

Middle Pecos Groundwater Conservation District
Minutes of April 21, 2015

On this the 21st day of April, 2015, a regular board meeting and public hearings and workshops 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
Merrell Daggett	Precinct 2 (Appointed 04-21-2015)
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	Fort Stockton, City of
Jeffery McMahan	Iraan, City of
Terry Whigham	Pecos County – At Large

Quorum Present.

Board member(s) absent: Weldon Blackwelder

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Vince Clause, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Darrell Peckham, Brock Thompson, Jeff Williams, James Cravens, Gil Van Deventer, Gene Lyda, Gerald D Lyda, Bryan Vay, Margaret Holmes, Tommy Joe Holmes, Frank Urias, Robert Jamison, Tommy Ervin, Steve Finch, Billy Jackson, Merrell Daggett, Gladys Dorris and Bob Beal/Fort Stockton Pioneer.

REGULAR BOARD MEETING

I Call to order regular board meeting at 10:10 a.m.

III Consider and/or act upon **Accepting Resignation of Ruben Falcon, Precinct 2**
On March 13, 2015, Ruben Falcon submitted his resignation from his elected seat as Director representing Precinct 2 to be effective immediately.

Ronald Cooper made a motion to accept the resignation of Ruben Falcon. Motion seconded by Vanessa Cardwell. Motion carried unanimously.

IV Consider and/or act upon **Appointment of New Director for Precinct 2**
Merrell Daggett was present as a candidate for appointment to the open position for the Precinct 2 director. The term of the appointment will expire at the regular election for Directors in November 2018.

Vanessa Cardwell made a motion to nominate Merrell Daggett to fill the unexpired term for the position for Precinct 2 Director; seconded by Janet Groth; motion carried unanimously.

V **Administer the Statement of Elected Officer and Oath of Office for Precinct 2 Director**

The *Statement of Elected Officer* and the *Oath of Office* were administered to Merrell Daggett by President Jerry McGuairt.

The regular Board Meeting recessed at 10:17 a.m.

BOARD WORKSHOP ON 84th LEGISLATIVE SESSION

I Call to order at 10:17 a.m. and Commence Board workshop on 84th Legislative Session

- House Bill 30: Brackish bill.
Mr. Weatherby explained that this bill would allow TWDB to designate brackish water zones and require GCD's to issue 30 year permits with unlimited production in those areas. Since 2/3rds of Pecos County's aquifers are both fresh and brackish – we have requested to be exempted from this legislation. (HB 835 and HB 836 incorporated into HB 30)

NOTE: John Dorris arrived at 10:36 a.m.

- House Bill 200: Desired Future Conditions (DRC) process
Mr. Gershon stated that as currently drafted, the bill would restrict GCD's significantly. This bill amends the DFC appeals process to add a SOAH (State Office of Administrative Hearings) which is adding another layer of legal bureaucracy to the hearing process.
- House Bill 655: Aquifer Storage and Recovery (ASR) bill.
This bill is big for east Texas, they are pushing it because of the drought. This bill gives exclusive jurisdiction for permitting ASR projects to TCEQ. Allows GCDs to permit and apply spacing/regulations only to extent withdrawals over and above TCEQ-approved amount.
- House Bill 898: Well confidentiality bill.
We are for this bill. This bill would prohibit GCD from releasing groundwater withdrawal report submitted by owner of a private well in response to a *Public Information Act* request or otherwise if owner has requested confidentiality.
- House Bill 930: TWCA (Texas Water Conservation Association) consensus TDLR (Texas Department of Licensing and Regulation) bill:
We are OK with this bill. Reinstates well driller apprentice program; authorizes TDLR to contract with third parties for enforcement

- House Bill 950: TWCA consensus SAO (Texas State Auditor's Office) bill. We are OK with this bill. Authorizes SAO to audit GCD financial records and removes management plan review of GCDs.
- House Bill 1191: Buffer zone bill. We are neutral on this bill. Requires a person who wants to drill a well for commercial purposes within 5 miles of a PGMA (Priority Groundwater Management Area) to apply for a permit from GCD and TWDB.
- House Bill 1972 and 2132: Fracking bill. Against these bills. These bills expand permitting exemptions and exempt oil and gas. Relating to certain exemptions from the requirement to obtain a permit from a groundwater conservation district.
- House Bill 3540: Texas Landowners Council bill. If wells experiencing "reduced capacity," requires GCDs to revise DFCs and establish common production rate/acre for permitted wells so it does not continue.
- House Bill 3597: TWCA non-consensus export bill. Not in favor of this bill. GCD may not be more restrictive on an exporter than on an in-district user, except for the ability to charge an export fee.
- House Bill 3813: Groundwater shell bill. Makes attorney's fees provision discretionary and authorizes fees only on issues where GCD prevails; adds TWCA non-consensus export bill.
- Senate Bill 360: Takings bill. Amends PPRPA (Private Property Rights Protection Act) to include regulation of groundwater as potential taking.

