

Middle Pecos Groundwater Conservation District  
Minutes of September 16, 2014

On this the 16th day of September, 2014, a regular board meeting and public hearings were held by the Middle Pecos Groundwater Conservation District in the Courtroom of the Pecos County Courthouse, Fort Stockton, Texas located at 103 West Callaghan with the following members present, to-wit:

Jerry McGuairt	President, Precinct 1
John Dorris	Vice President, Precinct 3
Janet Groth	Precinct 1 (Attended until 11:47 a.m.)
Merrell Daggett	Precinct 2
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Evans Turpin	City of Iraan
Terry Whigham	At Large

Quorum Present.

Board members absent: M. R. Gonzalez and Vanessa Cardwell. (Note: Janet Groth absent after lunch.)

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Ty Edwards, Melissa Mills, Mary Jean Odom, Mary Ann Alvarado, Brock Thompson, Jeff Williams, Ed McCarthy, Mike Thornhill, Darrell Peckham, Tom Beard, Steve Finch, Mayor Bill Lannom, James Cravens, Gil Van Deventor, John Jansing, Raymond Straub, Fred Rothauge, Gerald D. Lyda, Gene Lyda, Chance Murphy, Edad Bebel, Ernest Woodward, Steve and Bertha Chapman, Tommy Ervin, Curtis Skeen, Raul Rodriguez, Don Burns, Billy Moody, Mr. Osborn and Frank Rodasky's tape recorder on the Board's table with the Fort Stockton Pioneer.

### **REGULAR BOARD MEETING**

- I Call to order at 10:05 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.  
  
No public comment.
  
- III Consider and/or act upon **Minutes of August 19, 2014**  
Merrell Daggett made a motion to accept the minutes of August 19, 2014. Motion seconded by John Dorris. Motion carried.

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

Merrell Daggett made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending August 31, 2014. Motion seconded by Alvaro Mandujano, Jr. Motion carried.

V Consider and/or act on rulemaking effort to **Amend MPGCD Rules 10.2 and 13.5 and other spacing and production-related rules**

Rule 10.2 Production Permits

Would like to be able to terminate production permits that are not used within a specified time (example 36 months), or have a variance granted if reasons are demonstrated that the permit is still needed. This would not pertain to "Historic and Existing Use" production permits.

Rule 13.5 Spacing Requirements

Propose adding stricter rules on spacing between wells, and between wells and the property lines, and possibly different production of wells within the five different primary aquifers.

Another suggestion is a rule to strengthen the rule that relates to the enforcement ability of potential water quality degradation. The Texas Water Commission rule 36.101 allows groundwater districts to tailor an enforcement rule to prevent the degradation of water quality.

No action taken. The proposed rules will be presented at the October 21<sup>st</sup> meeting.

VI **Presentation by City of Fort Stockton/STW reference Capitan Aquifer Project**

John Jansing, TRE & Associates, presented an overview of the project.

The monitor well was completed in July 2013 down to 3,500' and tested good on pump testing and water quality testing. It was somewhat inconclusive. Today requesting to deepen the well to 4,000' level to have further tests done and obtain information as to the yields of the Capitan Aquifer and the water quality and pump tests at the 4,000' level.

The 2 wells (on the agenda today – one for City of Fort Stockton drilling permit and one for a drilling permit for STW Water Process and Technologies) are for monitor and test purposes only at this time. This is in preparation for a possible production permit application to develop the Capitan Reef Aquifer as a water source for the area.

**CONTINUATION of DRILLING PERMIT HEARING for CITY OF FORT STOCKTON**

I Call to order at 10:40 a.m. on Public Hearing on **Drilling Permit Application for City of Fort Stockton**

Party representing application: John Jansing – TRE and Associates  
Gil Van Deventer – Trident Environmental  
Raymond Straub, Jr. – Straub Corporation  
Fred Rothauge – Hydro Resources  
Mayor Bill Lannon & City Manager Raul Rodriguez

Protestant to application: None

Public comment: None

Permit request: The existing well 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.

Sworn in: Paul Weatherby, John Jansing, Gil Van Deventer, Raymond Straub, Jr. and Fred Rothauge.

Manager Paul Weatherby presented the application to the Board. The application is declared administratively complete and he recommended the drilling permit be approved.

John Jansing reported that this monitor well is requesting permission to be deepened 500’.

Fred Rothauge went over the drilling log for the initial drilling that drilled to 3,500’ and answered the many questions the Board asked. He said an engineer would be on-site during drilling.

Mr. Weatherby reported that the well pumps off at 600 gallons per minute, but stabilized around 300’ – 350’ when choked.

