

# 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 Allan Childs Jeff Sims Puja Boinpally

## Employees

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

## Minutes of July 18, 2017

On this the 18<sup>th</sup> of July, 2017, 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
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
Jeff Sims	City of Iraan
Allan Childs, Jr.	At Large

Quorum Present.

Board members absent: Puja Boinpally

Others present: Ty Edwards, Mike Gershon, Allan Standen, Dr. Bill Hutchison, Bill Dugat, Gail Reeves, Harvey Gray, Melissa Mills, Paula McGuairt, Brock Thompson, Eddie McCarthy III, Ed McCarthy, Jr., Mike Thornhill, Jeff Williams, Glenn Honaker, Buck Benson, Geoff Pike, Sam Cruse, Tommy Soriero, Jr. Mark Harral, Patrick Wilkenson, Garry Dent, Darrell Peckham, Marty Jones, Shanam McGaughy, Jock Allen, Gerald "Dee" Lyda, Gene & Shay Lyda, Gil Van Deventer, Drew Miller, James Cravens, Mark Bradley Davis, and Bob Beal, and Jeremy Gonzalez/Fort Stockton Pioneer.

## REGULAR BOARD MEETING

- I Call to order regular Board meeting at 10:01 a.m. by President Jerry McGuairt.
- II Comments from **public and media**. See public comments on page 5.

## PUBLIC WORKSHOP ON PROPOSED RULES

- I Call to order at 10:02 a.m. by Board President Jerry McGuairt.
- II The Middle Pecos Groundwater Conservation District (District) will receive public input at a hearing on proposed amendments to the District's rules intended to (1) change Management Zone 1 boundaries and operating conditions to recognize hydrogeological differences between South Coyanosa and Belding areas; and (2) establish (A) acceptable aquifer level fluctuations and (B) thresholds for pro rata cutbacks when aquifer level declines in certain monitoring wells.

As a matter of record: An informal meeting was held at the Middle Pecos GCD office on July 17, 2017. In attendance on behalf of Fort Stockton Holdings, LP: Mike Thornhill, Ed and Eddie McCarthy, Brock Thompson, James Beach, Jeff Williams, and Darrell Peckham. In Attendance on behalf of Cockrell Investment: Buck Benson, Geoff Pike, Sam Cruse, Tommy Soriero, Jr, Kaveh Khorzad, and Glenn Honaker. In attendance on behalf of Middle Pecos GCD: Ty Edwards, Mike Gershon, Allan Standen, and Dr. Bill Hutchison. In attendance on behalf of Pecos County: Drew Miller. In attendance on behalf of Republic Water Company of Texas, LLC: Garry Dent and Marty Jones. The purpose of this meeting was to discuss upcoming changes to the Middle Pecos GCD rules regarding re-defining management zone one containing the Leon-Belding area, and the water level management criteria that is part of the settlement proposal between Fort Stockton Holdings, L.P. and Middle Pecos GCD.

Dr. Bill Hutchison gave a PowerPoint presentation entitled "*Proposed Changes to Management Zone 1 and Proposed Monitor Well Data and Comparisons with Model Simulations (Draft 1)*". A copy of the presentation is attached to the minutes of 06-20-2017 because the presentation was given on that day also. Dr. Hutchison explained that this is a first cut at Management Zone 1 boundaries, Desired Future Conditions, and Special Permit Conditions for the upcoming Fort Stockton Holdings, LP permit application. Note: This presentation was given with the original Table 6. Later in this meeting, there is a hearing for Fort Stockton Holdings, LLC and a new table 6 is offered during discussions regarding the Settlement Special Conditions.

Public Comment: Buck Benson/Legal Representative for Cockrell Investment Partners, L.P./i.e. Belding Farms.

Mr. Benson requested to be on the record that recommendations were submitted to the District on Friday afternoon, July 14, 2017. The recommendations were then briefly commented on by Cockrell's hydrologist, Wet Rock Groundwater Resources, on July 17, 2017, at the District's office. Upon reviewing the

information submitted for the rulemaking hearing today by MPGCD General Manager to the Board of Directors, Mr. Benson has noticed that none of their recommendations were incorporated into the rulemaking process for today's hearing.

