

Middle Pecos Groundwater Conservation District
Minutes of August 19, 2014

On this the 19th day of August, 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
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

Quorum Present.

Board members absent: M. R. Gonzalez, Janet Groth, and Terry Whigham.

Others present: Paul Weatherby, Mike Gershon, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Brock Thompson, Jeff Williams, Mark Tisdale, Mike Thornhill, Eric Segar, Curtis Skeen, Fermin Venegas, James Cravens, Mayor Bill Lannom, Raul Rodriguez, Don Burns, Josh Grubaugh, Mark Valentino, and Frank Rodasky with the Fort Stockton Pioneer.

I Call to order @ 10:00 a.m. by 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.

No public comments.

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

Evans Turpin made a motion to accept the minutes of July 15, 2014. Motion seconded by Alvaro Mandujano, Jr. Motion carried.

IV Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending July 31, 2014**

Vanessa Cardwell made a motion to accept the accounts payable and treasurer's report and line item transfers for the month ending July 31, 2014. Seconded by John Dorris. Motion carried unanimously.

An Executive Session was called at 10:11 a.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.

Executive session ended at 10:55 a.m.

The meeting recessed for a break at 10:55 a.m.

Reconvene the regular Board meeting at 11:02 a.m. President McGuairt stated that no decisions or votes were made in executive session.

- V Presentation by Recurrent Energy in regards to tax abatement Agreement with RE Fort Stockton LLC, RE Roserock LLC, RE Monument LLC and RE Palmwood LLC

Merrell Daggett completed a Disclosure Affidavit regarding RE Monument, LLC and will abstain.

Josh Grubaugh, Director of Development-East for Recurrent Energy, presented an overview of the solar project. There will be four locations:

- RE Fort Stockton, LLC
- RE Roserock, LLC
- RE Monument, LLC
- RE Palmwood, LLC

The solar project expects to use about 600 acre feet of water during the construction phase, and 2 acre feet each year after construction for cleaning modules. Existing water wells may be available, or a well may need to be drilled. Construction is scheduled to begin July 2015 and 200 employees per project during the construction phase. Two full time employees will be employed per project.

Exhibit F for each entity gave the estimated amounts of abatement improperly. The proper table should reflect the first \$25 million as subject to full tax, and the value exceeding the \$25 million limitation will be considered as eligible for a tax abatement.

Alvaro Mandujano, Jr. made a motion to table this item until after noon and have Recurrent Energy update Exhibit F for each entity reflecting the correct "Estimated Amounts of Abatement". The motion was seconded by John Dorris. Motion carried unanimously.

The following agenda items may appear out of posted order.

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S
RULES BY GENESIS EXPLORATION LLC²**

- I Call to Order at 11:35 a.m. by President Jerry McGuairt
- II Show Cause Hearing on alleged violations of District's Rules 14.2 and 14.3 pertaining to pollution and waste of groundwater by **GENESIS EXPLORATION LLC**

Party representing Genesis Exploration LLC: Fermin Venegas, owner

Party representing Middle Pecos GCD: Paul Weatherby and Ty Edwards

Board member Merrell Daggett recused himself from proceedings. (Affidavit signed)

Sworn In for testimony: Fermin Venegas, Paul Weatherby, Ty Edwards

Testimony of Paul Weatherby:

In January 2014 land owner Lee Harris was alerted to intentional dumping of produced water and oil down a draw causing possible groundwater contamination. The upper shed of the Diamond Y was possibly exposed. The closest water well is 2 miles and samples have not shown any contamination.

Testimony of Fermin Venegas:

He bought the lease 4 years ago that had existing wells on it that were drilled in the 1950's. In January 2014 we had a spill. Due to lack of experience, we moved water through a water line into a gully. The line was left open and it froze. Once the line thawed out it leaked into the draw. The Railroad Commission asked us to till the soil. We tilled the soil and made berms to control future contamination. The Railroad Commission approved of our work. We paid a \$28,000 fine to the Railroad Commission.

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

Mr. Weatherby did not have a recommendation regarding Genesis Exploration LLC. But did feel that some kind of penalty should be imposed on oil companies that violate our rules.

Ronnie Cooper made a motion to impose a \$2,000 fine. The motion was seconded by Vanessa Cardwell.

Vote: 6 in Favor. 1 Oppose. 1 Recuse. 3 Absent.

IV Adjourn

Jerry McGuairt adjourned the hearing at 12:06 p.m.

