearing for an application(s) for Production Permit(s). The applications were withdrawn during the meeting on May 20, 2014.

Testimony by Mayor Lannom: The City Council agreed to lease the land for oil exploration, and to sell caliche as part of the lease.

Testimony by Billy Jackson: He testified that there was nothing malicious. The wells were shut off as soon as the problem was found. It was an oversight on our part to not obtain the proper production permit. He was aware that water was being sold, but not that it was being sold in Reeves County.

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

Merrell Daggett made a motion to fine the City of Fort Stockton \$250 for violations of rule 11.1(a) and 11.6 pertaining to the requirement of a production permit for a non-exempt well. Motion died for a lack of a second.

Janet Groth made a motion to fine the City of Fort Stockton \$1,000 for violations of rule 11.1(a) and 11.6 pertaining to the requirement of a production permit for a non-exempt well. Motion seconded by Vanessa Cardwell. Vote: 8 For. 3 Oppose. Motion carried.

- IV Adjourn - Hearing was adjourned by Jerry McGuairt at 1:53 p.m.

**Drilling/Production Permit with Authorization to Export
Public Hearing for Garry Harrell, dba, Pecos SS, LLC**

- I Call to order at 1:53 p.m. on Public Hearing on **Drilling/Production Permit with Authorization to Export for Garry Harrell, dba, Pecos SS, LLC**

Presiding Officer: Jerry McGuairt

Party representing application: Garry Harrell
Scott Hart
Steve & Bertha Chapman

Comment to application: John Mixon

Protestant to application: Ernest Woodward
Fort Stockton Holdings, L.P.'s

Public comment: None

Comment Letter from John Mixon.

He is against granting the export of 10,000 acre/feet from the Edwards/Trinity and Rustler Aquifer.

Protestant to application: Fort Stockton Holdings, L.P.

- Requests a contested case hearing
- Requests party status in the contested case hearing
- Request opportunity to conduct discovery on the application

Protestant to application: Ernest Woodward

- Ernest Woodward was sworn in.
- Very concerned with the amount of water being requested
- Requests party status in the contested case hearing on behalf of himself and the Woodward Family

An Executive Session was called at 2:50 p.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with our attorney.

Reconvene at 3:22 p.m. President McGuairt stated that no decisions or votes were made in executive session.

II **Adjourn hearing and consider and/or act on Drilling/Production Permit with Authorization to Export for Garry Harrell, dba, Pecos SS, LLC**

Evans Turpin made a motion to grant party status to Fort Stockton Holdings, L.P. and to "Ernest Woodward and Woodward Brothers". Motion seconded by John Dorris. Motion carried unanimously.

President Jerry McGuairt declared that the public hearing will be continued at a date and time collaborated by all parties and the MPGCD Board of Directors.

REGULAR BOARD MEETING CONTINUED

- XIII Consider and/or act upon **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, Drought Map, Provide status report on Pecos Pecan, LLC's development of a hydrogeological report and production permit application, and Status report on June 25th hearing on the Texas House Natural Resources Committee on Speaker of the House's interim charges regarding groundwater and June 26th Texas Water Development Board meeting on rules implementing SWIFT funding. Update on PPC Operating Company, LLC's Application to Amend Field Spacing Rules and Associated Enforcement Issues.**

- Well Registrations: Ongoing progress.
- Water Quality Analysis: Continuing to gather samples.
- Pecos Pecan, LLC has employed a hydrogeologist and we have met with him at our office.
- The interim charges are an ongoing process
- TWDB meeting on rules implementing SWIFT funding: We have already discussed this, and Ty Edwards will be going on July 24th.
- **PPC Operating Company, LLC's:** We have been to Austin, we asked for assurance on the well's integrity, and did not get assurance. We have asked for party standing in their upcoming hearing, but do not have an answer yet.

X Consider and/or act upon **Options for Addressing Possible Export by Permit Holders, including but not limited to Permits Authorized for Industrial/Fracking Purposes, and Associated Export Fees.**

An up-to-date list of water production by Oil and Gas wells was presented to the Board for their review to have an understanding of the amount of "Oil and Gas" related water use that has been reported so far this year.

Manager Weatherby recommended that the Board not assess an export fee on this water use, and not to set a flat fee.

Alvaro Mandujano, Jr. made a motion to not charge export fees on the permits for industrial/fracking purposes. Motion seconded by Merrell Daggett. Motion carried. 10 For. 1 Oppose.

NOTE: Production Permit Application for Gerald Nelson, dba, PA Prospect, LLC that was approved on 06-17-2014 was awaiting the outcome of this agenda item. The Production Permit is now approved without an export fee.

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

- TAGD meeting August 26-28, 2014 in San Marcos
- TAGD meeting September 16-17, 2014 – Leadership training in Lubbock.
- TAGD meeting October 29-30, 2014. Fall Quarterly meeting

XV **Directors' comments** No comments

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

- Budget and Tax Rate
- Pecos SS, LLC continued hearing possibly
- Other production permits

XVII **Adjourn**

Weldon Blackwelder made a motion to adjourn. Motion seconded by Merrell Daggett. Motion carried unanimously and the meeting adjourned at 4:00 p.m.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____