

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 June 19, 2018

On this the 19th of June, 2018, 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, Prec. 3
M. R. Gonzalez	Secretary/Treasurer, Precinct 2
Janet Groth	Precinct 1
Puja Boinpally	Precinct 2
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan

Quorum Present.

Board members absent: Allan Childs

Others present: Ty Edwards, Mike Gershon, Allan Standen, Gail Reeves, Melissa Mills, Anthony Bodnar, Paula McGuairt, Lee Harris, Mary K. Mills, Jeff Williams, Mike Thornhill, Ed McCarthy, Jr., Brock Thompson, Gary and Donna Bryant, Buck Benson, Ron Green, Glenn Honaker, Geoff Pike, Ryan Reed, Tommy Soriero, Jr., Kaveh Khorzad, Alan Murphy, Adam Friedman, Mike Smith, Harvey Gray, Tommy Ervin, Mark Herral, Kelli Burns, Oscar Hernandez, Tyler Wilson, Kelly Wilson, Jesus Meza, Adam Pollard, Chad Hollier, Malachi Elliott, Jon Almog, Shawna Yezak, Schuyler Wight, Remi Ramos, Shera Davis, Ernest Woodward, 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.
- II Comments from public and media: No comments.

PUBLIC HEARING AND BOARD ACTION ON PROPOSED RULES

- I Call to order at 10:02 a.m. by President Jerry McGuairt.
- II The Board will receive public input at a hearing on proposed amendments to the District's rules intended to (1) to amend requirements and procedure for conducting specific-capacity pump tests for each production permit application, (2) to reorganize and amend requirements for applications for drilling, production, and amendment of existing permits, (3) to make it easier to change ownership of registrations and permits and clarify when and what filings are necessary to change ownership, and (4) to modify the thresholds for hydrogeological reports and updated hydrogeological reports for permit applications.

Public Comment: Ed McCarthy/Legal Representative for Fort Stockton Holdings, L.P. (FSH) submitted written comments on behalf of Fort Stockton Holdings, LP.

General Comments:

1. The proposed collection of additional geologic and hydraulic information which would add to the scientific data available to the District is always good if applied in a uniform and not discriminatory manner;
2. The proposal to go return to a bifurcated permit process with separate drilling permit and production permit applications and approval processes creates undue uncertainty for the applicant, not to mention opportunities for added delay and costs. The applicant would be required to drill and complete a well at significant expense with no assurance of obtaining a production permit, and certainly no assurance of the amount of water allocated. Such an occurrence would likely lead to conflicts pertaining to the investment-backed expectations of landowners/permit applicants. Fort Stockton Holdings, LP encourages the District to avoid adoption of a "Bifurcated" permit process that creates uncertainty as to obtaining a production permit, and the potential for conflicts and infringement related to property-rights and groundwater owners' investment-backed expectations.
3. The proposed amendments employ language that allows wide discretion in making permitting decisions that could result in non-uniform and arbitrary decision making, and the picking of winners and losers in a discriminatory fashion as between similarly situated applicants.
4. If the amount of drawdown or the specific capacity of a well is used to make permitting decisions, it is likely that such will simply add to the potential for arbitrary permitting decision-making. Such methods are contrary to key and fundamental property rights issues, primarily as summarized in the concepts of fair and impartial enforcement of rules and "fair chance to produce fair share".
5. The aforementioned concerns reflect potential opportunities for the District to face expensive and unnecessary litigation that is both an unwanted distraction, as well as a drain on district resources.

FSH requested that the proposed "Transfer of Ownership" wording be simplified. He also requested that the Board allow the General Manager and the District's consultants to work with Stakeholders to refine the proposed rulemaking package and bring it back to the Board with a consensus recommendation.

Public Comment: Mark Harral made three comments. 1) A high producing well that did not receive a production permit for what the well could produce could potentially sue MPGCD based upon the investment-backed expectations. 2) This could potentially hurt small business owners and cause them to be unable to get financing from a bank if they do not have a corresponding production permit. 3) MPGCD could issue a drilling and production permit, and once the well was drilled and the pump test completed – the District could reduce the permit based on the results of the pump test.

General Manager Ty Edwards:
SUMMARY OF PROPOSED RULES CHANGES
(Rules 9.2, 11.1, 11.9)

- (1) New requirement: limited (8-12 hour) “specific-capacity” pump tests and reports for new or amended production permit applications
 - All nonexempt wells that are not subject to hydrogeological report (and more extensive pump test**) are subject to this limited pump test
** No change to the more extensive pump test for hydrogeological reports already in the rules.
 - Pump test parameters have not changed (from April Board workshop discussion and Allan Standen’s recommendation).
 - New permitting timeline: Drilling permitting → Then pump test and report → Then production permitting. No consolidated permit apps.
 - Purpose: Better scientific info for decisions on production permit apps.

- (2) Information required for Drilling Permit vs. Production Permit vs. Permit Amendment Applications
 - Rule 11.9.1 reorganized to reflect separate application requirements.
 - Permit/registration transfers made easier.

III Adjourn hearing and consider and/or act on proposed rules.