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

Merrell Daggett made a motion to adjourn the hearing at 10:55 a.m. Motion seconded by Evans Turpin. Motion passed.

Merrell Daggett made a motion to approve the drilling permit. Motion seconded by Alvaro Mandujano, Jr. Motion passed.

**DRILLING PERMIT HEARING for STW WATER PROCESS & TECHNOLOGIES**

I Call to order at 10:57 a.m. on Public Hearing on **Drilling Permit Application for STW Water Process & Technologies**

Party representing application: John Jansing – TRE and Associates  
Gil Van Deventer – Trident Environmental  
Raymond Straub, Jr. – Straub Corporation  
Fred Rothauge – Hydro Resources  
Mayor Bill Lannon & City Manager Raul Rodriguez

Protestant to application: None

Public comment: None

Permit request: The proposed well is located approximately 12 miles Southwest of Fort Stockton on Old Alpine Hwy on T&P RR Co Block 3 section 112 in Pecos County, TX. The proposed well will be drilled to +/-4000 ft into the Capitan Reef Aquifer.

Manager Paul Weatherby presented the application to the Board. The application is declared administratively complete. He noted that there is a Cooperation Agreement between the City of Fort Stockton, Texas and STW Resources Holding Corporation regarding the development of water well(s) in the Capitan Reef Aquifer Formation.

John Jansing: The proposed depth depends on the first test well that will be deepened to 4,000'. This well is for testing for quality and pump tests. They first want to deepen the monitor well drilled in 2013, and then decide whether or not to drill this second well. Current tests show Total Dissolved Solids to be in the range of 900 – 1,200.

II Adjourn hearing and consider and/or act on **Drilling Permit Application for STW Water Process & Technologies**

Jerry McGuairt adjourned the hearing at 11:12 a.m.

Ronnie Cooper made a motion to approve the application with changes. The casing size will be 16" run all the way down to the top of the Capitan Reef, and cement to the surface. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

**PRODUCTION PERMIT HEARING for PECOS PECAN LLC**

I Call to order at 11:14 a.m. on Public Hearing on **Production Permit Application for Pecos Pecan, LLC**

Party representing application: James Craven  
Mike Thornhill – Thornhill Group, Inc.

Protestant to application: None

Public comment: None

Permit Request: 6 well system located approximately 2.25 miles south of I-10 on Hwy 2037 and 2,000 ft west of pavement, in Pecos County, Texas. The purpose of this well system is for **Irrigation Use** and requests **7,400 acre feet/year** from **Edwards Trinity** Aquifer.

Manager Paul Weatherby presented the application to the Board. The application is declared administratively complete. There is not an “Historic and Existing Use” production permit for these wells. He recommended the application be approved.

James Cravens gave sworn testimony: All 6 wells have been in production since he has been employed for Pecos Pecan, LLC for about 3 years. 1,057 acres are in production. More land has been cleared in anticipation of this permit approval. The 7,400 acre feet is for pecan trees.

II Adjourn hearing and consider and/or act on **Production Permit Application for Pecos Pecan, LLC**

Jerry McGuairt adjourned the hearing at 11:33 a.m.

Merrell Daggett made a motion to approve the application as presented. Motion seconded by John Dorris. Motion carried unanimously.

**PRODUCTION PERMIT HEARING for CURTIS SKEEN**

I Call to order at 11:34 a.m. on Public Hearing on **Production Permit Application for Curtis Skeen**

Party representing application: Curtis Skeen  
Mike Thornhill – Thornhill Group, Inc.

Protestant to application: None

Public comment: None

Permit Request: For a 2 well system located approximately 2.25 miles south of I-10 on Hwy 2037 and 2000 ft west of pavement, in Pecos County, Texas. The purpose of this well system is for **Irrigation Use** and requests **1,820 acre feet/year** from **Edwards Trinity** Aquifer.

Manager Paul Weatherby presented the application to the Board. The application is declared administratively complete. There is not an “Historic and Existing Use” production permit for these wells. 260 acres of alfalfa have been in production for many years. A hydrological study has by completed by Thornhill Group, LLC. Mr. Skeen thought the production permit had been approved many years ago. He plans to flood irrigate. Mr. Weatherby recommended the application be approved.

II Adjourn hearing and consider and/or act on **Production Permit Application for Curtis Skeen**

Jerry McGuairt adjourned the hearing at 11:38 a.m.

Merrell Daggett made a motion to approve the application as presented. Motion seconded by Terry Whigham. Motion carried unanimously.