Public Comment: Ed McCarthy/Legal Representative for Fort Stockton Holdings, L.P. (FSH)

Mr. McCarthy reported that FSH had also submitted comments both last Thursday afternoon and at the meeting on July 17<sup>th</sup>. He reported that the 1973 historic low was triggered by economical issues driven by the Middle Eastern oil embargo that increased the costs of farming and thereby caused pumping cutbacks, stressing that it was not an aquifer issue. A request was made to modify the winter low threshold to be a 50% cut back, followed by 100% cut back being triggered at the winter low threshold plus 5 foot.

- III Adjourn Public Workshop.  
Jerry McGuairt adjourned the hearing at 10:16 a.m.

**CONSOLIDATED DRILLING AND PRODUCTION PERMIT HEARING  
For BERKSHIRE HOLDINGS, LLC**

- I Call to order at 10:16 a.m. by President Jerry McGuairt.

Party representing application: Shanam McGaughy/General Manager, and Leif Savage.

Protestant to application: None.

Public Comment: None.

Manager Ty Edwards presented the application to the Board. The application requests a consolidated drilling and production permit. They are requesting to drill 1 well located on 15 acres in Coyanosa on Survey H&GN RR CO Block 8 Section 17 approximately 2 miles East of the intersection of FM 1776 and FM 1450 on the South side of FM 1450, in Pecos County, Texas. The well is

projected to be 400-600 feet in depth and drilled into the Pecos Valley Aquifer. The purpose of this well is for Industrial Use and request 15 acre-feet a year from the Pecos Valley Aquifer. The water will be used for a fresh water station. He will report water usage monthly. The application is administratively complete.

- II Adjourn hearing and consider and/or act on Application for a Consolidated Drilling and Production Permit for Berkshire Holdings, LLC.

Jerry McGuairt adjourned the hearing at 10:21 a.m.

Ronnie Cooper made a motion to approve the application as presented. Motion seconded by Vanessa Cardwell. Motion Carried Unanimously.

### **PRODUCTION PERMIT HEARING for CITY OF FORT STOCKTON**

I Call to order at 10:28 a.m. by President Jerry McGuairt.

Party representing application: Mark Harral/Attorney for City of Fort Stockton.

Protestant to application: None.

Public Comment: Jock Allen with Halcon Resources stated he had oil and gas leases in the area, and asked if he would still have availability to water. Manager Ty Edwards explained to him that this permit is for an agricultural production permit and that his deal with the City of Fort Stockton is between them.

Manager Ty Edwards presented the application to the Board. The application requests 868 acre-feet a year from the Pecos Valley Aquifer for a 5 well system located on City of Fort Stockton Blue Ridge Farm, Survey T&P RR CO Block 50T9 Sections 16, 10 and 3, approximately 27 miles West of Fort Stockton, in Pecos County, Texas. The purpose of this well system is for Irrigation Use.

Three of the wells have just been registered and 2 have been registered since 2005. The farm is being leased to Schyuler Wight for irrigation purposes. Mr. Wight brought in his electric records for each of the wells he uses in Pecos County to calculate the amount of water needed for this permit request. A couple of wells irrigate crop circles that are partially in Pecos County and partially in Reeves County and were estimated for the water used in Pecos County only. As discussed last month, export fees will not apply to the pivots that water contiguous acreage. There were inconclusive discussions about the length of time the property has been farmed, Mr. Wight was not present, the recollections were around 5 years. Mark Harral stated that Mr. Wight has been leasing the farm from the City of Fort Stockton for about 15 years. There are two monitor wells in the area.

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

Jerry McGuairt adjourned the hearing at 10:37 a.m.

Allan Childs made a motion to approve the application as presented. Motion seconded by Alvaro Mandujano, Jr. Motion Carried Unanimously.

NOTE: The following items are shown in the order in which they were addressed by the Board which may or may not differ from the posted Agenda.

**REGULAR BOARD MEETING – CONTINUED**

**II Comments from public and media. This item was re-opened.**

Mr. Gil Van Deventer, a professional geoscientist hydrogeologist in Odessa, TX, requested an update on the status of the uncontrolled artesian flowing wells in the San Andres formation in Northern Pecos County along Highway 1053 near Imperial, TX. He stated that the Texas Department of Transportation had dedicated 11 million dollars to reroute the road for the one sink hole. He feels the money would be better spent on actually fixing the problems, and feels that a path forward needs to be forged. He prepared a comprehensive plan of work to assess the condition of the wells and infrastructure problems in the area, and to prioritize and rank the problems. The Plan of work was submitted to MPGCD a few years ago and he was told that the Board decided to conduct their own internal investigation. Mr. Van Deventer requested to have a progress report at our next meeting.

