

Middle Pecos Groundwater Conservation District

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Directors

Jerry McGuairt, President John D. Dorris, Vice President M. R. Gonzalez, Secretary/Treasurer
Alvaro Mandujano, Jr. Vanessa Cardwell Ronald Cooper Janet Groth
Weldon Blackwelder Terry Whigham Jeffery McMahon Merrell Daggett

Employees

Paul Weatherby, General Manager Ty Edwards, Assistant Manager
Melissa Mills, Office Manager Gail Reeves, Office Assistant

Minutes of June 21, 2016

On this the 21st of June, 2016, a regular board meeting and public hearings were held by the Middle Pecos Groundwater Conservation District at the Pecos County Courthouse, 2nd Floor 103 West Callaghan, Fort Stockton, Texas, with the following members present, to-wit:

Jerry McGuairt	President, Precinct 1
John Dorris	Vice President, Prec. 3 (Arrived @ 11:34 am)
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Janet Groth	Precinct 1
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Terry Whigham	At Large

Quorum Present.

Board members absent: Merrell Daggett and Jeffery McMahon

Others present: Paul Weatherby, Mike Gershon, Hannah Ging, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Jeff Williams, Brock Thompson, Ed McCarthy II, Gerald D. Lyda, Marty Jones, Greg Neal, Jimmy Perkins, James Cravens, Doug May, Paula McGuairt, Gladys Dorris, D. A. and Jake Harral, Kelly and Mason Braden, Allison McGhee, Jon McCreary, Rick Dudman, D. Randall, George Wommack, Joe Shuster, Don Burns, James Ward, Pete Gallego (Texas State Representative), Bob Beal and Lisa Hannon/Fort Stockton Pioneer, and Lauren Tropea/Big 2 News.

Officials and Employees from the City of Fort Stockton attending:

Chris Alexander, Billy (& Haden) Jackson, Ruben Falcon, Raul Rodriguez, Mark Harral, Veronica Lopez, Gail Lampier, Delma Gonzalez, Paula Ureste, L. Puckett, Jacqueline Hernandez, Saul Leyva, Robbie Dominguez, Carlos Lopez, Larry Rey, Jason Bernal, Ivan Mireles, Joshua Simons, Efrain Mendoza, Raul Duarte, Marco Garza, Willie Celaya, Pedro Vargas, Frederico Valenzuela, Jakobi Rios, Elfida Morales, Chris Walter, Ruben Ramirez, Adam Mendoza, L. Ramos, Gilberto Hinojosa, Gerardo May, Fred Quintela, Eva Nanez, Julio Nunez, Nydia Saucedo, Aaron Ramos, Jr., Jimmy Velasquez, Sr., Joe Ruiz, Warren Oakley, Manuel Viana, Domingo Blanco, Marcos Tovar, Alfredo Martinez, Jack Sanchez, Sebastian Villegos, John Hernandez, Thomas

Ortiz, Fernie Gomez, Jr., Apolinar Vasquez, B. V. Gonzalez, Marcos Mendoza, Jr., Cynthia Cisneros, Erik Diaz, Moises Contreros, Justin Dominguez, Maria Rodriguez, Terry Dominguez, Martha Ryan, Marina Cantu, Orlando Almendarez, Joel Orosco, Oscar Alatorre, Alexis, Joe Suchil, Stephen Martinez, Epifanio S., Juan Bernal, Anthony Bodnar, Victor Garcia, J. U., Sara Mata, Viridiana Salgado, Nilva Salines, and Marisa Martinez.

REGULAR BOARD MEETING

I Call to order regular Board meeting at 10:00 a.m. by President Jerry McGuairt.

II Announcement of the rescheduling of **District's rulemaking hearing** for July 19, 2016 at the office of Middle Pecos GCD was made by Mr. McGuairt.

II Presentation of District's **College Scholarship Recipients**.

The scholarship is based on groundwater essay contest with an intended effect of benefiting the District and its constituents by increased awareness and education about the District's essential statutory purpose of managing and conserving groundwater and protecting private property rights in groundwater.

The winners of the first \$1,000 Middle Pecos GCD scholarships are Crystal Perez of Fort Stockton High School, Mason Braden of Buena Vista I.S.D., and Allison McGhee of Iraan High School. Mason Braden and Allison McGhee were in attendance and were given their check and pictures were taken.

III Comments from **public and media**. No comments

IV Consider and/or act upon **Accepting Resignation of Jeffery McMahon, Director for the City of Iraan**.

