

## 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 Anthony Bodnar/Field Technician

## MINUTES OF REGULAR BOARD MEETING and PUBLIC HEARING and WORKSHOP May 15, 2018

On this the 15<sup>th</sup> of May, 2018, a Regular Board Meeting and Public Hearings and Workshop were held by the Middle Pecos Groundwater Conservation District in the office located at 405 North Spring Drive, Fort Stockton, Texas, with the following members' present, to-wit:

Jerry McGuairt	President, Precinct 1
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	At Large

Quorum Present.

Board members absent: John Dorris, M. R. Gonzalez, and Puja Boinpally

Others present: Ty Edwards, Mike Gershon, Allan Standen, Gail Reeves, Melissa Mills, Anthony Bodnar, Paula McGuairt, Mike Thornhill, Eddie McCarthy, Brock Thompson, Gary Bryant, Buck Benson, Ron Green, Glenn Honaker, Geoff Pike, Ryan Reed, Tommy Soriero, Jr., Alan Murphy, Joe Ferrara, Adam Friedman, Harvey Gray, Dorthy Huelster, Brett A. Miller, Bart and Patsy Reid, Bob and Carolyn Sadler, Tommy Ervin, Gil Van Deventer, Mark Harral, Kelli Burns, Raymond Straub, Chris Straub, Darrell Peckham, Dennis Owens, Lloyd Poor, D. A. Harral, Jake Harral, Michael McDaniel, Billie McDaniel, Houston McKenzie, Reid McCoy, Kari Ivey, Mary K. Mills, Sarita and Mark Behm, and Jeremy Gonzalez/Fort Stockton Pioneer.

### REGULAR BOARD MEETING

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

Mike Gershon was presented with an appreciation plaque for his dedication to Middle Pecos GCD for 15 years of service, and we look forward to many more.

II Comments from public and media:

Bart Reid: Urged the Board to consider granting Charlton Resources LLC their permit. The resources of the free-flowing San Andreas aquifer are not being utilized at this time, and Charlton Resources have a proposal to use the water.

Lloyd Poor: Urged the Board to consider granting Charlton Resources LLC their permit. He spoke of how the gases emitting from the free-flowing wells are a public hazard.

The regular session was recess at 10:11 a.m.

**PUBLIC HEARING ON PRODUCTION PERMIT FOR  
ROBERT SADLER AND CAROLYN LIGON SADLER**

I Call to order at 10:11 a.m. by Board President Jerry McGuairt.

Party representing application: Bob and Carolyn Sadler

Protestant to application: None

Public Comment: None.

Jerry McGuairt declared the application is uncontested.

Manager Ty Edwards presented the application to the Board. The application requests 50 acre feet/year from the Edwards Trinity Aquifer for 1 well located at 3321 East Interstate 10, Fort Stockton, in Pecos County, Texas. The purpose of this well is for Irrigation Use to water 700 pistachio trees and 40 pecan trees. There are not any Historic & Existing Use permits on these wells. The application is administratively complete.

II Adjourn hearing and consider and/or act on **Application for a Production Permit for Robert Sadler and Carolyn Ligon Sadler.**

President McGuairt adjourned the hearing at 10:15 a.m.

Ronnie Cooper made a motion to approve the application as presented. Motion seconded by Alvaro Mandujano, Jr. Motion Carried Unanimously.  
8 For. 0 Oppose. 3 Absent.

**PUBLIC HEARING ON PRODUCTION PERMIT FOR DILLARD A HARRAL,  
PEARL ELIZABETH HOLSTEIN, PEGGY HARRAL TESTAMENTARY  
TRUST, IVA COLLINS ESTATE, COLLINS-HARRAL 2012 TRUST,  
COLLINS-HOLSTEIN 2012 TRUST (HARRAL/COLLINS RANCH)**

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

Party representing application: D. A. Harral

Protestant to application: None

Public Comment: None.

Jerry McGuairt declared the application is uncontested.

Manager Ty Edwards presented the application to the Board. The application requests 120 acre-feet per year for Irrigation Use and 50 acre-feet per year for Industrial Use of for a combined total of 170 acre-feet per year from the Edwards Trinity Aquifer. This for a 4 well system located on Survey T&STL RR Co, Block 126, Sections 2, 3, 6, and 7 approximately 8 miles southeast of Interstate 10 on FM 2023, in Pecos County, Texas. No water will leave the district. The industrial usage will be reported monthly, and the irrigation use will be reported annually. The application is administratively complete.

- II **Adjourn hearing and consider and/or act on Application for a Production Permit for Dillard A. Harral, Pearl Elizabeth Holstein, Peggy Harral Testamentary Trust, Iva Collins Estate, Collins-Harral 2012 Trust, Collins-Holstein 2012 Trust (Harral/Collins Ranch).**

President McGuairt adjourned the hearing at 10:22 a.m.