**HEARING ON FORT STOCKTON HOLDINGS, L.P.'s  
APPLICATION FOR PRODUCTION PERMIT AND TRANSPORT AUTHORIZATION  
ON REMAND FROM THE EL PASO COURT OF APPEALS**

**I Call to order at 10:43 a.m. by President Jerry McGuairt.**

The hearing is on remand, pursuant to the Eighth District (El Paso) Court of Appeals' Judgment and Memorandum Opinion issued June 14, 2017, on Fort Stockton Holdings, L.P.'s (FSH) application for production permit and transport authorization. The application requests authority to produce and beneficially use 28,400 acre feet of Edwards-Trinity Aquifer groundwater to be withdrawn from wells on FSH-owned (not lease) properties for municipal, industrial, and/or agricultural purposes within and outside the District. The permit would be subject to special conditions governing production restrictions based on aquifer-level triggers in certain monitor wells and adoption of a water conservation plan. The property that is subject of the application involves several thousand acres owned by Clayton Williams Farms, Inc. located in the Leon Belding Farms area of Pecos County, Texas, approximately 10-15 miles west-southwest of the City of Fort Stockton, south of IH-10 and west of FM 2037.

Appearances of the Parties Present for the Hearing:

**Fort Stockton Holdings, L.P.:** Ed McCarthy.

**Middle Pecos GCD General Manager:** Mike Gershon and Ty Edwards.

**City of Fort Stockton:** Mark Harral.

**Brewster County GCD:** No one was present. However Drew Miller works for the law firm that represents them, but had not been asked to appear for them today. However, he would be available to answer questions on their behalf.

**Pecos County:** Drew Miller.

**Pecos County WCID#1:** Harvey Gray, President of the PCWCID#1 Board.

**Tom Beard:** Mr. Bill Dugat, the attorney for the MPGCD Board of Directors during this proceeding, had received an email stating that he withdrew as a party to the proceedings. Mr. Bill Dugat wishes the email to be part of the record.

**Mark Bradley Davis:** Mr. Bill Dugat reported that Mr. Davis' lawyer, Lynn Sherman, would not appear.

Lou Ann McKenzie, Individually and as Independent Executrix of Estate of **Gregg McKenzie:** Mr. Bill Dugat reported that Melanie McKenzie would not appear.

Ruth Ann Ryan, Individually and as Independent Executrix of the Estate of **L. B. Ryan:** Mr. Bill Dugat reported that Melanie McKenzie would not appear.

A request for party status was received from Cockrell Investment Partners, LP. (Cockrell) Mr. Buck Benson, the attorney for Cockrell Investment Partners, LP, stated that they have a justiciable interest and feels like this remand hearing is essentially a new hearing that is obviously going to affect their operation, or could affect the long term operation. And, they have some issues with the special conditions and the permitting.

Parties to the Hearing comments on Cockrell's request for party status:

**Fort Stockton Holdings, L.P.:** Ed McCarthy stated that FSH opposes the request for party status. 1) Cockrell's interest in Belding Farms had notice at the time through mail and other publication, and through personal knowledge since Glenn Honaker was the President of the MPGCD Board as well as the Manager for Cockrell's Belding Farms. 2) MPGCD rule 11.10.4 says that the time to request party status is at the time of the initial hearing and that was more that 6 years ago. 3) They have offered nothing in the record, and anything offered now would be extra outside of the record. 4) The representation that there is a substantial interest in the permit is over-stated because only about half of their wells are Edwards/Trinity wells. 5) The ruling that the Board has made and has agreed to on the settlement agreement will be protective to all the permittees and groundwater pumpers throughout the District that could be affected.

**Middle Pecos GCD General Manager:** Mike Gershon stated that the General Manager will not weigh in unless the Board has questions.

**City of Fort Stockton:** Mark Harral stated that the City is not going to weigh in.

**Pecos County:** Drew Miller stated that the County is not going to weigh in.

**Pecos County WCID#1:** Harvey Gray stated that PCWCID#1 is not going to weigh in.

Discussions before the vote:

Attorney Bill Dugat advised the Board that they (Cockrell) had due process with adequate notice both formal and informal. The MPGCD rule 11.10.4 says the potential party must attend the preliminary hearing and be prepared to address and respond to inquiry, cross examination – and that is consistent with Chapter 36 of the Texas Water Code which allows the District to set rules on who can participate in a hearing. Under your rules, because this is a continuation of an existing hearing, then they have missed the boat.