The Board recessed for lunch at 12:06 p.m.

Meeting reconvened at 1:05 p.m.

CONTINUATION OF SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S RULES BY CURTIS SKEEN²

I Call to Order at 1:05 p.m. by President McGuairt

II Show Cause Hearing on alleged violations of District's Rules by **CURTIS SKEEN**

Party representing application: Mr. Curtis Skeen

Protestant to application: None

Public comment: None

Mr. Skeen's permit application will be on the September 16, 2014 meeting.

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

Vanessa Cardwell made a motion to withdraw the show cause hearing. Seconded by Merrell Daggett. Motion carried unanimously.

IV Adjourn

Jerry McGuairt adjourned the hearing at 1:10 p.m.

PRODUCTION PERMIT HEARING for MANDUJANO BROTHERS

I Call to order at 1:10 p.m. by President McGuairt

Party representing application: Alvaro Mandujano, Jr. (Disclosure Affidavit signed)

Protestant to application: Fort Stockton Holdings submitted a protest. Jeff Williams representing Fort Stockton Holdings withdrew the protest because the protest referred to the Edwards/Trinity aquifer, and this permit for Section 21 draws from the Pecos Valley Aquifer.

Public comment: Mark Tisdale representing Fort Stockton Holdings, LLC, said the District should consider export fees for this industrial use permit.

Ty Edwards presented the application to the Board and explained the permit is for a 6 well system located on the South Section line of T&P RR CO. Block 48T8 **Section 5**, in Pecos County, Texas. The purpose of this well system is for Industrial Use and requests 60 acre feet/year from the Rustler (40 acre/ft) and Pecos Valley (20 acre/ft) Aquifer. This section has "Historical and Existing Use" permit for 2,869 for irrigation use. The application was declared administratively complete, and recommended for approval.

II Adjourn hearing and consider and/or act on **Production Permit Application for Mandujano Brothers**

Jerry McGuairt adjourned the hearing at 1:25 p.m.

John Dorris made a motion to approve the application for 60 acre feet/year from the Rustler (40 acre/ft) and Pecos Valley (20 acre/ft) Aquifer for the 6 well system in Block 48T8 Section 5, for industrial use. Motion seconded by Weldon Blackwelder. Motion carried. 6 For. 1 Abstain. 1 Recusal (Mandujano). 3 Absent.

PRODUCTION PERMIT HEARING for MANDUJANO BROTHERS²

I Call to order at 1:27 p.m. by President McGuairt

Party representing application: Alvaro Mandujano, Jr. (Disclosure Affidavit signed)

Protestant to application: None

Public comment: Mark Tisdale representing Fort Stockton Holdings, LLC, said the District should consider export fees for this industrial use permit.

Ty Edwards presented the application to the Board and explained the permit is for 4 well system located on the South Section line of T&P RR CO. Block 48T8 **Section 21**, in Pecos County, Texas. The purpose of this well system is for Irrigation and Industrial Use and requests 650 acre feet/year for Irrigation and 50 acre feet/year for Industrial from the Pecos Valley Aquifer. Meters will be on the wells. The application was declared administratively complete, and recommended for approval.

II Adjourn hearing and consider and/or act on **Production Permit Application for Mandujano Brothers**

Jerry McGuairt adjourned the hearing at 1:32 p.m.

Vanessa Cardwell made a motion to approve the application for 650 acre feet/year for Irrigation and 50 acre feet/year for Industrial use from the Pecos Valley Aquifer for a 4 well system located on the South Section line of T&P RR CO. Block 48T8 Section 21. The motion was seconded by Evans Turpin. Motion carried. 7 For. 1 Recusal (Mandujano). 3 Absent.

PRODUCTION PERMIT HEARING for MANDUJANO BROTHERS²

I Call to order at 1:32 p.m. by President McGuairt

Party representing application: Alvaro Mandujano, Jr. (Disclosure Affidavit signed)

Protestant to application: None

Public comment: Mark Tisdale representing Fort Stockton Holdings, LLC, said the District should consider export fees for this industrial use permit. Questioned the possibility of existing wells being pumped without a permit.

Jeff Williams representing Fort Stockton Holdings, LLC, suggested that a hydrogeological report was needed since the combined acre feet with the 3 permits application presented today are over 1,000 acre feet pumping collectively from the same aquifer.

Alvaro Mandujano, Jr. explained that the farms are different and isolated from each other.

MPGCD attorney Mike Gershon explained that we decided to handle them separately.