Jeffery McMahon submitted his resignation from the Board on May 16, 2016.

Weldon Blackwelder made a motion to accept the resignation of Jeffery McMahon. Motion seconded by Alvaro Mandujano, Jr. Motion passed unanimously.

V Consider and/or act upon **Appointment of New Director for City of Iraan**.
Tabled, no action taken.

VI **Administer the Statement of Elected Officer and Oath of Office for New Director for City of Iraan**.

Tabled, no action taken.

VII Consider and/or act on (a) **emergency rule pursuant to Texas Water Code § 36.1011** to address alleged substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law regarding the provision of retail public water supply and (b) **adoption of written statement pursuant to Texas Water Code § 36.1011(a)**.

President McGuairt made the following statement: See attachment A Proposed Emergency Rule.

President McGuairt made the following statement: See attachment B Statement Required by Texas Water Code 36.1011(a)(2) To Adopt Emergency Rule.

Alvaro Mandujano Jr. made a motion to adopt the Proposed Emergency Rule. Motion seconded by John Dorris. Motion carried unanimously.

M. R. Gonzalez made a motion to adopt the Statement Required by Texas Water Code 36.1011(a)(2) To Adopt Emergency Rule. Motion seconded by Alvaro Mandujano Jr. Motion carried unanimously.

President McGuairt made the following statement:

NOW, THEREFORE, BE IT RESOLVED AND HEREBY ORDERED that:

(1) The City's six wells referred to under District Well Numbers 2005020403, 2005020404, 2005020405, 2005020406, 2005020408, and 2005020409 are hereby consolidated to allow the City with operational flexibility to withdraw up to 8,081.9 acre feet cumulatively from these six wells.

(2) This order shall remain in effect while the District's above-reference emergency rules are in effect and for as long thereafter as final rules are enacted and effective and applicable to address the City's above-referenced emergency situation.

Issued on the 21st day of June, 2016.

Note: See the full Emergency Order – attachment C.

PRODUCTION PERMIT AMENDMENT HEARING for PECOS SS LLC.

I Call to order at 10:30 a.m. by President Jerry McGuairt.

Applicant's representatives: Attorney Drew Miller

Protestant to application: None

Public Comment: None

Assistant General Manager Ty Edwards presented the application to the Board. Application is seeking to amend production permit issued on March 17, 2015 and amended on April 7, 2016 with the Middle Pecos Groundwater Conservation District.

The approved well system is approximately 2 miles north of Highway 67 and 1.5 miles west of Owego Rd, in Pecos County, Texas. The purpose of this Permit Amendment is to extend the time for compliance with the stipulation regarding the construction of a pipeline and the selling of water within 18 months. Pecos SS requests that a new stipulation be adopted which states as follows: Pipeline construction to one or more of the following counties (Upton, Reagan, Glasscock, Midland, Crane, Crockett, Ward, Reeves, and/or Loving Counties) shall be completed, and water shall be sold, within 18 months of the granting of this permit amendment. The application is administratively complete.

Drew Miller: The amendment to the application is to extend the time for another 18 months, and requests a change that a new stipulation be adopted which states as follows: Pipeline construction to one or more of the following counties (Upton, Reagan, Glasscock, Midland, Crane, Crockett, Ward, Reeves, and/or Loving Counties) shall be completed, and water shall be sold, within 18 months of the granting of this permit amendment. The dramatic decline in the price of oil has considerably slowed the demand for water in the oil and gas industry. The delay is not that of Pecos SS LLC, but multiple hydrogeological analysis to define the source aquifer, multiple hearings, and market uncertainty in the worldwide market.

Board: Several Board members stated that the prior application hearings specifically questioned the pipeline construction within 12 to 18 months and that water would begin to be sold in that time frame. Hence the special stipulation added to the permit application granted on March 17, 2015, and if the stipulations were not adhered to the permit would cease to exist.

Drew Miller: We came to you optimistically in April and said we could do it in 18 months, and after taking a step back, we do not want to push it to the wire and need to come back in September. That is why we are here today asking for the amendment.

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

Jerry McGuairt adjourned the hearing at 10:52 a.m.

John Dorris made a motion to deny the permit.

Board Member Terry Whigham asked to make a statement. Summarized: We approved it in the beginning. They have been thrown a few curve balls, and need a little more time and we should grant the permit amendment.

Motion was seconded by Weldon Blackwelder. Vote: 3 For. 6 Oppose.
1 Absent. 1 Position Vacant. Motion failed.