Allan Childs made a motion to approve the application as presented. Motion seconded by Ronnie Cooper. Motion Carried Unanimously.  
8 For. 0 Oppose. 3 Absent.

**PUBLIC HEARING ON APPLICATION TO AMEND  
AN EXISTING PRODUCTION PERMIT FOR PECOS COUNTY WCID#1**

- I **Call to order at 10:10 a.m. the Public Hearing on Application to Amend an Existing Production Permit for Pecos County WCID#1.**

Party representing application: Harvey Gray

Protestant to application: Reid McCoy representing McCoy Remme Ranches and Maddox Ranch.

Public Comment: None.

Jerry McGuairt declared the application is a contested hearing.

Protestant Reid McCoy:

He pointed out that the notice says the wells are *East* of Fort Stockton, and they are *West* of Fort Stockton. He believes he has a justiciable interest and should be able to become a party to the application hearing. His investment in his wells and his operation at the Ranch show justiciable interest. He stressed that it would be more environmentally responsible to use more brackish water to sell to the Oil and Gas Industry, in other words use the Rustler aquifer and not the Edwards-Trinity aquifer. He also believes that the Public Supply water should not be used when there are other economical alternatives available.

**II Adjourn hearing and consider and/or act on Application to Amend an Existing Production Permit for Pecos County WCID#1.**

At this time, the Board decided to table the application due to the defect in the notice, and re-notice the hearing for next month and have the Notice reflect that the well is West of town, not East.

**PUBLIC HEARING ON APPLICATION FOR A CONSOLIDATED DRILLING AND PRODUCTION PERMIT WITH AUTHORIZATION TO EXPORT FOR CHARLTON RESOURCES, LLC**

**I Call to order at 10:52 a.m. by Board President Jerry McGuairt.**

Party representing application: Mark Harral, Attorney representing Charlton Resources, LLC.

Public Comment: None at this time. There were comments at the beginning of the Board Meeting regarding this application.

Protestant to application: Adam Friedman, Attorney representing Alpha Water Resources. (Written comments submitted 05-14-2018 by Mr. Friedman)

- **Justiciable Interest:** Alpha Water Resources has leased the exclusive groundwater rights underneath approximately 1,450 acres in Pecos County, Texas, known as the "MRK Lease." The lease was previously filed with the District as part of Alpha's application to transfer a drilling, production and export permit into its name. The District granted that transfer application on April 18, 2017. The permit authorizes Alpha to produce and transport up to 5,000 acre-feet per year from the MRK Lease.
- **Potential Harm/Adverse Affects:** The southernmost boundary of Alpha's leased groundwater rights is approximately 1.5 miles from the center of depression, and approximately 2.8 miles from Charlton's proposed new well. One of Alpha's existing water wells is approximately 3.3 miles from the Charlton proposed new well. Charlton's proposed new well is approximately 1.3 miles from the center of depression. Multiple factors

documented in the "Phase IIA-TxDOT Geophysical Surveys Report" (submitted to TxDOT on April 8, 2018) indicate that pumping over 300 million gallons per year in such close proximity to the "active" subsidence structure could accelerate and expand subsidence into an area that may adversely affect Alpha's groundwater rights.

- Requests a contested case hearing
- Requests party status in the contested case hearing

Charlton Resources, LLC./Mark Harral, Attorney: Response to Alpha Water Resources request for party status:

- Mr. Harral filed an objection to party status, and in the event that party status is granted has filed a request for State Office of Administrative Hearing on May 15, 2018
- Mr. Harral questioned their justiciable interest to do business in the State of Texas because documents cannot be found in filings with the Texas Secretary of State, the Delaware Secretary of State, or with the Pecos County Clerk.
- Statement 1: Alpha Water did not perfect a production permit because it failed to obtain a bond to plug the free flowing water wells, which was a permit condition placed upon their permit.
- Statement 2: Alpha Water encouraged Charlton to pursue the project. Charlton Resources and Alpha Resources entered into discussions to create a joint venture to resolve the artesian Water well issues near Imperial.
- Statement 3: Alpha Water is not compliant with MPGCD and Texas Laws. MPGCD rules 11.1(a); 14.1; 14-2; 14.3. TDLR rules 76.72; 76.101; 76.102; 76.103. Charlton Resources requested that MPGCD begin enforcement and investigation proceedings into the rule violations.
- Statement 4: Alpha Water is adversely impacting all landowners located in the Imperial area with its own illegal activity and committing trespass.
- Statement 5: Alpha Water's May 14, 2018 letter is misleading and factually wrong, and states that impacts to groundwater are unknown.
- Charlton Resources request that a State Office of Administrative Hearings (SOAH) be granted and that the hearing be held in Fort Stockton so Imperial residents can attend and be a part of the process to solve the environmental disaster harming their community.