II Adjourn Board Workshop on 84th Legislative Session at 11:38 by President McGuairt.

BOARD WORKSHOP ON GROUNDWATER MANAGEMENT

I Call to Order at 11:38 a.m. and Commence Board workshop on Groundwater Management.

Mr. Weatherby explained that correlative rights have been brought up many times in the past. As General Manager, he maintains that in Pecos County we cannot use correlative rights. We currently preserve our Historic-and Existing-Use permits; we have set up management zones; and we have a 50' spacing rule in effect.

The Pecos Valley, Edwards-Trinity, and Capitan Reef Complex aquifers in Pecos County have been identified as a potential source for municipal, industrial and agricultural purposes in the Region F "Water Management Strategy Evaluation" by the Colorado River Municipal Water District, City of San Angelo and City of Odessa.

- II Adjourn Board Workshop on Groundwater Management.
President Jerry McGuairt adjourned the workshop at 12:05 p.m.

The Board recessed for lunch beginning at 12:05 p.m.

HEARING TO AMEND AN EXISTING PRODUCTION PERMIT
for PECOS COUNTY WCID#1

- I Call to order at 1:02 p.m. on Public Hearing to **AMEND AN EXISTING Production Permit for PECOS COUNTY WCID#1.**

The application requests to add 1 well into the existing production permit that was originally granted on 10-18-2011. The well is located on T&P RR CO Block 49T9 Section 47 approximately 2.5 miles North of Interstate 10 and Kennedy Rd, in Pecos County, Texas. The purpose of this well is for Public Supply Use from the Edwards Trinity Aquifer.

Party representing application: Frank Urias, Manager and Harvey Gray, Board President.

Protestant to application: None

Public comment: None

Ty Edwards presented the application to the Board. This is an addition of one well to the existing permit and they are not requesting any additional water. TCEQ has approved the well for public supply. The application is administratively complete.

Frank Urias was sworn in. He testified that it is 1 1/2 miles to connect well 15 into the existing distribution line.

- II Adjourn hearing and consider and/or act on **AMENDMENTS TO EXISTING Production Permit for PECOS COUNTY WCID#1.**

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

John Dorris made a motion to approve the application request to add 1 well into the existing production permit. The well is located on T&P RR CO Block 49T9 Section 47 approximately 2.5 miles North of Interstate 10 and Kennedy Rd, in Pecos County, Texas. The purpose of this well is for Public Supply Use from the Edwards Trinity Aquifer. Motion seconded by Merrell Daggett. Motion carried unanimously.

REGULAR BOARD MEETING

II Comments from **public and media** (limit 5 minutes per person)

No public comment received.

VIII Consider and/or act upon Minutes of March 17, 2015

John Dorris made a motion to approve all minutes as presented for March 17th. Motion seconded by M. R. Gonzalez. Motion carried unanimously.

IX Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending March 31, 2015**

Vanessa Cardwell made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending March 30, 2015. Motion seconded by Merrell Daggett. Motion carried unanimously.

X Review developments and act as necessary on **Bugington Energy, LLC enforcement proceedings and alleged violations of District's rules.**

- A flyover in a helicopter is being setup, and will take a Railroad Commission inspector over the Bugington areas of possible contamination.
- RRC Docket #08-0289289 has been assigned for a Hearing on current violations. A date for the hearing has not been set.
- Allan Standen is completing his hydrogeological research on soils. The estimated time for a spill to reach the water table is 11.72 to 26.32 days. Some of these spills have been on going for 2 or 3 years.
- District Attorney Rod Ponton is continuing his criminal investigation.
- Mr. Guerra with the EPA will be here Wednesday, April 22nd to inspect to assist us. His department is not taking any action.

**HEARING TO AMEND AN EXISTING PRODUCTION PERMIT
for ROBERT JAMISON**

I Call to order at 1:33 p.m. on Public Hearing **TO AMEND AN EXISTING Production Permit for ROBERT JAMISON.**

Application to amend an existing production permit to add an additional 235 ac/ft into the existing production permit. The well is located on T&P RR CO Block 49T9 Section 27 approximately 5 miles North of Interstate 10 and Kennedy Rd, in Pecos County, Texas. The purpose of this well is for Industrial Use and requests water from the Pecos Valley Aquifer.

First permit: Feb. 17, 2015: 1 well located on T&P RR CO Block 49T9 Section 27 approximately 5 miles North of Interstate 10 and Kennedy Rd, in Pecos County, Texas. The purpose of this well is for Industrial Use and requests 10 acre feet/year from the Pecos Valley Aquifer.

Party representing application: Robert Jamison

Protestant to application: None

Public comment: None

Ty Edwards presented the application to the Board. When the first permit request for 10 acre feet was approved, it was not known a frac pit was going to be constructed, hence the request to add 235 additional acre feet today. The application is administratively complete.

II Adjourn hearing and consider and/or act on **AMENDMENTS TO EXISTING Production Permit for ROBERT JAMISON.**

Jerry McGuairt adjourned the hearing at 1:37 p.m.