Terry Whigham made a motion to approve the permit amendment as presented. Motion seconded by Vanessa Cardwell. Vote: 5 For. 4 Oppose. 1 Absent. 1 Position Vacant. Motion failed.

The Board has 60 days to act on the application.

The Board recessed at 11:08 a.m.

The Board reconvened at 11:20 a.m.

PRODUCTION PERMIT HEARING for CITY OF FORT STOCKTON.

I Call to order at 11:20 a.m. by President Jerry McGuairt.

Applicant's representatives: Attorney Mark Harral, Aaron Ramos, Jr.,
Robbie Dominguez and Doug May

Protestant to application: None

Public Comment: None

President McGuairt declared the hearing uncontested. Mr. Harral declared that the hearing was contested according to MPGCD rule 11.10.8 and he implied that MPGCD General Manager Weatherby intends to protest the application.

MPGCD attorney Mr. Gershon informed Mr. Harral that rule 11.10.8 was not the correct rule to reference. General Manager Weatherby stated that no one contacted the MPGCD to protest the application, and no one attending the hearing today has submitted a protest hearing form.

Once again, President McGuairt declared the hearing uncontested.

General Manager Paul Weatherby presented the application: 2 well system located at 509 N. Valentine, Fort Stockton, in Pecos County, Texas. The purpose of this well system is for Industrial Use (30 ac/ft) and Public Supply Use (960 ac/ft) and requests a total of 990 acre feet/year from the Edwards Trinity Aquifer.

City of Fort Stockton attorney Mark Harral presented the applicant's application for the hearing.

- SOAH (State Office of Administrative Hearings) has been requested in the event of any opposition filed, or if the MPGCD General Manager proposes a denial in whole or in part, or if MPGCD denies the permit, or grants the permit with special conditions not found on the permit application.

Mr. Harral presented a power point presentation

- Relied on wells in permit application since 1930's.
- Belding well field used since 1960's
- Existing pipeline installed 1960's
- Purchased Stockton Farms and Blue Ridge Farms as secondary well field locations early 1990's
- City built a water station before 1960's to provide water to construction and oil and gas industries
- City registered 36 wells, and only 4 Belding wells applied for Historic and Existing Use permits for municipal use, and were granted 8,081 acre feet
- City park wells have their own Historic and Existing Use permits
- Production permit application today asks for 30 acre feet for industrial use, and 960 acre feet for public supply for year round use as opposed to the previous application which sought water for "3 month emergency use". Currently the Reverse Osmosis (RO) plant on Valentine Street cannot blend the treated water and raw water, once the system is upgraded, the system can be used year round and thereby taking the strain off of the main pipeline.
- Texas Commission on Environmental Quality (TCEQ) and Texas Water Development Board (TWDB) are supportive of the plan of work that we presented to them.
- Only one well is currently working on Valentine Street.
- The City is currently selling water from the "overhead" to 6 regular customers. The "Overhead" is not tied into the RO system, it is tied to the City's infrastructure. There is a new system that was not activated. It is plumbed and ready and is tied to the RO plant, and can provide treated or raw water.
- City population is growing between 9.66% to 7.55% based on annual sales tax revenue; and water usage is increasing between 2.73% to 3.25% a year based on historical data.
- The City of Fort Stockton does not agree with the figures of population growth from the Texas Water Development Board (TWDB). The City plans on working with TWDB to get their figures more in line with the City's projections. Mr. Harral reported that the figures are actually going to change soon. Once the amendment is in place the projections will change the MPGCD Management Plan and Region F plans.
- There are plans to replace the 20" pipeline with a 48" pipeline.
- City's large economic development opportunities: pipeline from Fort Stockton to Mexico; railroad from Fort Stockton to Mexico; Interstate traffic increasing due to Texas population growth; more hotels and economic opportunities.
- City's 5 largest customers: TDCJ at Belding, TDCJ at N5 Unit, Parkview Trailer Park, Motel 6, and Pilot Travel Center.
- This production permit is not related to selling water outside of MPGCD/Pecos County.
- The well is being run at 600 gallons per minute.

- The City of Fort Stockton has made a deal with Fort Stockton Holdings, and they will allow us to use 3 of their wells (M-1, M-2 and M-3) for emergency purposes with a quick-tie. There is not a hard connection between the two.
- The City of Fort Stockton is planning on applying for more production permits within the next three months from the Edwards Trinity Aquifer. And, also 500 acre feet from the Capitan Reef Aquifer.