Adam Friedman, Attorney representing Alpha Water Resources response:

- The bond requirement was a condition to be presented before any water was drilled. The permit was issued, the permit is valid, and the MRK lease is valid.
- He will retrieve the document proving that Alpha Water Resources can do business in Texas.
- The lease with MRK for 1,450 acres of groundwater rights is still in effect.

- The TxDOT report by Mr. Michelsen is focused on the road, and the data is extremely relevant to concerns of potential harm to Alpha Water Resources.

Middle Pecos GCD attorney Mike Gershon recommendation:

Alpha Water Resources has met the minimum threshold proving that they have party status subject to proving up that they have the right to do business in Texas. We should require that demonstration and give them a couple of weeks to prove it. The lease with MRK establishes justiciable interest.

Janet Groth made a motion to grant party status subject to the qualification that they are licensed to conduct business in the State of Texas. The proof should be submitted within 2 weeks or begin enforcement proceedings. Motion seconded by Vanessa Cardwell. Motion Carried Unanimously.

8 For. -0- Oppose. 3 Absent.

Ronnie Cooper made a motion acknowledging Charlton Resources, LLC request for a State Office of Administrative Hearings (SOAH) hearing. The Board President and Secretary of the Board shall have the authority to sign the Interlocal Agreement with SOAH. Motion seconded by Janet Groth.

Amended Motion: Ronnie Cooper made a motion acknowledging Charlton Resources, LLC request for a State Office of Administrative Hearings (SOAH) hearing. The Board President and another Board Director and/or the General Manager shall have the authority to sign the Interlocal Agreement with SOAH. Motion seconded by Janet Groth.

Motion Carried Unanimously. 8 For. -0- Oppose. 3 Absent.

- II Adjourn hearing and consider and/or act on **Application for a Consolidated Drilling and Production Permit with Authorization to Export for Charlton Resources, LLC.**

President Jerry McGuairt declared that the initial preliminary public hearing complete. The Hearing will be continued for further discussions.

**REGULAR BOARD MEETING – CONTINUED @ 11:37 a.m.**

- III Consider and/or act upon **Minutes of Regular Meeting on April 17, 2018.** Janet Groth made a motion to approve the minutes as presented. Motion seconded by Ronnie Cooper.  
Motion carried. 6 For. -0- Oppose. 1 Abstention. 3 Absent.

IV Consider and/or act upon **Accounts Payable and Treasurer's Report for the Month Ending April 30, 2018.**

Vanessa Cardwell made a motion to approve the Accounts Payable and Treasurer's Report for the Month Ending April 30, 2018. Motion seconded by Weldon Blackwelder.

Motion carried unanimously. Vote: 8 For. 0 Oppose. 3 Absent.

V Consider and/or act upon **Renewal of Lease on Office Building.**

Alvaro Mandujano, Jr. made a motion to renew the office building lease with Pecos County. Motion seconded by Vanessa Cardwell.

Motion carried unanimously. Vote: 8 For. 0 Oppose. 3 Absent.

Note: Commencement Date July 1, 2018. Termination Date June 30, 2023.

VI Briefing and take action as necessary on **Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, Cause No. P-12176-112-CV (Pecos County District Court), and implementation of the District's settlement agreement with Fort Stockton Holdings, L.P., Clayton Williams Farms, Inc., and Republic Water Company of Texas, LLC.**

Mike Gershon, MPGCD attorney, reported to the Board that a Rule 11 Agreement was entered and filed in the Court House on May 11, 2018. The agreement will allow additional time for Cockrell Investment to confer with Fort Stockton Holdings, L.P. in an effort to resolve Cockrell Investment's objections to two Fort Stockton Holdings, L.P. permit applications that are related to the lawsuit.

The parties agree:

- 1) Abatement of Discovery;
- 2) Hearing on the District's Plea to the Jurisdiction;
- 3) No other activity in pending lawsuit during settlement discussions.

Ryan Reed, attorney for Cockrell Investments Partners, L.P. (Cockrell):

- 1) The intention is to maintain the status quo and not proceed with litigation while there are ongoing negotiations between Cockrell and Fort Stockton Holdings (FSH).
- 2) Talks began October 2017 with a face to face meeting between Cockrell and FSH. We received a proposal last week which is a hard NO for us.
- 3) The issue that Cockrell is concerned about is reasonable summer thresholds and meaningful cutbacks year round. There has been much discussion about the winter thresholds and aquifer recovery – that provides Cockrell no protection in the event that the aquifer levels are drawn down significantly during the summer months which is the growing season for the Belding Pecan Farm.

