

Middle Pecos Groundwater Conservation District  
Minutes of August 18, 2015

On this the 18<sup>th</sup> of August, 2015, a regular board meeting and public hearings and workshop 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
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Terry Whigham	Pecos County At Large

Quorum Present.

Board members absent: Vanessa Cardwell, Jeffery McMahon, and Ronald Cooper

Others present: Paul Weatherby, Mike Gershon, Gail Reeves, Ty Edwards, Harvey Gray, Darrell Peckham, Brock Thompson, Jeff Williams, Ed McCarthy, Jr., Elizabeth Ferry, James Cravens, Gil Van Deventer, Mr. and Mrs. David Mitchell, Tim Pfannenstiel, Ed Goebel, John Lichtenberger, Ernest Woodward, Gladys Dorris, and Bob Beal/Fort Stockton Pioneer.

**CONTINUATION of SHOW CAUSE HEARING ON ALLEGED VIOLATION OF  
DISTRICT'S RULES BY BUGINGTON ENERGY, LLC**

- I Call to Order at 10:04 a.m. by President Jerry McGuairt.
- II Show Cause Hearing on alleged violations of District's Rules 14.1(d), 14.2(a) and (c), and 14.3(a)-(c) pertaining to waste, pollution and degradation of quality of groundwater by **BUGINGTON ENERGY, LLC and Bugington Energy, LLC's compliance with District's July 21, 2015 enforcement order.**

Bugington Energy, LLC, did not have any of their company officers or employees or legal representatives in attendance at the hearing.

- On August 5<sup>th</sup>, Paul Weatherby and Jerry McGuairt traveled to Austin to meet with Mr. Cooney (the enforcement director) of the Texas Railroad Commission (RRC) and share the two enforcement orders issued by MPGCD to Bugington Energy, LLC. Troupe Brewer, attorney for Lloyd Gosselink, attended the meeting with MPGCD. The RRC has not accelerated the timeline for Bugington Energy, LLC to investigate and remediate the polluted sites.
- The order issued by the MPGCD Board on 07-21-2015 to Bugington Energy, LLC to pay a \$30,000 fine by August 17<sup>th</sup> has not been received.

An Executive Session was called at 10:13 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.

The Board reconvened into open session at 10:42 a.m. President McGuairt stated that no decisions or votes were made in executive session.

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

Weldon Blackwelder made a motion to table the item. Motion seconded by Terry Whigham. Motion died without a vote.

- IV Adjourn.

Jerry McGuairt announced that no action would be taken and the hearing would be continued to the September 15<sup>th</sup> Board Meeting at 10 a.m. at the MPGCD office.

#### **REGULAR BOARD MEETING**

- I Call to order regular Board meeting at 10:43 a.m.

- II Comments from **public and media**. No comments.

- III Consider and/or act upon **Minutes of July 21, 2015**.

Weldon Blackwelder made a motion to approve the minutes as presented for June 21, 2015. Motion seconded by John Dorris. Motion carried 7 FOR, 3 ABSENT, and 1 ABSTENTION.

- IV Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending July 31, 2015**.

Merrell Daggett made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending July 31, 2015. Motion seconded by John Dorris. Motion carried unanimously.

- V Consider and/or act upon **General Managers' 2015 2<sup>nd</sup> Quarter Report**

John Dorris made a motion to accept the General Managers' 2015 2<sup>nd</sup> Quarter Report. Motion seconded by Merrell Daggett. Motion carried unanimously.

- VI Consider and/or act upon **Proposal given by Gil Van Deventer, PG, indentifying and assessing the San Andres wells in northern Pecos County and to propose and advise a path forward in addressing the San Andres wells.**

Mr. Van Deventer presented a proposal to perform a study of water wells completed in the San Andres Aquifer in Northern Pecos County at an estimated cost of \$44,975.

John Dorris made a motion to table the agenda item. Merrell Daggett seconded the motion. Motion carried unanimously.