Aaron Ramos, Jr. and Robbie Dominguez were sworn in for testimony. Aaron Ramos, Jr. explained the recent power outages problems as it relates to the delivery of water. Mr. Ramos, Jr. reported that the City of Fort Stockton has a 2.5% water loss.

Attorney Mark Harral told the MPGCD Board that the City had sovereign immunity from the MPGCD enforcement actions and penalties. MPGCD Attorney Mike Gershon explained to him that House Bill 2063 waives governmental immunity.

The MPGCD Board expressed concerns with the City of Fort Stockton not adhering to our rules, and that fines could be levied – fines are not a consideration at this time.

The City was asked if the following statement that they had been reporting in the hearing(s) is true: *Due to a clerical error the wells on Valentine street were not permitted with Historic and Existing Use production permits back in 2005.* Mark Harral said the statement is true. Manager Paul Weatherby set the record straight by informing everyone that the wells were not in operation during the 15 year period that was required in order to apply for Historic and Existing Use production permits. It was not a clerical error, the wells were not eligible for the Historic and Existing Use production permits.

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

Jerry McGuairt adjourned the hearing at 12:31 p.m.

There was a discussion as to whether the application was for one or two wells. Mr. Harral said the application was intended for one well. Since it was legally noticed for a 2 well system, Mr. Harral said to proceed for a 2 well system.

There were concerns about the population growth projections used to calculate the amount of water needed.

Janet Groth made a **motion**, based upon the evidence given today, on customers already served, that the 30 acre feet for industrial use from the Edwards Trinity aquifer be granted. Alvaro Mandujano, Jr. seconded the motion.

Terry Whigham voiced concern that other well owners with "Historic and Existing Use" production permits have not used water in decades. He felt that the permit term should be for 15 to 20 years.

Vote: The motion carried unanimously.
9 For. 0 Against. 1 Absent. 1 Vacant Position.

Terry Whigham made a motion to grant the rest of the permit application for 20 years with the understanding that the permit will be reviewed if the aquifer, conditions or degradation or falter or whatever dictates that it be reviewed.

Terry Whigham amended his motion for a 14 year term.

There was a lot of discussion about the term and amount of acre feet to be considered for approval.

Terry Whigham amended his motion for a 10 year term.

There was more of discussion about the term

Terry Whigham amended his motion for a 15 year term.

There was more of discussion about the term

Terry Whigham amended his motion for a 14 year term.

There was continued discussion about the term and amount of acre feet to be considered for approval.

Terry Whigham made a motion to approve the application for 960 acre feet for a 14 year term with the understanding that the permit will be reviewed if the aquifer, conditions or degradation or falter or whatever dictates that it be reviewed. The permit will be for public supply. The water will be from the Edwards/Trinity aquifer. Motion seconded by M. R. Gonzalez.

There was continued discussion about the population projections used to calculate the amount of water needed, the permit term, and amount of acre feet to be considered for approval.

Terry Whigham made a motion to approve the application for 731 acre feet for a 15 year term. Motion seconded by M. R. Gonzalez.

Vote: The motion failed.
3 For. 6 Against. 1 Absent. 1 Vacant Position.

There was continued discussion.

Manager Paul Weatherby took the floor. He has been monitoring the Edwards/Trinity aquifer for 12 years and working with USGS, TWDB, the City of Fort Stockton, individual farmers and non-exempt producers and there is no problem with the permit before you today. The 960 acre feet requested for public supply is not endangering the water supply.

M. R. Gonzalez made a motion to grant 960 acre feet for 15 years. Motion seconded by Terry Whigham.

There were discussions of tabling the application. There was more discussion about the term and the amount of acre feet to be granted.

M. R. Gonzalez made a motion to grant 960 acre feet for 16 years. The permit will be for public supply. The water will be from the Edwards/Trinity aquifer. Motion seconded by Terry Whigham. Motion passed.

Vote: The motion carried.

6 For. 3 Against. 1 Absent. 1 Vacant Position.

The meeting was recessed at 1:05 p.m. for lunch.

The meeting reconvened at 2:06 p.m.

An Executive Session was called at 2:07 p.m. by Presiding Officer 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 2:35 p.m. President McGuairt stated that no decisions or votes were made in executive session.

REGULAR BOARD MEETING (continued)

- VIII Discuss and/or approve **Transport Fee Agreement By and Between MPGCD and Pecos SS, LLC.**

Item Tabled.

- IX Presentation by Petro Waste Environmental LP; consider and/or act upon Board Resolution concerning Petro Waste Environmental LP's project.

Item Tabled.