**DRILLING PERMIT HEARING for BENTLEY KING & ERNEST WOODWARD,  
DBA GREASEWOOD RANCH**

I Call to order at 11:39 a.m. on Public Hearing on **Drilling Permit Application for Bentley King & Ernest Woodward, DBA Greasewood Ranch**

Party representing application: Ernest Woodward

Protestant to application: None

Public comment: None

Permit Request: The proposed well is located approximately 2 miles South of Interstate 10 and 3 miles West of Hwy 67 in Pecos County, TX. The well is projected to be 400-500 ft in depth, and drilled into the **Pecos Valley** Aquifer. The purpose of the proposed well is for **Industrial Use**.

Assistant Manager Ty Edwards presented the application to the Board. The application is declared administratively complete. The well is proposed to be drilled into the Pecos Valley aquifer, but once the well is drilled – it may actually be in the Edwards/Trinity. He recommended the application be approved.

Ernest Woodward gave sworn testimony: Once the well is drilled, if it is a good well they will come back to the Board requesting a production permit for a small farm.

II Adjourn hearing and consider and/or act on **Drilling Permit Application for Bentley King & Ernest Woodward, DBA Greasewood Ranch**

Jerry McQuairt adjourned the hearing at 11:46 a.m.

Weldon Blackwelder made a motion to approve the application as presented. Motion seconded by Merrell Daggett. Motion carried unanimously.

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

Note: Janet Groth absent after lunch.

**PRODUCTION PERMIT HEARING for La ESCALARA, LP**

I Call to order at 1:04 p.m. on Public Hearing on **Production Permit Application for La Escalera, LP in Block D Survey 82 & 87**

Party representing application: Gerald D. Lyda  
Steve Finch, Jr. – John Shomaker & Associates

Protestant to application: None

Public comment: None

Permit Request: **3 well system** located on **GC&SF RR CO. Block D Survey No. 82 & 87**, in Pecos County, Texas. The purpose of this well system is for **Irrigation Use** and requests **700 acre feet/year** from the **Edwards Trinity** Aquifer.

Assistant Manager Ty Edwards presented the application to the Board. The application is declared administratively complete. He recommended the application be approved.

Gerald D. Lyda's sworn testimony: The wells were inoperable when they purchased the property in 1992. They had been farmed out of the Edwards/Trinity aquifer. They would like to irrigate 200 acres.

II Adjourn hearing and consider and/or act on **Production Permit Application for La Escalera, LP in Block D Survey 82 & 87**

Jerry McGuairt adjourned the hearing at 1:07 p.m.

Ronnie Cooper made a motion to approve the application as presented. Motion seconded by Merrell Daggett. Motion carried unanimously.

**PRODUCTION PERMIT HEARING for La ESCALARA, LP**

I Call to order at 1:10 p.m. on Public Hearing on **Production Permit Application for La Escalera, LP in Block B Survey 14**

Party representing application: Gerald D. Lyda  
Steve Finch, Jr. – John Shomaker & Associates

Protestant to application: None

Public comment: None

Permit Request: **1 well** located on North West corner of **GC&SF RR CO. Block B Survey No. 14**, in Pecos County, Texas. The purpose of this well is for **Livestock (100ac/ft), Irrigation (200ac/ft), Industrial (300ac/ft), and Other (100ac/ft) Use** and requests a total of **700 acre feet/year** from the **Capitan Reef Complex** Aquifer.

Assistant Manager Ty Edwards presented the application to the Board. The application is declared administratively complete.

Gerald D. Lyda's sworn testimony: 100 acre feet is requested for livestock use for 300 head of cattle and other livestock. 200 acre feet for irrigation use for crops grown for feed purposes. 300 acre feet for industrial use for oil and gas operations on the ranch, and 100 acre feet for other uses such as dust control, wildlife and other improvements on the ranch. The total requested is 700 acre feet annually.

Result of Board deliberations was to award 30 acre feet for other uses.

II Adjourn hearing and consider and/or act on **Production Permit Application for La Escalera, LP in Block B Survey 14**

Jerry McGuairt adjourned the hearing at 1:30 p.m.



Alvaro Mandujano, Jr. made a motion to approve the application for 630 acre feet from the Capitan Reef Aquifer. (Livestock/100 acre feet. Irrigation/200 acre feet. Industrial/300 acre feet. Other/30 acre feet.) Motion seconded by Evans Turpin. Motion carried unanimously.

**CONTINUATION of HEARING ON PECOS SS, LLC'S DRILLING AND PRODUCTION PERMIT APPLICATIONS WITH REQUEST FOR AUTHORIZATION TO EXPORT**

Continuation of hearing called to order by Presiding Officer, Jerry McGuairt at 1:32 p.m. to allow consideration and action on procedural issues, including but not limited to discovery, procedural deadlines and hearing date, and party status.

