

Middle Pecos Groundwater Conservation District
Minutes of March 17, 2015

On this the 17th day of March, 2015, a regular board meeting and public hearing 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
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
John Dorris	Vice President, Precinct 3
Janet Groth	Precinct 1
Vacant	Precinct 2
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4

Quorum Present.

Board members absent: Jeffery McMahon, Vanessa Cardwell, and Terry Whigham

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Michelle Sutherland, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Brock Thompson, Ed McCarthy, Jr., Jeff Williams, Gary Harrell, Steve and Bertha Chapman, Scotty Hart, Mark and Cynthia Osborn, Wayne Morkovsky, James Cravens, Larry Drgac, Eric Selinger, Karl Selinger, Alyson McDonald, Ernest Woodward, Trent Yates, J. D. Head, Dons Burns, and Bob Beal/Fort Stockton Pioneer.

Continuation of contested hearing on Pecos SS LLC's application for consolidated drilling and production permits and authorization to export

- I. Call to order at 10:00 a.m. by President Jerry McGuairt.
- II. Comments from Public and Media (Limit to 5 minutes) will be permitted only if directed by a majority of the Board.
No Comments.
- III. Consider and/or act upon **Pecos SS LLC's application for consolidated drilling and production permits and authorization to export.**

The hearing concluded on March 6, 2015 in accordance with Texas Water Code 36.411 (The board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded.). No report will be prepared as allowed under Texas Water Code 36.410(e).

An Executive Session was called at 10:05 a.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney regarding Pecos SS, LLC.

The executive session ended at 11:05 a.m. The Board reconvened the open session. President McGuairt stated that no decisions or votes were made in executive session.

Janet Groth made a motion to approve the application as presented with a stipulation that the pipeline construction be completed to the counties stated in the hearing and that water is sold in 18 months as stated in the closing arguments at the applicable export fee, the application will be subject to the applicable export fee, and all the rules of the Middle Pecos Groundwater Conservation District. Motion seconded by Alvaro Mandujano, Jr.

Motion passed with a vote of 6 FOR, 1 OPPOSE (John Dorris), 3 ABSENT, 1 VACANT POSITION.

Note The application as presented: Application is for a consolidated drilling and production permit with authorization to export using a 6 well system located approximately 2 miles north of highway 67 on Owego Rd, in Pecos County, Texas. The purpose of this well system is for Industrial Use and requests 10,000 acre feet/year from the Edwards/Trinity Aquifer. One existing well is MPGCD#2005081037 named 100-01 and 5 additional wells will be drilled to complete the system.

Reference

The transcript from the hearing on December 2, 2014: Page 10, lines 9 – 13
The purpose for that permit is to produce brackish water from the Trinity-Edwards Aquifer to be used by oil and gas operators in Upton, Reagan, Glasscock, Midland, Crane, and Crockett Counties.

Closing Arguments of Applicant Pecos SS, LLC: Page 9 (G)
Gary Harrell of Pecos SS testified that water will be produced within one to one and a half years of permit issuance. (Also reference hearing transcript at pages 49 – 50).

IV. Adjourn.

Jerry McGuairt adjourned the hearing at 11:07 a.m.

REGULAR BOARD MEETING

- I Call to order at 11:07 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.

Paul Weatherby made a comment on behalf of Smokey Briggs, a land owner in Imperial. Smokey was sick and could not make the meeting. Smokey left pictures that will be offered during Bugington Energy, LLC presentation later today reference oil and gas issues.

- III Executive Session to consult with legal counsel on *Fort Stockton Holdings, L.P. v. Middle Pecos Groundwater Conservation District and its Directors in their official capacities, Pecos County, City of Fort Stockton, Estate of Gregg McKenzie, Pecos County Water Control and Improvement District No. 1, Brewster County Groundwater Conservation District, Tom Beard, and Ruth Ann Ryan, Individually, and as Independent Executrix of the Estate of L.B. Ryan*, pending in Pecos County District Court; potential conflicts of interest with former counsel; and other matters as authorized under the Texas Open Meetings Act, V.T.C.A., Government Code, Section 551.071.

Executive Session was called at 11:09 a.m. by President Jerry McGuairt.

The executive session ended at 1:00 p.m. The Board recessed for lunch. The meeting reconvened into open session at 1:38 p.m. President McGuairt stated that no decisions or votes were made in executive session.

- IV Consider and/or act upon matters reviewed during Executive Session.

John Dorris made a motion to not grant a waiver of conflict of interest to Kristen Fancher. Weldon Blackwelder seconded the motion. Motion passed with a vote of 6 FOR, 1 OPPOSE, 3 ABSENT, 1 VACANT POSITION.

- V Consider and/or act on pursuing memorandum of understanding and/or other informal or formal arrangement with Railroad Commission and/or Texas Commission on Environmental Quality.

Manager Paul Weatherby and Attorney Mike Gershon discussed with the Board the need to have Groundwater Conservation Districts included in Title 16, Part 1, Chapter 3, Rule 3.30 a Memorandum of Understanding (MOU) between the Railroad Commission of Texas and Texas Commission on Environmental Quality. This is an agreement to coordinate contact points within agencies and a recognition of jurisdictions as issues relate to groundwater and how agencies can collaborate with one another.

The consensus of the Board was to pursue the Memorandum of Understanding issue. Board action not needed.