- X Briefing on April 25, 2016 letter complaint submitted by City Water Attorney Mark Harral/Fort Stockton to 112th District Attorney Laurie English and Attorney General of the State of Texas alleging violation of Texas Open Meetings Act.

Update from MPGCD attorney Mike Gershon: The Attorney General's office has not taken any action. An investigator will be assigned, and the investigation should begin in the next 30 days. The meeting on April 19, 2016 had digital recording issues that Mark Harral has misinterpreted. That is the issue.

- XI Briefing on **Republic Water Company of Texas, LLC's Request for Issuance of Writ of Mandamus** filed on May 10, 2016, in Pecos County 112th District Court, Cause # P-11956-112-CV.

The Board was briefed during executive session.

- XII Consider and/or act on **several filings, request for clarification on administrative completeness, and requests for rehearing/reconsideration and findings/conclusions from Republic Water Company of Texas, LLC and/or Fort Stockton Holdings.**

MPGCD attorney, Mike Gershon, took the floor and in summary reported that there is one pending motion for a hearing or reconsideration from Fort Stockton Holdings LP, that relates to the abatement of the Republic Water Company of Texas application. The submissions and filings were provided to us over the last 90 days. The District has 90 days to consider the motion of reconsideration. They have requested findings, facts, and conclusions of all the abatement. MPGCD is not required to provide findings, facts, and conclusions because the abatement was not done in a hearing. This will be addressed in District Court in August 2016.

Republic Water Company of Texas, LLC attorney, Marty Jones, has requested more specificity on the reason(s) that MPGCD believes the application is not administratively complete.

MPGCD assistant manager, Ty Edwards, reported that the application remains administratively incomplete. The one outstanding issue is the USGS model that has not been run which is a requirement of MPGCD rule 11.9.3 relating to the hydrogeological requirements. MPGCD hydrogeologist, Allan Standen and MPGCD attorney, Mike Gershon supports the position of needing the USGS modeling results.

Janet Groth made a motion to declare the application administratively incomplete based upon the evidence and reasoning that the one outstanding issue is the USGS model that has not been run which is a requirement of MPGCD rule 11.9.3 relating to the hydrogeological requirements. Weldon Blackwelder seconded the motion.

Republic Water Company of Texas, LLC (RWCOT) attorney, Marty Jones:

A. MPGCD rules do not require step 11.9.3 to be completed at the application level. Rule 11.9.1(b) says that if the information in 11.9.1(a) and 11.9.2 is provided, then the application is administratively complete.

B. This project will provide for the water needs of other Groundwater Water Management 7 cities. Mr. Jones suggested to the Board that under prevailing Texas law that once the groundwater is produced to the surface that it becomes personal private property and is constitutionally protected. The water will be used for beneficial use. The Texas Water Development Board has included the impacts of these producing wells in their Regional Water Plan.

During discussions after the motion, it was clarified that this motion does not affect the ongoing abatement.

MPGCD attorney, Mike Gershon, explained to the Board that rule 11.9.2 incorporates by reference rule 11.9.3. Rule 11.9.2(h) requires a hydrogeological report as required in 11.9.2(f) and that the hydrogeological report must be completed in a manner that complies with the requirements adopted in rule 11.9.3. Rule 11.9.3 is relevant to administrative completeness issue.

Vote: The motion carried unanimously.

9 For. 0 Against. 1 Absent. 1 Vacant Position.

XIII Briefing on Republic Water Company of Texas, LLC and Fort Stockton Holdings, LP lawsuit filed May 20, 2016, Cause #4:16-CV-33.

The Board was briefed during executive session.

XIV Consider and/or act upon Tax Abatement Guidelines.

The only change made to the Tax Abatement Guidelines is a change from a \$25,000,000 limitation to a \$50,000,000. The change can be seen on page 1 and reads as follows:

The District has set a limitation value of FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000) on all projects to be considered for a tax abatement; meaning that only that value exceeding the limitation value will be considered as eligible for a tax abatement.

Ronnie Cooper made a motion to approve the changes, and to be effective immediately. Motion seconded by Alvaro Mandujano, Jr. Motion carried unanimously.

XV Consider and/or act upon Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending May 31, 2016.

Ronnie Cooper made a motion to approve the accounts payable and treasurer's report for the month ending May 31, 2016. Motion seconded by Janet Groth. Motion carried unanimously.

XVI Consider and/or act upon **Minutes of April 19, 2016.**

Weldon Blackwelder made a motion to approve the minutes for April 19, 2016. Motion seconded by John Dorris. Alvaro Mandujano, Jr. abstained. Motion carried. 8 For. 0 Against. 1 Abstain. 1 Absent. 1 Vacant Position.