Alvaro Mandujano, Jr. made a motion to approve application to amend an existing production permit to add an additional 235 ac/ft into the existing production permit. The well is located on T&P RR CO Block 49T9 Section 27 approximately 5 miles North of Interstate 10 and Kennedy Rd, in Pecos County, Texas. The purpose of this well is for Industrial Use and requests water from the Pecos Valley Aquifer. The total production permit is now 245 acre feet. Motion seconded by Terry Whigham. Motion carried unanimously.

PRODUCTION PERMIT HEARING for MARGARET G. HOLMES

I Call to order at 1:39 p.m. on Public Hearing on **Production Permit for MARGARET G. HOLMES.**

Application requests 10 acre feet/year from the Edwards Trinity Aquifer for 1 well located on T&M RR CO Block 193 Section 5 approximately ½ mile South of Hwy 290 on Hwy 349 in Sheffield, Pecos County, Texas. The purpose of this well is for Industrial Use.

Party representing application: Margaret Holmes

Protestant to application: None

Public comment: None

Board member Jeffery McMahon recused himself from proceedings due to a conflict of interest. (Disclosure Affidavit signed)

Ty Edwards presented the application to the Board. The water station has been in existence since 1960's and is located on 11.9 acres. There is a brine well that has been plugged and abandoned. The application is administratively complete.

II Adjourn hearing and consider and/or act on **Production Permit for MARGARET G. HOLMES.**

Jerry McGuairt adjourned the hearing at 1:43 p.m.

John Dorris made a motion to approve the application request for 10 acre feet/year from the Edwards Trinity Aquifer for 1 well located on T&M RR CO Block 193 Section 5 approximately ½ mile South of Hwy 290 on Hwy 349 in Sheffield, Pecos County, Texas. The purpose of this well is for Industrial Use. Merrell Daggett seconded the motion. Motion carried with one recusal.

PRODUCTION PERMIT HEARING for RIMROCK PRODUCTION INC.

I Call to order at 1:46 p.m. on Public Hearing on **Production Permit for RIMROCK PRODUCTION INC.**

Application requests 10 acre feet/year for 1 well located on I&GN RR CO Block 1 Section 47 approximately 9 miles South of Iraan on East side of Hwy 349, in Pecos County, Texas. The purpose of this well is for Industrial Use from the Edwards Trinity Aquifer.

Party representing application: Bryan Vay

Protestant to application: None

Public comment: None

Board member Jeffery McMahon recused himself from proceedings due to a conflict of interest. (Disclosure Affidavit signed)

Ty Edwards presented the application to the Board. Mr. Tommy Holmes is the land owner. Mr. Holmes has given Mr. Vay permission to request the production permit for the water station. The brine water station is exempt, and this permit if for the fresh water that will be sold. The application is administratively complete.

Bryan Vay was sworn in. He testified that it this is a new well with good integrity.

II Adjourn hearing and consider and/or act on **Production Permit for RIMROCK PRODUCTION INC.**

Jerry McGuairt adjourned the hearing at 1:51 p.m.

John Dorris made a motion to approve the application request for 10 acre feet/year from the Edwards Trinity Aquifer for 1 well located on I&GN RR CO Block 1 Section 47 approximately 9 miles South of Iraan on East side of Hwy 349, in Pecos County, Texas. The purpose of this well is for Industrial Use. Merrell Daggett seconded the motion. Motion carried with one recusal.

REGULAR BOARD MEETING continued

- VI Consider and/or act upon matters reviewed during 84th Legislative Session workshop.
No action required.
- VII Consider and/or act upon matters reviewed during Groundwater Management workshop.
No action required.
- XI Consider and/or act upon **General Manager's Quarterly Report**
Accepted via general consensus.
- XII **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis.**
- Well Registrations: Progress report in their notebooks.
 - Water Quality Analysis: Ongoing.
 - 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.
 - STW and the Capitan Reef project: 2 wells have been plugged, and an extension for the 3rd well bid has been granted.
 - TWDB is coming to sample their annual wells.
- XIII Consider and/or act upon **General Manager's Correspondence.**
- April 16th – There was a Region F Meeting in Big Spring.
 - April 23rd – GMA 7 meeting in Fredericksburg
 - June 2-4 – TAGD Quarterly meeting in Austin

An Executive Session was called at 2:08 p.m. by President Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney.

The executive session ended at 2:55 p.m. The Board reconvened the open session. President McGuairt stated that no decisions or votes were made in executive session.

XIV **Directors' comments** No comments

XV Consider and/or act upon **agenda for next meeting**
Enstor/WAHA and La Escalera presentation

XVI **Adjourn**
Merrell Daggett made a motion to adjourn the meeting at 2:57 p.m. Motion seconded by John Dorris. Motion carried unanimously.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____

NOTE: A quorum of the Board left the building (only 4 remained), and La Escalera's hydrogeologist gave a "General Information" presentation on the Capitan Reef Aquifer.