Weldon Blackwelder: I can see how you wouldn't have had any protestants until you change the rules which are the management zone rules. If Mr. Lyda or Cockrell Farms had been aware that we would change the management zones, they may have very well protested back in 2010.

**Public Comment** Gene Lyda/La Escalera Ranch: I think it is very extreme and foolish to not consider Belding Farms in the discussion.

There are two issues involving the remand:

1) **Special Permit Conditions in the application on remand for Eighth District (El Paso) Court of Appeals'** – this is being voted on today. This application was remanded back to MPGCD because MPGCD reached a settlement agreement with FSH. The special permit conditions proposed relate to certain wells with certain thresholds. The thresholds that could possibly be set today for the permit are part of the settlement implementation.

2) **Settlement Agreement RE: The Management Zone boundary change in the MPGCD Rules.** The intent of the applicant in changing/shrinking the management zones is to be more restrictive to the FSH pumping. This will be scheduled for a public hearing and vote at the August Board meeting.

Alvaro Mandujano, Jr. made a motion to deny party status to Cockrell Investment Partners, LP. The motion was seconded by Jeff Sims.

The vote: 7 For. 3 Against. 1 Absent. (Note: Weldon Blackwelder and John Dorris wanted to go on the record for voting against the motion.)

Janet Groth made a motion to allow public comment. Motion seconded by John Dorris. Motion passed unanimously.

Public Comment:

(Not verbatim)

Mr. Gerald D. Lyda, the President and Part Owner of La Escalera Ranch. We regard ourselves as a major stakeholder in this hearing for the following reasons: La Escalera Ranch consists of land that is in the existing Management Zone 1 right now, and also has land in the proposed Management Zone 1 that has been reviewed by the Board and others. Another reason is that La Escalera is dependent upon Edwards/Trinity water, generally wells on our Ranch on the area called the Flat Farm off of Highway 67 and the Kelly Wade area, outside of the City along 385. John Shoemaker and Associates are the people that did our extensive water study on the three aquifers that are under our Ranch. Steve Finch of JSAI and his staff have reviewed the Bill Hutchison recommendations that were provided to the District. As well as the revisions that were presented subsequently by McCarthy & McCarthy on behalf of FSH. And also Belding Farms is represented by Wet Rock Services.

JSAI and we the owners of La Escalera Ranch agree with the Management Zone 1 changes that are proposed by the District that were developed with the consultant Dr. Bill Hutchison. And we agree with the proposed modifications proposed by Belding Farms groundwater specialists, however, La Escalera does not support and disagrees with the proposed changes presented by McCarthy and McCarthy and Fort Stockton Holdings, especially the portion of the proposal regarding moratoriums on groundwater users in management zone 1. If a moratorium is imposed by the District as a result of the monitoring that is undergone and overseen by the District and a moratorium is mandated, that moratorium should be placed on the groundwater user causing the adverse water level impact, not on the La Escalera Ranch and other groundwater users in Groundwater Management Zone 1. That is the way we interpret the McCarthy & McCarthy proposal. As an overview we agree with the Belding Farms response on Bill Hutchison's proposed changes. That includes agreeing with the layout change to the Management Zone area 1, and we believe that the proposed 6 not 11 monitor wells monitored with water level data that that is the way to go. If the water level in any one well encounters a threshold, then associated cutbacks are initiated. Proposed changes to the thresholds, or trigger levels as presented by Wet Rock on behalf of Belding are those that we support as well. For Instance, Level 1: 100% reduction in pumping occurs if the historic low water level of the associated monitor well is measured. Level 2: 50% reduction in pumping occurs if the measured water level is 10 feet above the historic low water level in monitor well. Level 3: 30% reduction in pumping occurs if the measured water level is



15 feet above the historic low water level in monitor well. We believe this proposed change in thresholds presented by Belding and Wet Rock is the easiest to enforce number 1, the District has to enforce it.

Public Comment:  
(Not verbatim)

Buck Benson representing Cockrell Investment Partners, L.P./i.e. Belding Farms: Their hydrology firm is Wet Rock Groundwater Services, LLC. Their report shows 4 or 5 summaries and is the basis of what we presented at the meeting on Monday, July 17<sup>th</sup>.