XVII Consider and/or act upon **Minutes of May 17, 2016.**

Ronnie Cooper made a motion to approve the minutes for May 17, 2016. Motion seconded by John Dorris. Motion carried unanimously.

XVIII Report on **Texas Water Development Board's June 17, 2016 Rustler Stakeholders meeting held in Pecos County.**

The stake holder meeting for the Rustler Aquifer brackish groundwater mapping project related to House Bill 30 (84th Texas Legislature, 2015) was held at the Pecos County Courthouse in Fort Stockton.

In 2015, the 84th Texas Legislature passed House Bill 30, directing the Texas Water Development Board (TWDB) to conduct studies to identify and designate brackish groundwater production zones in four aquifers and to report to the legislature by December 1, 2016. The four aquifers include: part of the Carrizo-Wilcox Aquifer, the Gulf Coast Aquifers, the Blaine Aquifer, and the Rustler Aquifer. The full text of House Bill 30, and all other materials related to its implementation, are available on the TWDB House Bill 30 website:

<http://www.twdb.texas.gov/innovativewater/bracs/HB30.asp>

HB 30 Criteria for brackish groundwater production zones in the Rustler Aquifer: Groundwater that is >1,000 mg/L TDS Groundwater that is separated by hydrogeologic barriers sufficient to prevent 1,000 mg/L≤significant impacts to water with a TDS. Areas that are not serving as a significant source of water supply for municipal, domestic, or agricultural purposes at time of designation. Areas that are not designated or used for wastewater injection through the use of injection wells or disposal wells permitted under Texas Water Code, Title 2, Subtitle D, Chapter 27.

The TWDB will ultimately define the Brackish Groundwater Production Zones in their report to the State Legislature submitted December 1, 2016. The delineation of potential production areas presented today are draft and open to public comment: This presentation will be publicly available at the TWDB Rustler Aquifer BRACS website. Stakeholders will receive an email when it is posted. Stakeholders should have their comments to the TWDB by August 1 st. The Final Report will be delivered to the TWDB by August 31st. Stakeholders will receive an email when the Final Report is posted to the website and will be encouraged to provide comments. Brackish Groundwater Production Zones will be designated by the TWDB at a public board meeting in the fall Stakeholders will receive an email

with the meeting date, time, and location. The biennial report to the Texas Legislature will be approved at a public board meeting in the fall. Stakeholders will receive an email with the meeting date, time, and location.

XIX Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Drought Monitor Map and ongoing Water Quality Analysis.

- Well Registrations: Progress report in notebooks.
- Drought Monitor Map: The current drought monitor map in their notebooks.
- One production permit application is in the works for the Fort Stockton ISD.

XX Consider and/or act upon General Manager's Correspondence.
Everything covered throughout the meeting today.

XXI Directors' comments. No comments.

XXII Consider and/or act upon agenda for next meeting.

- Pecos SS, LLC production permit amendment.
- Transport Fee Agreement By and Between MPGCD and Pecos SS, LLC.
- Presentation by Petro Waste Environmental LP and Resolution concerning Petro Waste Environmental LP's project.
- Public hearing on proposed Desired Future Conditions of relevant aquifers within MPGCD in Groundwater Management Area 7.
- Public hearing on proposed Desired Future Conditions of relevant aquifers within MPGCD in Groundwater Management Area 3.
- Public hearing on Fort Stockton ISD permit application.
- Call for an election.

XXIII Adjourn regular Board meeting.

President McGuairt adjourned the meeting at 3:10 p.m.

Workshop on Proposed Budget and Tax Rate Call to Order Immediately following Regular Meeting and Public Hearings

- I Call to Order at 3:10 p.m. by President Jerry McGuairt.

II **Workshop to review Proposed Budget for Fiscal Year ending September 30, 2017.**

A first draft of a proposed budget was given to the directors, and they were asked to review it, and this item will be discussed at the July meeting.

III **Adjourn workshop.**

Weldon Blackwelder made a motion to adjourn the meeting. Motion seconded by Janet Groth. Motion carried unanimously. Workshop adjourned at 3:15 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 8-16-16

MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

Proposed Emergency Rule

Set for Public Hearing on June 21, 2016

Effective Immediately and
Expires in Accordance with Texas Water Code § 36.1011(b) and (c)

This rule is proposed under the authority of District Rule 7 and Texas Water Code § 36.1011 (“Emergency Rules”), which provides:

- (a) A board may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the board:
 - (1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days’ notice; and
 - (2) prepares a written statement of the reasons for its finding under Subdivision (1).
- (b) Except as provided by Subsection (c), a rule adopted under this section may not be effective for longer than 90 days.
- (c) If notice of a hearing on the final rule is given not later than the 90th day after the date the rule is adopted, the rule is effective for an additional 90 days.
- (d) A rule adopted under this section must be adopted at a meeting held as provided by Chapter 551, Government Code.

