

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 Merrell Daggett

Employees

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

Minutes of September 20, 2016

On this the 20th of September, 2016, a regular board meeting and public hearing was 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
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Janet Groth	Precinct 1
Merrell Daggett	Precinct 2
Ronald Cooper	Precinct 4
Alvaro Mandujano, Jr.	Precinct 4

Quorum Present.

Board members absent: Vanessa Cardwell, Weldon Blackwelder, and Terry Whigham. Position for City of Iraan is vacant.

Others present: Paul Weatherby, Mike Gershon, Ty Embrey, Gail Reeves, Ty Edwards, Harvey Gray, Melissa Mills, Jeff Williams, Brock Thompson, Ed McCarthy, II, Ed McCarthy III, Mike Thornhill, Greg Neal, T. J. Higginbotham, Tommy Ervin, Jimmy Perkins, Marty Jones, Raymond Puchett, Elmer Braden, Jr., Tom Ezell, James Cravens, Paula McGuairt, Gary Westbrook, Scott Courtney, Raymond Straub, and Bob Beal/Fort Stockton Pioneer.

DRILLING-PRODUCTION PERMIT HEARING for Braden Brothers Coyanosa Farm

I Called to order at 9:09 a.m. by President Jerry McGuairt.

Party representing application: Elmer Braden, Jr.

Protestant to application: None

Public Comment: None

Ty Edwards presented the application to the Board. The application is for 1 well. The well is located on Survey H&GN Block 8 Section 13, approximately 5 miles North of FM 1450 on FM 1776, in Pecos County, Texas. The well is projected to be 400-500 ft in depth and drilled into the Pecos Valley Aquifer. The purpose of this well is for Irrigation (800 acre-feet) and Industrial (30 acre-feet) use and request a total of 830 acre feet/year from the Pecos Valley Aquifer. Braden Brothers Coyanosa Farms lost their water well when they sold the South half of Section 13 to Vaquero and the water well was on that half of the section. The application is administratively complete.

II Adjourn hearing and consider and/or act on **Application for a Drilling-Production Permit for Braden Brothers Coyanosa Farms.**

Jerry McGuairt adjourned the hearing at 09:15 a.m.

Alvaro Mandujano, Jr. made a motion to approve the application as presented. Motion seconded by Ronnie Cooper. Motion carried Unanimously.

REGULAR BOARD MEETING

I Regular Board meeting was called to order at 9:16 a.m. by President McGuairt.

VI Consider and/or act on (1) determination of administrative completeness of **Republic Water Company of Texas, LLC's(RWLLC's) pending permit application**, as requested by RWLLC, due to its recent application supplement and (2) abatement and setting hearing if this application is determined to be administratively complete.

Ty Edwards reported that the maps and drawdown figures were received early last week. We asked for a few changes and they resubmitted everything on Friday which satisfies that one issue that I had. The application is administratively complete.

Janet Groth made a motion to:

- 1) declare the application administratively complete;
- 2) to have the staff to get some sort of date for a hearing;
- 3) to lift the abatement.

The motion was seconded by Alvaro Mandujano, Jr. The vote was unanimous and carried.

I Comments from **public and media**

Tommy Ezell: Regarding Pecos SS, LLC Ezell voiced concerns about the transportation of water 100 miles away. And, he was not happy that he had not been sent a hearing notice so that he could protest the application especially since he shares a fence-line with Pecos SS.

T. J. Higginbotham: He is heir to the Kennedy Ranch and watches water issues closely. He is here today on behalf of the family to support the Middle Pecos GCD. He stated that the Kennedy Ranch has a prolific amount of water under it.

III Consider and/or act upon **Minutes of August 16, 2016.**

Janet Groth made a motion to approve the minutes of August 16, 2016 as presented. Motion seconded by John Dorris. Motion carried unanimously.

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

John Dorris made a motion to approve the accounts payable, treasurer's report and line item transfers for the month ending August 31, 2016. Motion seconded by Janet Groth. Motion carried unanimously.

V Consider and/or act upon **Designation of the General Manager and/or Assistant Manager to represent Middle Pecos GCD pertaining to the joint planning process and the adoption of Desired Future Conditions for the Management area's aquifers for Groundwater Management Areas 3 and 7** under Section 36.108(c), Texas Water Code.