We want to encourage cutbacks that occur when a trigger level is encountered at any time of the year and based on actual measured data. We want to simplify the monitoring well number and cutbacks. Basically if any of the 6 wells are triggered, it would go into effect. Cutback levels to be set at: Level 1 triggers a 20% cut back; Level 2 triggers a 50% cut back; Level 3 triggers a 100% cut back; and Level 4 Dooms Day and meet within 10 days to review pumping and groundwater level data and devise a plan of modification to be taken.

Implementation of the reduction: We recommend that a non-historical permit's production volume get allocated on a monthly basis; when pumping cutbacks are initiated, production gets reduced on a percentage basis per the monthly production volume and not an annual basis.

We recommend that when the 10-day average water level in a monitor well goes below a trigger level, then cutbacks to production are initiated. Conversely, pumping volumes are increased when the 10-day average water level in the monitor well goes above the trigger level.

We also recommend that water quality samples be from Belding Farms' wells, the FSH well field and representative wells within Management Zone 1 prior to commencement of pumping from the FSH well field for non-historic use and taken quarterly thereafter.

Recess called at 11:39 a.m. Hearing reconvened at 11:50 a.m.

**Update from Parties:**

**Middle Pecos GCD General Manager:**

Manager Ty Edwards reported that the Parties met on Monday, July 17<sup>th</sup> to specifically discuss implementation of the Board-approved settlement agreement. Dr. Bill Hutchison has a timeline to present of the results of that meeting.

As a matter of record: An informal meeting was held at the Middle Pecos GCD office on July 17, 2017. In attendance on behalf of Fort Stockton Holdings, LP:

Mike Thornhill, Ed and Eddie McCarthy, Brock Thompson, James Beach, Jeff Williams, and Darrell Peckham. In attendance on behalf of Cockrell Investment: Buck Benson, Geoff Pike, Sam Cruse, Tommy Soriero, Jr, Kaveh Khorzad, and Glenn Honaker. In attendance on behalf of Middle Pecos GCD: Ty Edwards, Mike Gershon, Allan Standen, and Dr. Bill Hutchison. In attendance on behalf of Pecos County: Drew Miller. In attendance on behalf of Republic Water Company of Texas, LLC: Garry Dent and Marty Jones. The purpose of this meeting was to discuss upcoming changes to the Middle Pecos GCD rules regarding re-defining management zone one containing the Leon-Belding area, and the water level management criteria that is part of the settlement proposal between Fort Stockton Holdings, L.P. and Middle Pecos GCD.

Dr. Bill Hutchison, MPGCD Hydrogeological Consultant took the floor and presented a PowerPoint presentation.

Rulemaking:

- Change Management Zone 1 boundaries as most recently proposed.
- Act on rules proposing acceptable aquifer level fluctuations with Management Zone 1, and thresholds for pro rata cutbacks when aquifer level declines within Management Zone 1. This will be an amendment to Table 1 to Rule 10.5(b).
- Amend Rule 10.5 to include and apply Table 6 within Management Zone 1 to new production permit applications that are administratively complete as of August 15, 2017.

Operating Permit Conditions:

- The schedule entitled “Monitor Well Thresholds and Cutbacks” applies to this permit until a Joint Study can be conducted and until such time as the Board determines relaxing the restrictions in Table 6 are justified by the results of the Joint Study. Any cutbacks in Table 6 shall go into effect April 1<sup>st</sup> of each year and remain in effect through March 31<sup>st</sup> of the following year.
  - \* If 6 of the 11 depth-to-water measurements in the winter (highest level) are below a particular threshold value, FSH non-H&E permit reduction:
    - \* Threshold 4 (10 feet above minimum) – 10 percent
    - \* Threshold 3 ( 5 feet above minimum) – 35 percent
    - \* Threshold 2 (at minimum) – 50 percent
    - \* Threshold 1 ( 5 feet below minimum) – 100 percent
  - \* If MPGCD imposes Management Zone 1 pro rata cutbacks and those cutbacks are less restrictive than the restrictions in this special permit condition, the less restrictive cutbacks are applicable to FSH.
- The Study scope, project management, and responsibility for funding shall be agreed to between FSH and District within 6 months. The study shall commence shortly after an agreement is reached on the scope.

- If MPGCD imposes Management Zone 1 pro rata cutbacks and those cutbacks are less restrictive than the restrictions in this special permit condition, the less restrictive cutbacks are applicable to FSH.

The Hearing was recessed at 12:28 p.m.

The Hearing was called back to order at 1:30 p.m.

