

Middle Pecos Groundwater Conservation District
Minutes of November 17, 2015

On this the 17th of November, 2015, 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
Terry Whigham	At Large

Quorum Present.

Board members absent: M. R. Gonzalez, Jeffery McMahon, Janet Groth, and Vanessa Cardwell

Others present: Paul Weatherby, Mike Gershon, Allan Standen, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Brock Thompson, Jeff Williams, Ed McCarthy, Jr., James Cravens, Tommy Ervin, Alan Murphy, Chance Murphy, Gary Drgac, Craig Pearson, Riki Sugden, Chris Alexander, and Bob Beal/Fort Stockton Pioneer.

PRODUCTION PERMIT HEARING for JOHN E. HARRIS, JR.

I Call to order at 1:00 p.m. by President Jerry McGuairt.

Party representing application: John "Bubba" Harris, Jr.

Protestant to application: None

Public Comment: The City of Iraan submitted a letter in support of the purpose and goals of the Middle Pecos GCD in managing and protecting our water supply now and for future generations.

Ty Edwards presented the application to the Board. The application is for 50 acre feet/year from the Pecos Valley and Edwards/Trinity Aquifer for 1 well located on H&GN RR Co Block 12 Section 8 at 502 Nevill Rd, in Pecos County, Texas. The purpose of this well is for Industrial Use. There is a water station at this location, and will be used for construction for a solar company and after construction, the water will be needed for cleaning solar panels. He will report his usage monthly. He owns 163.1 acres in that section. The application is administratively complete.

II Adjourn hearing and consider and/or act on **Production Permit for John E. Harris, Jr., Survey H&GN RR Co., Block 12, Section 8.**

Jerry McGuairt adjourned the hearing at 1:08 p.m.

Alvaro Mandujano, Jr. made a motion to approve the permit application for 50 acre feet/year from the Pecos Valley and Edwards/Trinity Aquifer for 1 well. The purpose of this well is for Industrial Use. Motion seconded by Ronnie Cooper. Motion carried unanimously.

AMENDMENT TO EXISTING PRODUCTION PERMIT HEARING for JOHN E. HARRIS, JR.

- I Call to order at 1:10 p.m. by President Jerry McGuairt for public hearing on **Amendment to and Existing Production Permit for John E. Harris, Jr.**, Survey Graef C., Block 12, Section 44 1/2.

Party representing application: John "Bubba" Harris, Jr.

Protestant to application: None

Public Comment: None

Ty Edwards presented the application to the Board. The application is for an additional 50 acre feet/year from the Pecos Valley and Edwards/Trinity Aquifer for 1 well located on Graef C. Block 12 Section 44 1/2 at 1201 Neville Cutoff Rd, in Pecos County, Texas. The purpose of this well is for Industrial Use. Previously on 06-18-2013 this well was granted 10 acre feet annually for the same purpose. This would bring the total acre feet annually for this well to 60 acre feet. There is a water station at this location, and will be used for construction for a solar company and after construction, the water will be needed for cleaning solar panels. He will report his usage monthly. He owns 562 acres in that section. The application is administratively complete.

- II Adjourn hearing and consider and/or act on **Production Permit for John E. Harris, Jr.**, Survey Graef C., Block 12, Section 44 1/2.

Jerry McGuairt adjourned the hearing at 1:22 p.m.

Weldon Blackwelder made a motion to approve the permit application for an additional 50 acre feet/year making the total permit for 60 acre feet from the Pecos Valley and Edwards/Trinity Aquifer for 1 well for the purpose of industrial use. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

CONSOLIDATED-DRILLING AND PRODUCTION PERMIT HEARING
for JERRY ALEXANDER-JOHO

I Call to order at 1:23 p.m. by President Jerry McGuairt.

Party representing application: Riki Sugden with Blunt Construction

Protestant to application: None

Public Comment: None

Ty Edwards presented the application to the Board. The application is for 1 well and requests 30 acre feet/year from the Edwards Trinity Aquifer. The proposed well is located on T&P RR Co Block 50 T 9 Section 47 approximately 2.25 miles North of I-10 and 1.75 miles West of Mendel Rd in Pecos County, Texas. The well is projected to be 400-500 ft in depth and drilled into the Edwards Trinity Aquifer. The purpose of the proposed well is for Industrial use for construction of a solar facility. Construction is estimated to last about 8 months. He will report his usage monthly. The application is administratively complete.