- VI Consider and/or act upon **Minutes of December 2, 2014, December 3, 2014, and February 17, 2015.**

Correction to the minutes of February 17, 2015: Ronald Cooper and Ruben Falcon were in attendance. Jeffery McMahon was not in attendance.

Janet Groth made a motion to approve all minutes with the attendance correction as stated for February 17th. Motion seconded by John Dorris. Motion carried.

VII Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending February 28, 2015.**

Ronnie Cooper made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending February 28, 2015. Motion seconded by Alvaro Mandujano, Jr. Motion carried without objection.

NOTE: The following is taken up out of agenda order.

IX Consider and/or act on **Ordering a Show Cause Hearing on Alleged Violations by Bugington Energy, LLC.**

A power point presentation was shown to the Board. During which Ty Edwards explained that there are 4 illegal dumping sites and showed several pictures, inspection reports, etc. The sites are on the same section as Boehmer Lake near Imperial, TX. Google map shows the spill in 2011 to the present. One picture shows their attempt to clean it up, they basically dumped dirt over the spill and the salt is coming up through the dirt once it dries. They have moved that line and reconnected it into their production line, through another separator and then 2 miles to an injection well.

Paul Weatherby reported that in that area the groundwater is from 21' to 40' in depth and is "State classified waters in the land" which includes the natural flow of water from Comanche Springs, Leon Springs and Lake Leon, and Diamond Y Springs to the Pecos River in that area. Bugington Energy, LLC is in trouble with the Environmental Protection Agency, Texas Commission on Environmental Quality, Texas Railroad Commission, and Middle Pecos Groundwater Conservation District. Also, I have been contacted by Patty Robertson who is an assistant District Attorney in Travis County who is working with Rod Ponton our 83rd District Attorney, they are looking into possible criminal actions on this matter.

Ronnie Cooper made a motion to order a show cause hearing on violations for Bugington Energy, LLC, for April 21, 2015. Motion seconded by Janet Groth. Motion carried unanimously.

X **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, Drought Conditions.**

- Well Registrations: Progress report in their notebooks.
- Water Quality Analysis: On going.
- Production Permits: 3 applications are in progress.
- Data Loggers: Operations ongoing normally.
- Water Analysis Program: Normal operations ongoing.
- Drought Monitor Map: The current drought monitor map shows us out of the drought.

XI Consider and/or act upon **General Manager's Correspondence.**

- Legislative update from Bob Turner in their notebooks.
- Texas Workforce Commission tax rate notice for the year 2015.
- Ruben Falcon submitted a Letter of resignation from the Board of Directors on March 13, 2015, to be effective March 13, 2015.
- Draft language for a legislative bill to change permitting exemptions in section 36.117 of the Texas Water Code.
- Texas Alliance of Groundwater Districts released the list of legislative high priority bills as of March 16, 2015.

Ronnie Cooper made a motion to delegate authority to the Board President and the General Manager to act on behalf of the Board on legislative issues through the end of the session. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

XII **Directors' comments.** No comments

XIII Consider and/or act upon **agenda for next meeting.**

- Accept the resignation of Ruben Falcon
- Appoint Director for Precinct 2 vacant position
- Show Cause Hearing on Bugington Energy, LLC
- Production permit application hearings

VIII Presentation by Allan Standen of **Pecos County Hydrogeological Report.**
Allan Standen and Michelle Sutherland presented the **Pecos County 3D Hydro-stratigraphic Model** that they have been constructing

- The report is 95% complete. Final delivery to MPGCD will be at the end of this month.
- The purpose of the 3D Hydro-stratigraphic Model is to provide the District with a stratigraphic framework to determine aquifer designation, assist in the Board reviewing permit applications and to manage the Texas Water Development Board's required *Desired Future Conditions*.
- All known available resources of subsurface oil, gas and water well data were researched to compile subsurface information for this model. Well data was collected from 1)MPGCD water well driller's reports; 2) Bureau of Economic Geology's (BEG) geophysical log, scout ticket and driller's report (includes cable tool) collections; 3)Texas Water Development Board's (TWDB) groundwater database and Texas Department of Licensing and Regulations; 4) TWDB's published reports and Groundwater Availability Models for Pecos Valley Alluvium and Edwards-Trinity Plateau, Dockum, and Rustler; 5)TWDB Brackish Resources Aquifer Characterization well datasets; 6) Groundwater Consulting Reports; 7)W. L. Hiss Reports; 8) United States Geological Survey- Scientific Investigations Reports and groundwater model, 2011 to 2014; 9) Commercial resources, The Subsurface Library at the Bureau of Economic Geology in Austin.

- Interpretations of any geologic model are largely dependent on the density of the available data. In areas of low or no data, the model surface should be considered little more than an extrapolation of available data, and when additional data is collected, the modeled interpretation may change significantly. In Pecos County, the data density and therefore reliability of the model is much greater in the northern half of the county than in the southern half. The most significant limitation is the lack of well data in the southeast corner of the county.
- The 3-D hydro-stratigraphic model was created by Michelle A. Sutherland, LLC from data provided by Allan R. Standen, LLC.

XIV **Adjourn.**

Weldon Blackwelder made a motion to adjourn the meeting at 3:05 p.m. Motion seconded by John Dorris. Motion carried unanimously.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____