Alvaro Mandujano, Jr., made a motion to designate the General Manager and Assistant General Manager to represent Middle Pecos GCD pertaining to the joint planning process and the adoption of Desired Future Conditions for the Management area's aquifers for Groundwater Management Areas 3 and 7. Motion seconded Ronnie Cooper. Motion carried unanimously.

VII 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.

Tabled.

- VIII Briefing and take action as necessary on **RWLLC's and Fort Stockton Holdings, LP (FSHLP's) federal lawsuit** jointly filed May 20, 2016, Cause #4:16-CV-33.

MPGCD Attorney, Mike Gershon, briefed the Board on this agenda item. A motion to dismiss has been filed in both of the pending cases. Jose de la Fuente, Lloyd Gosselink attorney for MPGCD, filed to have both courts (83rd District and Federal Court) to caucus and review both filings to review who has standing to the water rights. Is it Fort Stockton Holdings LP or Republic Water Company of Texas LLC that has standing? Due to the memorandum of lease document that was attached to the Republic Water Company application it is unclear. The time line forward is uncertain.

Jose de la Fuente also filed a follow-up motion asking the 2 courts to consider meeting together jointly to caucus. We are not sure at this time how the courts are going to handle the rule on the plea to the jurisdiction and the motion to dismiss. They are pending.

- IX Briefing and take action as necessary on **RWLLC's lawsuit filed in state court** on May 10, 2016, Cause P-11956-112-CV.

Pecos County 112th District Court, Cause # P-11956-112-CV: Judge Ables heard our plea to dismiss on August 17, 2016. The Judge granted our plea and signed an order directing the District to file an application for fee and cost reimbursement as the water code allows. We have filed the application. Republic Water Company of Texas LLC does not agree with our request and has asked the court for permission to supplement their pleas and to supplement the evidence that they would like for the court to review. There were issues involving the abatement that Republic Water Company did not get admitted into the record. Therefore, two motions are pending where Republic Water Company is trying to reopen that case. The decisions made today appear to moot the pending motions that were made. If agreement cannot be reached, there is a hearing set for October 27, 2016 in Fort Stockton at 10 a.m.

No Action.

- X Briefing and take action as necessary on **Plea to the Jurisdiction and Motion to Dismiss for Lack of Standing filed with the 8th Court of Appeals and U.S. District Court by Middle Pecos GCD regarding FSHLP Cause #08-15-00382-CV and FSHLP and RWLLC Cause #4:16-CV-33 lawsuits.**

See briefing in agenda item VIII above.
No Action.

- XI Briefing and take action as necessary on matters relevant to the District that are addressed by the Texas Legislature's **House Natural Resources Subcommittee on Special Water Districts** during today's legislative hearing.

Agenda for the **House Natural Resources Subcommittee on Special Water Districts** was available for Board Members. No discussions.

- XII Consider and/or act upon **General Manager's Correspondence**.
- Texas Alliance of Groundwater Districts (TAGD) will be having a leadership training on October 27th in Austin, TX.
 - A list of candidates showing their Commissioner Precinct and their voting Precincts was included in their information.
 - A copy of the Joint Election Agreement executed between MPGCD and the Pecos County elections administrator was available for Board review.
 - A copy of the letter confirming that Smith and Rives, PC will conduct our audit for the year ended September 30, 2016, was available for Board review.
 - We have received comments, recommendations, and requests from Thornhill Group, Inc. on behalf of Fort Stockton Holdings, L.P. pertaining to the adoption of the recently proposed 2016 Desired Future Conditions (DFCs). Specifically the DFCs as applied to the Edwards-Trinity Plateau with Groundwater Management Area 7 (GMA 7) in Pecos County.
 - Diamond Y tour update: We offered funds, and will be assisting them with analysis. They do not need funds at this time.
 - Agenda for the **House Natural Resources Subcommittee on Special Water Districts** was available for Board Members.

XIII **Directors' comments.**

Director Janet Groth studied the graphs in the General Managers' Quarterly report. Paul Weatherby said the well on the Allison Ranch has a steady decline and an explanation cannot be found.

- XIV Consider and/or act upon **agenda for next** meeting.
Briefing on the Attorney General investigation interviews.

An Executive Session was called at 9:47 a.m. by Presiding Officer 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 10:02 a.m. President McGuairt stated that no decisions or votes were made in executive session.

XV **Adjourn Board meeting.**

John Dorris made a motion to adjourn the meeting. Motion seconded by Merrell Daggett. Motion carried unanimously. Adjourned at 10:02 a.m.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____