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S RULES BY RANDAL HARTMAN**

Hearing cancelled; reason being that Mr. Hartman has reported his usage.

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S RULES BY DAVID HESS**

Hearing cancelled; reason being that Mr. Hess has reported his usage.

**PRODUCTION PERMIT HEARING for EAST PECOS SOLAR, LLC.**<sup>2</sup>

- I Call to order at 11:26 a.m. on Public Hearing on **Production Permit for East Pecos Solar, LLC.**

The application requests 250 acre feet/year from the Edwards Trinity and Pecos Valley Aquifer for 1 well located on H and GN RR CO Block 12 Section 6 approximately 1.6 miles North West of Nevill Road and RR 1901 Intersection, in Pecos County, Texas. The purpose of this well is for Industrial and Domestic Use.

Party representing application: John Lichtenberger.

Protestant to application: None

Ty Edwards presented the application to the Board. The application requests 250 acre feet/year from the Edwards Trinity and Pecos Valley Aquifer for 1 well located on H and GN RR CO Block 12 Section 6 approximately 1.6 miles North West of Nevill Road and RR 1901 Intersection, in Pecos County, Texas. The purpose of this well is for Industrial and Domestic Use. The property is owned by Larry Drgac and has a historical and existing use permit for 862 acre feet for agricultural purposes. Larry Drgac submitted a letter giving permission to John Lichtenberger to file this application. The well was drilled in 1957 to 170' deep.

We granted a tax abatement to East Pecos Solar, LLC for the solar facility. This application is requesting 249 acre feet for industrial use, and 1 acre foot for domestic use for the buildings and facilities. The construction phase is estimated to be 14 months. The application is administratively complete.

II Adjourn hearing and consider and/or act on **Production Permit for East Pecos Solar, LLC.**

Jerry McGuairt adjourned the hearing at 11:30 a.m.

Alvaro Mandujano, Jr. made a motion to approve the application request for 250 acre feet/year from the Edwards Trinity and Pecos Valley Aquifer for 1 well for the purpose of Industrial and Domestic Use. Motion seconded by M. R. Gonzalez. Motion carried unanimously.

**PUBLIC HEARING ON MANAGEMENT PLAN**

I Call to Order at 11:33 a.m.

II Public hearings to receive public input on proposed Management Plan.

Public Comment: Elizabeth Ferry, a hydrogeologist working for Thornhill Group, representing Fort Stockton Holdings was sworn in to provide public comment. She commented on the Modeled Available Groundwater (MAG) being different from the previous Management Plan. She commented on the distribution of pumpage, the one-mile-layer and two-mile-layer, permit amounts available, amount of usage reported to TWDB, and she requested to see the raw data used in Appendix G.

Ty Edwards commented that MPGCD hydrogeologist looked over the management plan, and that TWDB had vetted the plan and preapproved it before presenting it today for our Board's approval, and before TWDB approval.

III Adjourn.

Jerry McGuairt adjourned the hearing at 11:42 a.m.

**Workshop on Proposed Budget and Proposed Tax Rate  
Call to Order following Public Hearings**

I Call to Order at 11:43 a.m. by President McGuairt.

II Workshop to review Proposed Budget for Fiscal Year ending 09/30/2016  
The Board reviewed the proposed budget for Fiscal Year ending 09/30/2016.

III Workshop to review Proposed Tax Rate for 2015  
The Board reviewed the proposed tax rate for 2015.

IV **Adjourn**

Jerry McGuairt adjourned the workshop at 11:54 a.m.

The Board recessed for lunch at 11:55 a.m.

The Board reconvened into Open Session at 1:03 a.m.

**Regular Meeting continued**

VII Consider and/or act upon **2015 Management Plan**

John Dorris made a motion to adopt the 2015 Management Plan and submit it to the Texas Water Development Board. Motion seconded by Janet Groth. Motion carried unanimously.