* * *

EMERGENCY RULE AUTHORIZING EMERGENCY TEMPORARY GROUNDWATER WITHDRAWAL OR AMENDMENT OF EXISTING PERMITS

The District's Board President or General Manager has authority to determine in their sole discretion whether a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, exists if groundwater cannot immediately be withdrawn and beneficially used by one or more persons who do not presently have sufficient authority to withdraw and beneficially use the groundwater needed to address this imminent peril. If the Board President or General Manager makes the determination that such an imminent peril exists under this emergency rule, the Board President or General Manager may issue an emergency order to address the imminent peril. The emergency order may provide the following relief:

- (1) authorize withdrawal of groundwater from one or more wells in a sufficient quantity to ensure public health, safety, or welfare, or a requirement of state or federal law is not compromised;
- (2) amend one or more existing permits held by the entity facing the imminent peril to allow existing pumping authorization to be extended to additional wells owned by the entity facing the imminent peril; and/or
- (3) amend one or more existing permits held by the entity facing the imminent peril to allow existing pumping authorization to be extended to additional wells owned by one or more third parties.

The Board President or General Manager shall determine when the emergency order expires although the emergency order shall only be in effect if the emergency rules are in effect.

Upon issuance of an order under this rule, the person benefiting from the order is not required to hold a permit but must use its best efforts to prepare and submit an application for a permit amendment or a production permit.

If an emergency order is issued, the District's Board must be notified of the circumstances and relief granted at the District's next Board meeting.

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MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

Statement Required by Texas Water Code § 36.1011(a)(2) To Adopt Emergency Rule

The Middle Pecos Groundwater Conservation District's Board of Directors (Board) desires to adopt an emergency rule pursuant to Texas Water Code § 36.1011 and District Rule 7. The Board posted an agenda authorizing consideration and action on this emergency rule with 72 hours' notice pursuant to the Texas Open Meetings Act and Texas Water Code § 36.1011(d). The Board hereby finds a substantial likelihood of imminent peril to the public health, safety, or welfare and the state-law requirement that the City of Fort Stockton meet the maximum daily demands of its water utility customers, which requires adoption of the emergency rule on less than 20 days' notice. The Board makes the following findings:

- (1) On June 15, 2016, a severe storm caused a catastrophic, complete loss of power that shut down critically important water utility infrastructure at the City of Fort Stockton's (City's) Belding well field.
- (2) During a District permit hearing on April 19, 2016, and subsequently, the City of Fort Stockton (1) expressed serious concerns about the imminent peril of water utility infrastructure failures associated with the City's Belding well field and (2) advised that the City must rely more on its two existing wells located at or near 509 North Valentine Street within city limits of the City of Fort Stockton and the District's Management Zone 1 (North Valentine wells).
- (3) The City is required to provide continuous and adequate water utility service to its retail customers and must have a safe yield of groundwater supply capable of supplying the maximum daily demands of the distribution system during extended periods of peak usage and critical hydrologic conditions.

- (4) The City's two North Valentine wells are drilled to the Edwards-Trinity aquifer but are not permitted to withdraw and beneficially use groundwater; these two wells were recently tested and have significant productive capacity as reflected below:

<u>Well Number</u>	<u>Productive Capacity</u>
2005020408	500 gpm (source: well registration)
2005020409	400 gpm (source: well registration)

- (5) The City holds historic and existing use permits authorizing the withdrawal of groundwater from the Edwards-Trinity aquifer from four wells in the designated quantities shown below:

<u>Well Number</u>	<u>Annual Quantity Authorized</u>
2005020403	2439.4 acre feet
2005020404	2121.2 acre feet
2005020405	2036.4 acre feet
2005020406	1484.9 acre feet

All four of the above-referenced listed wells are located at the City's Belding well field and within the District's Management Zone 1. Cumulatively, these four wells are authorized to annually produce 8,081.9 acre feet.