II Adjourn hearing and consider and/or act on a **Consolidated Drilling and Production Permit for Jerry Alexander - JOHO.**

Jerry McGuairt adjourned the hearing at 1:27 p.m.

John Dorris made a motion to approve the drilling/production permit application for 1 well with 30 acre feet/year from the Edwards Trinity Aquifer for industrial use. The motion was seconded by Terry Whigham. Motion carried unanimously.

REGULAR BOARD MEETING

I Call to order regular Board meeting at 1:31 p.m.

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

III Consider and/or act upon **Minutes of September 15, 2015.**

Merrell Daggett made a motion to approve the minutes as presented for September 15, 2015. Motion seconded by Weldon Blackwelder. Motion carried with 6 FOR and 1 Abstention.

IV Consider and/or act upon **Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending September 30, 2015.**

Alvaro Mandujano, Jr. made a motion to accept the Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending September 30, 2015. Motion seconded by Ronnie Cooper. Motion carried unanimously.

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

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

VI Consider and/or act upon **2016 Meeting and Holiday Schedule.**

Alvaro Mandujano, Jr. made a motion to change Good Friday to 1/2 day and to change December 22nd to a 1/2 day. Motion seconded by Terry Whigham. Motion died on the floor.

Terry Whigham made a motion to match the Federal Holidays and not the County Holidays. Motion died on the floor.

John Dorris made a motion to approve the schedule as presented. Motion seconded by Merrell Daggett. Motion failed with a vote of 5 FOR, 2 OPPOSE.

Weldon Blackwelder made a motion to change December 22nd to a 1/2 day holiday. Motion seconded by Ronnie Cooper. Motion carried unanimously.

The regular board meeting was recessed at 2:02 p.m.

Reconvened at 2:20 p.m.

VII Consider and/or act to approve Upton County Water District Transport Agreement.

The Board discussed the agreement amongst themselves.

An Executive Session was called at 2:50 p.m. by President Jerry McQuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney.

The Executive Session ended at 3:03 p.m. The Board reconvened into open session at 3:04 p.m. President McQuairt stated that no decisions or votes were made in executive session.

Manager Weatherby recommended to leave the transport agreement as presented. The agreement is the same as the previous agreement with no substantive changes.

Terry Whigham made a motion to accept Weatherby's recommendation and accept the Upton County Water District Transport Agreement as presented. Motion seconded by Merrell Daggett. Motion failed with a vote of 5 FOR, 2 OPPOSE.

John Dorris made a motion to set the transport fee at \$0.0249 per 1,000 gallons used, and make the term of the contract 5 years. Motion seconded by Weldon Blackwelder. Motion failed with a vote of 2 FOR, 5 OPPOSE.

Ronnie Cooper made a motion to set the transport fee at \$0.0249 per 1,000 gallons used, and make the term of the contract 10 years. Motion seconded by Weldon Blackwelder. Motion failed without a vote.

No action taken, this item is being tabled until December 15th meeting which may be held at the Pecos County courthouse.

- VIII Consider and/or act upon General Manager's Quarterly Report
Water sampling around the county shows no contamination of our groundwater. The report includes graphs of all of our monitor wells showing the static water level. There is also graphs on the City of Fort Stockton's Capitan Well, and one for the Prison Well.

No action taken, this item is being tabled until December 15th meeting which may be held at the Pecos County courthouse.

- IX Review status of *Fort Stockton Holdings, L.P. v. MPGCD, Pecos County, City of Fort Stockton, et al.* (Cause No. P-7047-83-CV; 83rd Judicial District, Pecos County) and/or act on matters involving current appeal and settlement.

The hearing set for November 17th was cancelled. Fort Stockton Holdings, L.P. did not object to any of the MPGCD requested costs and fees. An adjustment was made to reduce the total award by the costs/fees estimated for the hearing preparation and attendance.

The Final Judgment on Administrative Appeal took effect on November 12, 2015. Final Judgment is attached to the minutes as Attachment #1. Fort Stockton Holdings, L.P. has 30 days to appeal the Judge's decision if they so choose.

The settlement proposal issued by Fort Stockton Holdings, L.P. on September 8, 2015, is being tabled today.