Dr. Bill Hutchison and Ty Edwards were sworn in, and testified that their earlier testimony was the truth.

**Exhibits** offered by the General Manager:

- **GM 1:** Dr. Bill Hutchison's 06-16-2017 Proposed Changes to Management Zone 1 and Proposed Monitor Well Data and Comparisons with Model Simulations.
- **GM 2:** Dr. Bill Hutchison's 07-18-2017 FSH Settlement Agreement Points from July 17, 2017, meeting – Power Point Presentation.
- **GM 3:** Fort Stockton Holdings, L.P. Production Permit Special Permit Conditions ( 15 points)

The parties had no objection to the Exhibits being admitted.  
The Exhibits were admitted into the record.

**Fort Stockton Holdings, L.P.:** Ed McCarthy passed out 6 documents to the Board of Directors in order to bring them up-to-date.

**Exhibits** offered by Fort Stockton Holdings, L.P.:

- **FSH 1:** The executed settlement agreement between FSH, the District, and Republic Water of Texas, LLC.
- **FSH 2:** Correspondence dated June 14<sup>th</sup> that is part of the El Paso Court of Appeals with copies of the Courts Memorandum of Opinion and Judgment granting motion to vacate the District Judgment and remand the case and the application back to the District for proceedings consistent with the Settlement.
- **FSH 3:** The Settlement Agreement that FSH entered into with Pecos County at a Commissioners' Court meeting.
- **FSH 4:** The Settlement Agreement that FSH entered into with the City of Fort Stockton.
- **FSH 5:** Memorandum referred to as "The McCarthy & McCarthy FSH Comments from July 13<sup>th</sup>"

Objection made by the General Manager to this being introduced for the truth of the matter, but no objection for the limited purpose of reflecting previous discussion.

**FSH 6:** Supplement to the July 13<sup>th</sup> letter which reflects comments that were actually bringing forward next month in connection with the Management Zone rule making, and will also be used in discussions in the future with respect to the study, etc.

Objection made by the General Manager to this being introduced for the truth of the matter, but no objection for the limited purpose of reflecting previous discussion.

**FSH 7:** The Settlement Agreement that FSH entered into with the Pecos County WCID#1.

**FSH 8:** The Rule 11 Agreement that FSH entered into with the Brewster County GCD. A copy will be added to the record once received.

The parties had no objection, except as noted above on FSH 5 and FSH 6 to the Exhibits being admitted.

The General Manager's objections were sustained and the Exhibits were admitted into the record subject to the qualified admission of FSH 5 and 6 due to the General Manager's objections.

Mr. Ed McCarthy asked that the proceedings before this Board from the 2010/2011 hearings be officially on the record for this Remand.

There were no objections, and it is accepted into the official record.

Mr. McCarthy: Fort Stockton Holdings, L.P.(FSH) is seeking a permit and requests authority to produce and beneficially use 28,400 acre feet. The permit conditions that we are agreeing to with respect to the permit apply only to FSH. The next hearing is an application from FSH to amend/reduce its Historic and Existing Use Permit by 28,400 acre feet. We request that the Board follow through with the Special Conditions and grant the permit that has been presented as part of the settlement.

**Pecos County:** Drew Miller reported that Pecos County and FSH have negotiated a settlement agreement. There is no objection to the issuance of this permit as presented today.

**City of Fort Stockton:** Mark Harral stated that the City and FSH have negotiated a settlement agreement. There is no objection to the issuance of this permit.

**Pecos County WCID#1:** Harvey Gray stated that PCWCID#1 and FSH have negotiated a settlement agreement. There is no objection to the issuance of this permit.

- II Adjourn hearing and consider and/or act on Application for a Production Permit and Transport Authorization on Remand from the El Paso Court of Appeals for Fort Stockton Holdings, L.P.

President Jerry McGuairt adjourned the hearing at 1:48 p.m.

**HEARING ON FORT STOCKTON HOLDINGS, L.P.'s  
APPLICATION TO AMEND HISTORIC AND EXISTING USE PERMITS**

- I Call to order at 1:48 p.m. by President Jerry McGuairt.

An application to amend its historic and existing (H&E) use permits which requests for 28,400 acre feet of FSH's H&E Use production rights from specific wells and reduced production volumes in specific wells listed in appendix C of FSH's application. FSH will retain the remaining acre feet of its remaining H&E use permits authorized for agricultural use on its own property. FSH submits this application on the condition that this amendment application involves several thousand acres Leon Belding Farms area of Pecos County, Texas on several thousand acres of property owned by Clayton Williams Farms, Inc., which is approximately 10-15 miles west/southwest of the City of Fort Stockton.