- (6) As reflected in the City's records provided to the District, during the five-year period ended December 31, 2014, the City's annual water demand has ranged from 2,558 acre feet to 4,640 acre feet (including 3,801 acre feet in 2013 and 3,578 acre feet in 2014).
- (7) The District's rules expressly authorize the transfer of authorization to withdraw groundwater from one or more municipal-public-water-supply-based historic and existing use permit(s) to additional permitted or unpermitted wells for the same purpose of use as long as the withdrawals occur from wells drilled to the same aquifer and located within the same management zone defined by the District.
- (8) The District can assist the City by enacting emergency rules to provide the City with flexibility and legal authority to withdraw up to 8,081.9 acre feet from a combination of its currently permitted Belding wells and other wells, including but not limited to the City's two North Valentine wells.

* * *

**IN RE THE CITY OF
FORT STOCKTON**

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**BEFORE THE MIDDLE PECOS
GROUNDWATER
CONSERVATION DISTRICT**

EMERGENCY ORDER

WHEREAS, on June 15-16, 2016, it was brought to the attention of the Middle Pecos Groundwater Conservation District’s (District’s) Board President, General Manager, Deputy General Manager and General Counsel that a severe storm on June 15, 2016 caused a catastrophic power outage that shut down critically important water utility infrastructure at the City of Fort Stockton’s (City’s) Belding well field.

WHEREAS, during a District permit hearing on April 19, 2016, and subsequently, the City of Fort Stockton (1) expressed concerns about the potential imminent peril of water utility infrastructure failures associated with the City’s Belding well field and (2) advised that the City must rely more on its two existing wells located at or near 509 North Valentine Street within city limits of the City of Fort Stockton and the District’s Management Zone 1 (North Valentine wells).

WHEREAS, the City’s two North Valentine wells are drilled to the Edwards-Trinity aquifer but are not permitted to withdraw and beneficially use groundwater; these two wells were recently tested and have significant productive capacity as reflected in their well registration documents on file with the District and noted below:

<u>Well Number</u>	<u>Productive Capacity</u>
2005020408	500 gpm (source: well registration)
2005020409	400 gpm (source: registration)

WHEREAS, the City holds historic and existing use permits authorizing the withdrawal of groundwater from the Edwards-Trinity aquifer from four wells in the designated quantities shown below:

<u>Well Number</u>	<u>Annual Quantity Authorized</u>
2005020403	2439.4 acre feet
2005020404	2121.2 acre feet
2005020405	2036.4 acre feet
2005020406	1484.9 acre feet

All four of the above-referenced listed wells are located at the City's Belding well field and within the District's Management Zone 1. Cumulatively, these four wells are authorized to annually produce 8,081.9 acre feet.

WHEREAS, during the past five years the City's annual water demand has ranged from 2,558 acre feet to 4,640 acre feet (including 3,801 acre feet in 2013 and 3,578 acre feet in 2014).

WHEREAS, the District's rules expressly authorize the transfer of authorization to withdraw groundwater from one or more municipal-public-water-supply-based historic and existing use permit(s) to additional permitted or unpermitted wells for the same purpose of use as long as the withdrawals occur from wells drilled to the same aquifer and located within the same management zone defined by the District.

WHEREAS, it appears that the District can assist the City by providing the City with flexibility and legal authority to withdraw up to 8,081.9 acre feet from a combination of its currently permitted Belding wells and its two North Valentine wells.

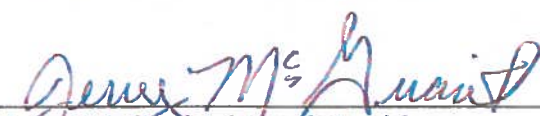
WHEREAS, the undersigned authority is authorized under Section 36.1011 of the Texas Water Code and the District's emergency rules to issue this order.

WHEREAS, upon consideration of the allegations and information submitted to the District and reviewed by the Board President, the undersigned deliberated and found good cause to issue and did issue this order as noted below.

NOW, THEREFORE, BE IT RESOLVED AND HEREBY ORDERED that:

- (1) The City's six wells referred to under District Well Numbers 2005020403, 2005020404, 2005020405, 2005020406, 2005020408, and 2005020409 are hereby consolidated to allow the City with operational flexibility to withdraw up to 8,081.9 acre feet cumulatively from these six wells.
- (2) This order shall remain in effect while the District's above-referenced emergency rules are in effect and for as long thereafter as final rules are enacted and effective and applicable to address the City's above-described emergency situation.

**MIDDLE PECOS GROUNDWATER
CONSERVATION DISTRICT**



Jerry McGuirt, Board President
Issued on the 21 day of June, 2016