The MPGCD Board is advised by J. D. Head/Legal Advisor

Party Status:

- Applicant: Pecos SS, LLC: Steve Chapman and Mark Osborn/Legal Advisor
- MPGCD General Manager Paul Weatherby and Mike Gershon/Legal Advisor
- Protestant: Ernest Woodward and Woodward Brothers: Ernest Woodward
- Protestant: Fort Stockton Holdings, LP: Ed McCarthy, Jr./Legal Advisor and Mike Thornhill/Hydrogeologist

Mike Gershon spoke on behalf of General Manager Paul Weatherby. The General Manager feels that Fort Stockton Holdings, LP did not adequately establish a justiciable interest, and asked the Board to re-evaluate the party status, and reverse the decision to grant Fort Stockton Holdings, LP. Party status.

Fort Stockton Holdings, LP legal representative Ed McCarthy, Jr. did not know the request to reverse party status would be an issue today. He stated that the application was not administratively complete. He reiterated that Fort Stockton Holdings, LP does in fact have a justiciable interest and that the Desired Future Conditions and Managed Available Groundwater that MPGCD has adopted does in fact affect Fort Stockton Holdings, LP permits in more than a general respect.

Pecos SS, LLC legal representative Mark Osborn was not concerned with the party status issue, but did agree with the opinion of Paul Weatherby.

Ernest Woodward expressed contempt for the time and money spent on the legal actions necessary to conduct a contested case hearing.

An Executive Session was called at 2:01 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 Mr. J. D. Head.

Reconvene the regular Board meeting at 2:33 p.m. President McGuairt stated that no decisions or votes were made in executive session.

Jerry McGuairt addressed Ed McCarthy's earlier concern about not knowing that party status would be an issue today and had him refer to the agenda item as posted for today's meeting.

No action taken today.

### **REGULAR BOARD MEETING CONTINUED**

VII Consider and/or act upon **Proposed Legislation Reference Brackish Groundwater, Aquifer Storage and Recovery, Permitting, Well Drilling and Enforcement**

Draft Texas Water Conservation Association groundwater bill is designed to encourage the production of brackish groundwater throughout Texas while preserving and protecting existing groundwater resources.

Draft Texas Water Conservation Association groundwater bill regarding Aquifer Storage and Recovery (ASR) programs. This draft bill proposes to remove all aspects of the "pilot program" that was created to study ASR and move into a full implementation of the ASR project.

Draft Texas Water Conservation Association along with Texas Department of Licensing and Regulation bill would like to 1) contract with GCDs and state agencies to establish an inspection program using the staff of the GCD to inspect, monitor, and assist the TDLR with enforcement activities; 2) To re-establish the Apprentice Driller and Pump Installer program; 3) To amend the well log reporting requirements; 4) To require injurious water detected and/or encountered to be reported to the landowner and local GCD.

An Executive Session was called at 2:42 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 Mike Gershon.

Reconvene the regular Board meeting at 3:13 p.m. President McGuairt stated that no decisions or votes were made in executive session.

Weldon Blackwelder made a motion to delegate authority to Board President Jerry McGuairt to participate and speak on behalf of MPGCD for these legislative bills. Motion seconded by Merrell Daggett. Motion carried without objection.

VIII Consider and/or act upon **Notice to Show Cause Hearing on Alleged Violations by PPC Operating Company, LLC.**

A power point presentation showing the contamination issues with several PPC Operating Co, LLC's wells was shown. Although contamination has not yet been detected – the potential is there as depicted in the power point presentation. A rule is being drafted and will be presented for your consideration at the October Board meeting to address the issues like this.

No action taken.

IX **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.
- Bids have been taken to have a sprinkler system installed in the front of the building and on the south side of the building. Construction will be soon.
- The Texas Drought Report map was presented for Board review.

**NOTE:** John Dorris left the meeting at 3:32 p.m. A quorum remained.

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

- The Far West Texas Judges and Commissioners conference will be held September 17-19 in Study Butte. Weatherby and Edwards will be attending. Weatherby will be a speaker at the conference.
- GMA 7 meeting will be held on September 18<sup>th</sup> in San Angelo. Weatherby and Edwards will be attending. Discussions will be on the 2016 Desired Future Conditions.

XI **Directors' comments:** No comments.

XII Consider and/or act upon **agenda for next meeting**  
1) Rule Making hearing 2) Production permit hearings

XIII **Adjourn**  
Merrell Daggett made a motion to adjourn the meeting at 3:36 p.m. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

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M. R. Gonzalez, Secretary/Treasurer

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Jerry McGuairt, President

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