Party representing application: Ed McCarthy/Attorney

Public Comment: None

Seeking Party Status: Cockrell Investment Partners, LLC - Buck Benson, Attorney. City of Fort Stockton - Mark Harral/Attorney.

**Cockrell Investment Partners, LLC**

Mr. Buck Benson: Our main issue is we do not feel we have gotten to be a part of the process and are concerned about that, and in particular we left the meeting yesterday and thought there was an agreement not to go below that historic low. We saw the special condition today, and it had been modified, and that is one example of changes we would like to be a part of. We would like to have a seat at the table (party status) to the permit application.

**City of Fort Stockton:** Mark Harral: We have a settlement agreement, and would like to make sure it is followed through with as other parties come in. We request party status.

Responses to the Requests for Party Status:

**Fort Stockton Holdings, L.P.:** Ed McCarthy: The application before you which they are seeking party status is the application of FSH to amend its H&E permits

to retire 28,400 acre feet. I have not heard any evidence submitted as to the adverse harm or justiciable interest that would be affected by us giving up 28,400 acre feet of permits. I present exhibit FSH 1 The application to Amend Historic and Existing Use Permits.

FSH objects to the request for party status. We ask the Board to grant the permit and deny the request for a contested case.

**Middle Pecos GCD General Manager:**

Mike Gershon: We are dealing with an application asking for a substantial reduction, and the General Manager does not believe the request affects those seeking party status in any way that injures them or that they would have a request for relief that the Board can grant to address any adverse effect. Therefore, the General Manager's position is we should declare this uncontested and not grant them party status.

**Pecos County:** Drew Miller: No position on this.

**Pecos County WCID#1:** Harvey Gray: No position on this.

Board President Jerry McQuairt asked if Cockrell Investment Partners, LLC would like to clarify how this would affect them.

**Cockrell Investment Partners, LLC**

Mr. Buck Benson: We would like a seat at the table going forward. Obviously them giving up 28,400 acre feet, this is a different type of permit. We understand the implications of it, and we want to be involved.

MPGCD Board Attorney Bill Dugat recommended to deny party status of both the City and Cockrell. The surrendering of 28,400 acre feet is not an adverse affect realistically, and the Board would need to be able to grant relief.

Alvaro Mandujano, Jr. made a motion to deny party status to the City of Fort Stockton and to Cockrell Investment Partners, LLC. Motion seconded by Jeff Sims. Motion carried unanimously.

President Jerry McQuairt declared the application uncontested.

**II Adjourn hearing and consider and/or act on Application To Amend Historic and Existing Use Permits for Fort Stockton Holdings, L.P.**

The Board had an intense and lengthy discussion about the Special Conditions with a focus on the thresholds and cutback percentages. The Board was assured that if and when they would like to see more strict conditions, they could do that through rulemaking if the study shows it.

Alvaro Mandujano, Jr. made a motion to grant the following:

1. The Board grant Fort Stockton Holdings, LP's application to surrender 28,400 acre feet of Historical and Existing Use production rights from specific wells and in reduced production volumes listed in FSH's application;
2. The Board grant FSH's application for a production permit and transport authorization to produce and beneficially use 28,400 acre feet of Edwards-Trinity Aquifer groundwater to be withdrawn from wells on FSH-owned (not leased) properties for municipal, industrial, and/or agricultural purposes within and outside the District. This permit is subject to the special conditions recommended by the General Manager governing production restrictions based on aquifer-level triggers in certain wells and adoption of a water conservation plan.
3. The permits are effective upon confirmation of the following as specified in the April 28, 2017 Settlement Agreement between FSH, the District and the Republic Water of Texas:
  - a. FSH e-files a request for the funds in the Court's registry be released to the District;
  - b. FSH e-files notice/motion to dismiss with prejudice its takings lawsuit pending in state district court;
  - c. Republic e-files notice/motion to dismiss with prejudice its appeal pending at the Court of Appeals; and
  - d. Republic wire transfers to and receipt by the District of \$404,990.54.
4. All other pending motions and requests for relief are denied.

The motion was seconded by M. R. Gonzalez. The motion passed.  
Vote: 9 For. 1 Oppose. 1 Absent.

President Jerry McGuairt adjourned both hearings at 2:42 p.m.