VIII Consider and/or approve **Proposed Budget for Fiscal Year Ending 09/30/2016 and sign the Resolution to Adopt the Annual Budget**

This item will be considered out of order – after the Executive Session

IX Consider and/or approve **PROPOSED Tax Rate of \$0.0249 per \$100 valuation for 2015**

Alvaro Mandujano, Jr. made a motion to approve the proposed tax rate of \$0.0249 per \$100 valuation for 2015 and the Resolution for the Proposed Tax Rate. Motion seconded by Weldon Blackwelder. Motion carried unanimously.

X Consider and/or act upon **Buckthorn Westex, LLC Application for Tax Abatement**

Tim Pfannenstiel, a representative for SunEdison/Buckthorn Westex, LLC, was sworn in. This solar farm is located off of Highway 18, and will be a 150 megawatt facility, and the life of solar projects are typically 30 years.

Ty Edwards reported that the \$1,000 application fee has been paid.

Janet Groth made a motion to accept the Buckthorn Westex, LLC application for tax abatement. Motion seconded by Merrell Daggett. Carried Unanimously.

XI Consider and/or act upon **Buckthorn Westex, LLC Tax Abatement Agreement**

Janet Groth made a motion to approve the Buckthorn Westex, LLC tax abatement agreement. Motion seconded by Alvaro Mandujano, Jr. Carried Unanimously.

- XII 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.

President Jerry McGuairt called for the Executive Session at 1:17 p.m.

The Board reconvened into open session at 1:52 p.m. President McGuairt stated that no decisions or votes were made in executive session.

Item taken up out of order:

- VIII Consider and/or approve **Proposed Budget for Fiscal Year Ending 09/30/2016 and sign the Resolution to Adopt the Annual Budget**

Janet Groth made a motion to approve the budget with several line item amendments. 1) Line 5011 District Assistant Manager Payroll will be \$47,000; 2) Line 5020 District Secretary Payroll will be \$40,826; 3) Line 5021 District Assistant Secretary Payroll will be \$36,450. M. R. Gonzalez seconded the motion. Motion carried unanimously.

Side Note: The above line item adjustments are for payroll. The following accounts that are associated with the annual payroll and will require amendments: 1) 5032 Retention Incentive will change to \$2,093; 2) 5034 Longevity will change to \$2,517; 3) 5040 Payroll Tax Expense will change to \$18,810.

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

No action taken. This was covered in Item VIII.

- XIV **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, ongoing Water Quality Analysis, and Drought Monitor Map. Update on Pecos County Environmental Task Force issues.**

- All work is going normally, nothing to report.
- Update on the County Environmental Task Force: The Commissioners' Court passed a resolution so that the County would have the jurisdiction and authority to file cases that concern water issues – waste issues – and all types of environmental issues. Pecos County Sheriff Cliff Harris has agreed to provide 1 or 2 deputies to receive specific training on proper handling of environmental issue cases. An agreement has been signed with a law firm in Hunt, TX. Cases will be heard in Travis County, TX. Half of the fines will go the Attorney General's office and the other half will go to the county Task Force.

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

Judge Ables approved a re-set date for the Fort Stockton Holdings case for September 21, 2015.

XVI **Directors' comments.** No comments.

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

- Bugington Energy, LLC hearing continuation
- Application for Production Permit from Larry Drgac
- Application for Drilling and Production Permit for a solar facility
- Application from Stockton Farms

XVIII **Adjourn.**

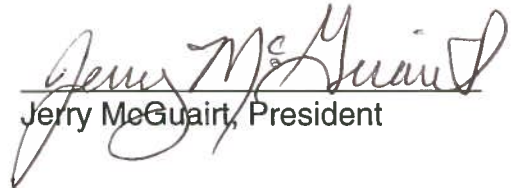
Weldon Blackwelder made a motion to adjourn the meeting at 2:12 p.m. Motion seconded by Terry Whigham. Motion carried unanimously.



M. R. Gonzalez, Secretary/Treasurer

Date Approved

09-15-15



Jerry McGuair, President