- X **Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers and ongoing Water Quality Analysis.**
- Well Registrations: Progress report in notebooks. 3,029 total registrations.
 - Production Permits: STW has submitted an application for drilling & production and authorization to export. Republic Water Company expressed verbally they would like on the December agenda with an application for production and authorization to export. Possibly 2 or 3 more production permits from a few farmers. Buena Vista I.S.D. should have an application.

- Water Quality Analysis: Ongoing.
- Data Loggers: Operations ongoing normally, Watts is a new monitor well.
- Water Analysis Program: Normal operations ongoing.
- FM 1053 sink hole continues to sink 1/2" per month.
- Report on City of Fort Stockton well CRM W-01: Graph of their Capitan Well that is measured by satellite.
- Capitan Reef Aquifer Complex: Ian Jones and Larry French with the Texas Water Development Board said they are finishing up with the model.
- Drought Monitor Map: The current drought monitor map in their notebooks.

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

- Bugington Energy, LLC: David Cooney with the TX Railroad Commission has sent us a revised approved work plan. Well bores to assess the possibility of contamination will bore down to the groundwater.
- Management Plan: The Texas Water Development Board has approved of our Groundwater management plan and declared it administratively complete, and in compliance with Texas Water Code 36.1071 and 31 TAC 356. The plan is in effect until September 15, 2020.
- Far West Texas County Judges and Commissioners Association Annual Conference: Evaluation sheet on Paul Weatherby as a speaker at the conference. Mr. Weatherby is appreciated as a speaker at the conference.
- House Committee on Natural Resources information sheet reference interim charges.
- Senate Interim Charges: Page 2 refers to water and rural affairs.
- Reeves County votes to form Groundwater Conservation District, and levy a maintenance tax rate not to exceed 3 cents per \$100 of assessed valuation.
- Middle Pecos GCD comments presented to the Texas Water Development Board on House Bill 30 identifying and designation of local or regional brackish groundwater production zones.
- Pecos County has entered into a contract with Dan Ray (Scott & Ray, PLLC, Attorney) reference Environmental Enforcement Contract.
- Results of an on-line poll conducted by the Fort Stockton Pioneer was presented to the Board for review.

XII **Directors' comments.** No comments

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

- The December 15th meeting may be at the Pecos County Courthouse if the agenda is as big as anticipated.
- Upton County Water District agreement.
- Manager's Quarterly Report
- Fort Stockton Holdings settlement agreement

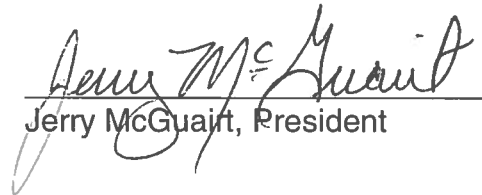
- STW Water Process and Technology application.
- Republic Water Company application.
- Buena Vista I.S.D. application.
- Several other applications are in the works and may be on the agenda.

XIV **Adjourn.**

Merrell Daggett made a motion to adjourn the meeting at 3:35 p.m. Motion seconded by Terry Whigham. Motion carried unanimously.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 12-15-15

Attachment #1
Minutes of 11-17-2015

CAUSE NO. P-7047-83-CV

FORT STOCKTON HOLDINGS, L.P.,
PLAINTIFF

v.

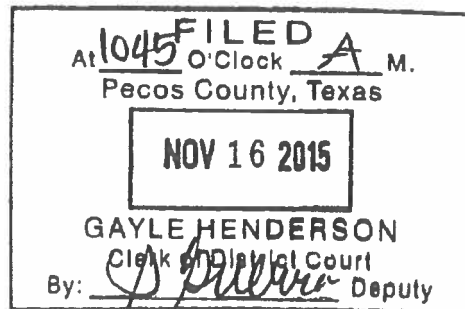
MIDDLE PECOS GROUNDWATER
CONSERVATION DISTRICT and
GLENN HONAKER, JOHN D. DORRIS,
M.R. GONZALEZ, MERRELL
DAGGETT, VANESSA CARDWELL,
RONALD COOPER, JANET GROTH,
WELDON BLACKWELDER, ALVARO
MANDUJANO, JR., HOUSTON
MCKENZIE, and S. EVANS TURPIN,
each in their official capacity as
DIRECTORS OF THE MIDDLE PECOS
GROUNDWATER CONSERVATION
DISTRICT,