**REGULAR BOARD MEETING – CONTINUED**

- III Consider and take action as necessary regarding implementation of settlement agreement with Fort Stockton Holdings, L.P. (FSHLP, Clayton Williams Farms, Inc., and Republic Water Co. of Texas, LLC (Republic LLC), including but not limited to a permit condition in the FSHLP operating permit governing production restrictions based on aquifer-level triggers in certain monitoring wells located within Management Zone 1, and briefing on other settlement agreements among FSHLP, Republic LLC, CWFI, and other parties to the FSHLP and Republic LLC hearings.

This agenda item was incorporated into the 2 hearing/applications for FSH.

- IV Consider and/or act upon Minutes of Regular Meeting and Public Hearings on June 20, 2017.

Janet Groth made a motion to approve the minutes. Motion seconded by John Dorris. Motion Carried. Vote: 8 For. 0 Oppose. 1 Absent/Boinpally.  
2 Abstain/Blackwelder and Sims.

- V Consider and/or act upon Accounts Payable and Treasurer's Report and Line Item Transfers for the Month Ending June 30, 2017.

Ronnie Cooper made a motion to approve the Treasurer's Report and Line Item Transfers and Accounts Payable. Motion seconded by Weldon Blackwelder. Motion Carried Unanimously.

- VI Consider and/or act upon Cancelling the Consolidated Drilling and Production Permit Approved on September 20, 2016, for Braden Brothers Coyanosa Farms.

The permit cancellation did not require Board action. The General Manager will cancel the permit. No action taken.

- VII Consider and/or act upon Transport Fee Agreement between MPGCD and **Halcón Resources**.

Halcon Resources intends to withdraw groundwater from the Pecos Valley, Edwards-Trinity, and/or Rustler Aquifers from its wells located within the District's boundaries, and transport this water outside the District's boundaries for beneficial use in Reeves County in accordance with the District rules.

The Transport Fee: The District agrees to forego its authority to establish transport fees pursuant to the Texas Water Code § 36.122(e)(2) and voluntarily enters this negotiated fee agreement, pursuant to the Texas Water Code § 36.122(e)(1). The transport fee shall be set at \$0.0249 per each thousand gallons actually transported.



The payments will be quarterly. The groundwater must be reported monthly. The initial term of the Agreement shall be 18 months.

Weldon Blackwelder made a motion to approve the Transport Fee Agreement between MPGCD and Halcón Resources. The motion was seconded by John Dorris. Motion carried unanimously.

VIII Discuss and/or act upon the General Manager's Semi-Annual Report.

John Dorris made a motion to approve the General Manager's Semi-Annual Report. Motion seconded by Ronnie Cooper. Motion carried unanimously.

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

- Well Registrations: Ongoing.
- Drought Monitor Map: The current drought monitor map presented.
- Production Permits: None at this time.
- Drilling Permits: There are requests for small wells.
- Monitor Wells: Ongoing.
- Analysis: 25 samples collected.
- The north half of Pecos County in Dry Condition.
- Regarding the FSH monitor wells: The 11 wells are on data loggers, maybe we should consider a SCADA system to monitor the water levels.

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

- Sutron Corporation and In-Situ submitted a quote for 11 Transducers with Cloud Service for Telemetry wells. FSH has agreed to pay for 4 wells.
- The Draft Proposed Budget was handed out for Directors to take home. Mr. Edwards asked for clarification on longevity pay in order to better prepare the budget.

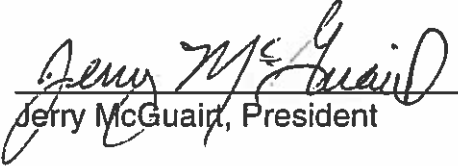
XI Directors' comments.

Weldon Blackwelder asked how the original lawsuit settled out with insurance. Mr. Gershon said the lawsuit was still pending. Once FSH files to dismiss, the insurance company will get the money held in the registry. We may keep the \$5,000 retention.

XII Consider and/or act upon **agenda for next** meeting.  
Budget Workshop. Rule Making Hearing. Employee Manual.

- XIII Adjourn Board meeting.  
Weldon Blackwelder made a motion to adjourn the meeting. Seconded by John Dorris. Motion carried unanimously. The meeting adjourned at 3:05 p.m.

  
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M. R. Gonzalez, Secretary/Treasurer

  
\_\_\_\_\_  
Jerry McGuaid, President

Date Approved 8-15-17