Ty Edwards presented the application to the Board and explained the permit is for a 5 well system located on the South Section line of T&P RR CO. Block 48T8 Section 28 and 29, in Pecos County, Texas. The purpose of this well system is for Irrigation and Industrial Use and requests 750 acre feet/year for Irrigation and 50 acre feet/year for Industrial from the Pecos Valley Aquifer. The application was declared administratively complete, and recommended for approval.

II Adjourn hearing and consider and/or act on **Production Permit Application for Mandujano Brothers**

Jerry McGuairt adjourned the hearing at 1:38 p.m.

Weldon Blackwelder made a motion to approve the application for 750 acre feet/year for Irrigation and 50 acre feet/year for Industrial from the Pecos Valley Aquifer for a 5 well system located on the South Section line of T&P RR CO. Block 48T8 Section 28 and 29. The motion was seconded by Merrell Daggett. Motion carried. 7 For. 1 Recusal (Mandujano). 3 Absent.

**CONSOLIDATED DRILLING AND PRODUCTION PERMIT HEARING for
FRIJOLE ENTERPIRSE. LLC**

I Call to order at 1:38 p.m. by President McGuairt.

Ty Edwards explained to the Board that the application is being withdrawn and the water station is being relocated.

No action taken

II Adjourn hearing and consider and/or act on **Consolidated Drilling and Production Permit Application for Frijole Enterprise, LLC**

No action taken

PRODUCTION PERMIT HEARING for BAY FRESH OYSTER CO. INC

I Call to order at 1:40 p.m. by President McGuairt.

Party representing application: Mr. Mark Valentino

Protestant to application: None

Public comment: None

Ty Edwards presented the application to the Board and explained the permit is for 1 well located approximately 2.5 miles east of Imperial on Hwy 11 in Pecos County, Texas. The purpose of this water well is for Aquaculture Use and requests 300 acre feet/year from the Pecos Valley Aquifer. The water usage will be figured using the "Electric Bill Formula". The land is owned by Tommy Ervin and leased by Mr. Valentino. The application was declared administratively complete, and recommended for approval.

II Adjourn hearing and consider and/or act on **Production Permit Application for Bay Fresh Oyster CO. INC**

Jerry McGuairt adjourned the hearing at 1:44 p.m.

Ronnie Cooper made a motion to approve the application for 300 acre feet/year from the Pecos Valley Aquifer for 1 well located approximately 2.5 miles east of Imperial on Hwy 11 for the purpose of Aquaculture Use. Motion seconded by Merrell Daggett. Motion carried unanimous.

DRILLING PERMIT HEARING for CITY OF FORT STOCKTON

I Call to order at 1:45 p.m. by President McGuairt.

Party representing application: Raul Rodriguez (Sworn in)

Protestant to application: None

Public comment: Mark Tisdale representing Fort Stockton Holdings, LLC, asked for clarification as to whether or not this application is for a well deepening only.

Raul Rodriguez said it was for a well deepening only.

Ty Edwards presented the application to the Board and explained the permit is for the existing well that is located approximately 12 miles Southwest of Fort Stockton on Old Alpine Hwy on T&P RR Co Block 3 Northeast corner of section 112 in Pecos County, Tx. The existing well is 3,500 ft in depth into the Capitan Reef Aquifer, and is requesting to drill the well an additional 500 ft further into the Capitan Reef Aquifer. The application was declared administratively complete.

Concerns were raised about lowering the well and possibly drilling into another zone and contaminating the Capitan Reef aquifer with the oil and gas from below. The City of Fort Stockton was asked to have their hydrogeologists available for questions on September 16, 2014.

II Adjourn hearing and consider and/or act on **Drilling Permit Application for City of Fort Stockton**

Weldon Blackwelder made a motion to continue the hearing until September 16, 2014, at 10:30 a.m. Motion seconded by Merrell Daggett. Motion carried unanimously.

REGULAR BOARD MEETING CONTINUED

VIII Briefing on **Presentation by City of Fort Stockton/STW reference Capitan Aquifer Project.**

STW did not attend meeting today.

IX Consider and/or adopt **Budget and Budget Resolution for the Fiscal Year Ending 09-30-2015**

Weldon Blackwelder made a motion to adopt by resolution the budget for the fiscal year ending September 30, 2015. Motion seconded by John Dorris. Motion carried unanimously. 8 For. 0 Oppose. 3 Absent.