DEFENDANTS

and

PECOS COUNTY, CITY OF FORT
STOCKTON, PECOS COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 1, and BREWSTER
COUNTY GROUNDWATER
CONSERVATION DISTRICT,

INTERVENOR-DEFENDANTS



IN THE DISTRICT COURT
83rd JUDICIAL DISTRICT
PECOS COUNTY, TEXAS

FINAL JUDGMENT ON ADMINISTRATIVE APPEAL

On the 12 day of November, 2015, came on for consideration before the Court Middle Pecos Groundwater Conservation District's ("District's") application for attorneys' fees, costs for expert witnesses, and other costs incurred by the District before the Court in the above-referenced cause and that should be awarded to the District in the administrative appeal pursuant to Section 36.066 of the Texas Water Code. Also came on for consideration the issue of severing Plaintiff's remaining claim and rendering final judgment in this case based on this Court's prior Order on intervention, plea to the jurisdiction, summary judgment, and Texas Water Code Section 36.066 costs and fees in the administrative appeal. The Court is of the opinion that rendition of this final judgment is appropriate.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED as follows:

1. The agreed Notice of Filing of Administrative Record of the Middle Pecos Groundwater Conservation District's Contested Hearing on the Application of Fort Stockton Holdings, L.P., and accompanying administrative record, are ADMITTED into evidence in this cause and in the severed Cause No. P-7047A-83-CV identified in Paragraph 5 of this Judgment.

2. Fort Stockton Holdings, L.P.'s motions to strike intervention are GRANTED, and the portion of the plea to the jurisdiction filed by the City of Fort Stockton, Pecos County, Pecos County Water Control and Improvement District No. 1 and Brewster County Groundwater Conservation District pertaining to Fort Stockton Holdings, L.P.'s motions to strike intervention¹ is DENIED.

3. The District's motion for partial summary judgment is GRANTED, and therefore the District's decision to deny Plaintiff's groundwater permit application is AFFIRMED and Fort Stockton Holdings, L.P.'s administrative appeal is DENIED.

4. The District's application for Section 36.066 costs and fees in the administrative appeal is GRANTED, and the District is awarded and shall have and recover judgment from and against Fort Stockton Holdings, L.P. for costs and fees in the amount of One Hundred Forty-Seven Thousand Two Hundred Eight and 71/100 dollars (\$147,208.71), which amount Fort Stockton Holdings, L.P., is directed to remit to the District within 30 days of the date of this Final Judgment.

5. Fort Stockton Holdings, L.P.'s claim for a taking or damaging of its property, along with the District's Original Answer and Section 36.066 request for costs and fees regarding same, is severed from this action and shall proceed in a new and separate cause of action identified as Cause No. P-7047A-83-CV. The Clerk of this Court shall include a copy of this Judgment in the file of the severed Cause No. P-7047A-83-CV. Within twenty days of the signing of this Judgment, counsel for the District and Fort Stockton Holdings, L.P. shall file with the Clerk of this Court an agreed list of the pleadings and other documents that should be copied from the Court's file in this Cause No. P-7047-83-CV and included in the file in Cause No. P-7047A-83-CV.

6. On October 12, 2015, Lou Ann McKenzie, Individually and as successor to Gregg McKenzie; Tom Beard, Individually; and Ruth Ann Ryan, Individually and as successor to L.B. Ryan ("Private Landowners") filed a notice of nonsuit without prejudice, and it is hereby recognized and ORDERED that the Private Landowners are no longer parties to and are hereby dismissed from this cause.

7. All other relief requested by any party that is not granted in this judgment is hereby DENIED. This Judgment finally disposes of all parties and claims and is FINAL and APPEALABLE.

¹ See Plea to the Jurisdiction of Intervenor-Defendants City of Fort Stockton, Pecos County, Pecos County Water Control & Improvement District No. 1, and Brewster County Groundwater Conservation District (filed Aug. 31, 2015) at ¶¶ 12-15.

AND IT IS SO ORDERED.



JUDGE PRESIDING

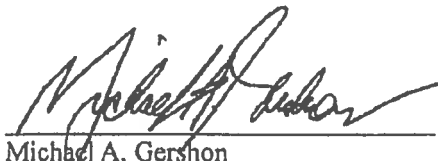
Signed: November 2, 2015

APPROVED AS TO FORM:



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