- 4) Cockrell would like to add this to the rules: Summer Threshold: If the 10-day rolling average water level in the Prison Well hits 2,950 ft. Mean Sea Level (msl) at any time during the year or goes below, then all production permits are subject to a 100% cutback until the 10-day rolling average water level in the Prison Well rises above 2,950 ft. msl for at least 15 days. We are proposing a very simple threshold. If the water level gets drawn down very low in one reliable well here in the County – then there will be a short cutback in the summer.

Eddie McCarthy III, attorney for Fort Stockton Holdings, L.P.:  
Talks are continuing in good faith. A monitoring system is in place. Both parties are working to get information.

No action taken.

The meeting was recessed from 12:00 noon to 1:02 p.m. for lunch.

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

- Well Registrations: Current registrations total 3,113 Exempt wells. 922 Non-Exempt wells. We have received 3 new well registrations.
- Drought Monitor Map: In packet. We currently have abnormally Dry areas in Southern Pecos County, and moderate drought is dominant in Pecos County, and a swath of severe drought in a portion of Pecos County.
- Production Permits: Next meeting we will anticipate a Drilling/Production Permit Application from the new RV Park. The new owners of the Tafti Farm may have an application for a Production Permit. Pecos County WCID#1 hearing will be re-posted for a hearing.
- Drilling: Rosehill drilled west of Bob Hayter. BlueStone drilled on La Escalera.
- Water Analysis: 2 analysis pulled: from a new free flowing well; and on Hwy 67 for Mr. Hernandez.
- Texas Water Development Board has been here, and 3 weather stations have been installed around Pecos County.

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

- 2018 Estimated Taxable Value from the Pecos County Appraisal Office
- Update on Cockrell Investment Partners, LP update on the Capitan Well
- A list of the Texas Alliance of Groundwater District Sub-Committees
- New update from TxDOT regarding the Hwy. 1053 sag report. The Highway has dropped 10' since the road was reworked.
- Will meet with the Texas Railroad Commission to try and start plugging the free flowing wells in Imperial, TX
- Texas Alliance of Groundwater Districts: 7<sup>th</sup> Annual Texas Groundwater Summit date is August 28-30, 2018. Held in San Antonio.



**IX Update on 2018 3D model status from Allan Standen**

Presently we have well over 1,000 new wells from the following sources: City, XTO selected locations, University Lands Selected Elogs, University Lands Selected Buffer Elogs and Wells, 2018 BEG Supplement Elogs, 2018 BEG-Glass Mountains Elogs, 2018 Type BEG Elogs, 2015 Type BEG Elogs. (See Figure 1).

2018 New Water Wells and Elogs from the City, 2018 TDLR, and TWDB 6106 Wells. (See Figure 2)

We still need FSH model well dataset and DBS&A 2013 well dataset. We need to start correlating all the new well's formation picks and capture pump tests and water producing intervals. Start updating surfaces in the 3D model, probably around August or so.

The regular meeting was recessed at 1:21 p.m.

**BOARD WORKSHOP**

- I Call to Order workshop at 1:21 p.m.
- II Conduct Board workshop regarding (a) possible changes to rules requiring a Specific-Capacity test on all New Non-Exempt well applications and permits and (b) possible changes to Rule 11.9.3 changing the requirements for a Hydrogeological Study.

Ty Edwards, the General Manager, presented the Board with a document labeled "MPGCD Specific Capacity Pump Test Guidance Document." This document was the discussed in depth. The consensus of the Board at the conclusion of the workshop was to have a Rule Making Hearing on June 19, 2018.

- III **Adjourn workshop.**  
President McGuairt adjourned the workshop at 1:59 p.m.

1:59 p.m. Regular Board Meeting reconvened.

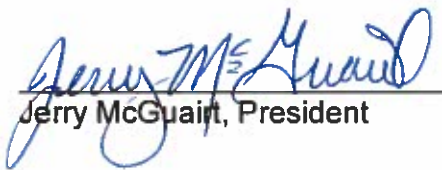
**REGULAR BOARD MEETING – CONTINUED**

- X **Directors' Comments.** No Directors Comments.
- XI **Consider and/or act upon agenda for next meeting.**  
Rule Making Hearing. Hearing for PCWCID#1. Hearing for Donahue Inv.,

XII **Adjourn Board meeting.**

Weldon Blackwelder made a motion to adjourn the meeting. Seconded by Janet Groth. Motion carried unanimously. The meeting adjourned at 2:02 a.m.

  
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M. R. Gonzalez, Secretary/Treasurer

  
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Jerry McGuairt, President

Date Approved 06-19-2018