X Consider and/or adopt **Tax Rate of \$0.0249 per \$100 valuation for 2014 and Sign Ratification.**

Vanessa Cardwell made a motion that the property tax rate be lowered by adoption of a tax rate of .0249 per \$100 valuation, which is effectively a .002% decrease in the tax revenue and also to sign the supporting resolution. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously. 8 For. 0 Oppose. 3 Absent.

Board recessed for a break at 2:20 p.m.

Board reconvened at 2:30 p.m.

V Presentation by Recurrent Energy in regards to tax abatement Agreement with RE Fort Stockton LLC, RE Roserock LLC, RE Monument LLC and RE Palmwood LLC

Hearing continued at 2:30 p.m.

Josh Grubaugh presented the revised abatement figures in "Exhibit F" of the tax abatement agreement and application. The exhibit reflects a floor of \$25 million subject to tax, and the remainder value of \$260,000 with an 80% abatement, and 20% nonabatement for each entity.

VI Consider and/or act upon **Fort Stockton LLC, RE Roserock LLC, RE Monument LLC and RE Palmwood LLC Application for Tax Abatement**

Vanessa Cardwell made a motion to accept all four tax abatement applications subject to include the amendment of exhibit F. Motion seconded by Alvaro Mandujano, Jr. Motion carried. Vote: 7 For. 0 Oppose. 1 Abstention (Daggett). 3 Absent.

VII Consider and/or act upon **Fort Stockton LLC, RE Roserock LLC, RE Monument LLC and RE Palmwood LLC Tax Abatement Agreement**

Vanessa Cardwell made a motion to approve all four tax agreements subject to review by the General Manager and Legal Counsel, Mike Gershon; and to delegate authority to the Board President and Board Secretary to sign the agreements if there are no objections after the review process. Motion seconded by Alvaro Mandujano, Jr. Motion carried. Vote: 7 For. 0 Oppose. 1 Abstention (Daggett). 3 Absent.

XI Consider and/or act upon **Presiding Officer's order in the Pecos SS, LLC contested hearing and ruling on Fort Stockton Holdings, L.P.'s request for a hearing before the State Office of Administrative Hearings (SOAH) or, alternatively, that a SOAH Judge serve as a Hearings Examiner, and possible engagement of legal counsel to assist Presiding Officer with contested hearing.**

On July 24, 2014 the Presiding Officer, Jerry McGuairt, was informed that Pecos SS, LLC retained Mr. Drew Miller as its legal counsel.

Fort Stockton Holdings, LLC requested a hearing before the State Office of Administrative Hearings (SOAH). This is denied. Fort Stockton Holdings alternative request that a SOAH Administrative Law Judge serve as a Hearings Examiner is denied. The parties are ordered to coordinate to inform the Presiding Officer no later than August 1, 2014, what discovery, hearing date and other procedural matters are agreed upon or may require a ruling.

The General Manager, Paul Weatherby, suggests that the District's Board of Directors or Presiding Officer not set any agenda item in August for further action at a meeting or hearing on Pecos SS's pending application.

John Dorris made a motion for J. D. Head of Fritz, Byrne, Head & Harrison, PLLC, to represent the Board during the Pecos SS, LLC hearing(s) and to sign a contract with Mr. Head. Motion seconded by Vanessa Cardwell. Motion carried unanimously.

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

- Well Registrations: Ongoing progress.
- Water Quality Analysis: Continuing to gather samples.
- Drilling Permits: Brigham has sent in a notice of intent for "oil & gas" use
- Data Loggers: Removed a few because the well is now being used.
- Election: We will have 3 contested races for the November 4th election.

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

- Keeping an eye on brackish water pending legislation
- Groundwater Summit: Leaving Monday to attend Summit
- Ty Edwards will be attending the Region F meeting on August 21st
- Email from Railroad Commission regarding PPC possible contamination
- Abandon wells test: on July 31, 2014 a test passed and the next day it blew out on Six S Properties
- PPC Operating: On September 18 & 19 there is a hearing on our protest to their application. We do not know if we have party status at this time.
- Far West Texas Conference: September 18-20th, Mr. Weatherby has been invited to speak, as in the past, but he may go to Austin hearing.
- Lone Star Summit: In Austin will be December 10-12, 2014.

XIV **Directors' comments** No comments

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

- City of Fort Stockton Drilling permit at 10:30
- STW presentation

XVI **Adjourn**

Merrell Daggett made a motion to adjourn the meeting at 3:14 p.m. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____