President McGuairt adjourned the hearing at 10:19 a.m.

Janet Groth made a motion to approve rule change 9.2.7 first paragraph as written. Motion seconded by Vanessa Cardwell. Motion Carried Unanimously. 10 For. 0 Oppose. 1 Absent.

Mike Gershon pointed out that there are additional edits to the rules in 11.1 that implements what was just passed. He proposed that another motion be offered to make the other edits consistent with the motion that was just passed.

Janet Groth made a motion to approve all edits that will make the rule consistent throughout the changes. Motion seconded by Vanessa Cardwell. Motion Carried Unanimously. 10 For. 0 Oppose. 1 Absent.

Ronnie Cooper made a motion to approve 11.9.1 and 11.9.2 as proposed in the rule changes. Motion seconded by Janet Groth.

Ronnie Cooper amended the motion: approve 11.9.1 and 11.9.2 as proposed in the rule changes – having a threshold of 20 acre feet minimum, and under a 1,000 acre feet with a specific capacity pump test report, and striking the language that drops the 250 acre feet threshold. (This leaves the 250 acre feet threshold in the rules/See Attachment A, page 18, Rule 14.a.2).

Amended motion seconded by Janet Groth. Motion Carried.

Vote: 9 For. 1 Oppose. 1 Absent.

M. R. Gonzalez made a motion that the adopted rule changes be effective immediately. The applications that are administratively complete before this motion was passed are exempt from the rules adopted today. Motion seconded by Janet Groth. Motion Carried. Vote: 8 For. 2 Oppose. 1 Absent.

See Attachment A: Rule Changes Adopted 06-19-2018

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

I Call to order at 10:42 a.m. by President McGuairt.

Party representing application: Harvey Gray

Protestant to application: No protestants

Public Comment: Reid McCoy representing McCoy Remme Ranches and Maddox Ranch will not enter a protest.

Jerry McGuairt declared the hearing as uncontested.

Manager Ty Edwards presented the application to the Board. The application requests to amend an existing production permit to add industrial use into the existing production permit. The wells are located on T&P RR CO Block 49T9 Section 47 and Block 49T10 Section 7 and Section 11 approximately 22 miles west of Fort Stockton on the north side of I-10, in Pecos County, Texas. The purpose of the wells is currently for public supply. On 10-15-2011 a 246 acre feet production permit was issued for wells 2-3-4-5-6-7.1-7.2 for public supply use from the Edwards-Trinity aquifer. On 04-21-2015 well 15 was added to this permit. The application requests to add industrial use to the existing production permit for wells 2-3-4-5-6-7.1-7.2-15 from the Edwards-Trinity Aquifer.

There is an oil company that is off lease that wants to purchase water. We monitor several wells in the area. The application is administratively complete.

Harvey Gray, PCWCID#1's Board President, was sworn in to give testimony. The water sells will come from the oldest wells and several of the wells are high in Radium. The anticipated sells are 10,000 barrels (1.3 acre feet). The revenue will be used to replace older water lines and make improvements to the system.

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

President McGuairt adjourned the hearing at 11:01 a.m.

Board comments: Since the PCWCID#1 is a public supply source, he would like to see a competitive rate charged so as not to under-cut other people selling water in the area. Other comments were concerned about affecting the quantity and quality of the public supply wells.

Alvaro Mandujano, Jr. made a motion to approve the permit amendment as presented. Motion seconded by M. R. Gonzalez. Motion carried.

Vote: Vote: 8 For. 2 Oppose. 1 Absent.

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

I Call to order at 11:04 a.m. by President McGuairt.

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

Public Comment: None.

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

Ty Edwards, MPGCD General Manager, gave a recap for the hearing. Charlton Resources, LLC has submitted a Consolidated Drilling and Production Permit with Authorization to Export for a 2 well system located on Survey H&TC RR CO Block 3 Section 27, North Corner of FM 1053 and FM 1450 Intersection, in Pecos County, Texas. The application seeks to re-enter an existing well (Holladay#1) and to drill a new well to an estimated depth of 3,150 feet into the San Andres Formation for a total combined production of 967 acre-feet a year for Industrial Use from the San Andres Formation.

(Recap continued) At the Public Hearing on 05-15-2018 Alpha Water Resources requested a contested case hearing and party status in the hearing. Adam Friedman, Attorney representing Alpha Water Resources, presented their justiciable interest.

Mr. Harral filed an objection to party status for Alpha Water Resources and 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. In the event that party status is granted Charlton Resources, LLC has filed a request for State Office of Administrative Hearing.

On 05-15-2018 Middle Pecos GCD attorney Mike Gershon recommended that 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. The lease with MRK establishes justiciable interest. Board action taken on 05-15-2018 granted 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. And, a motion was approved 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.
End of recap by Mr. Edwards.

For the Record: On 05-29-2018 the Secretary of State of Texas issued a certificate evidencing the authority of Alpha Water Resources, LLC to transact business in the State of Texas. On 05-30-2018 the certificate was submitted to Middle Pecos GCD. On 06-01-2018 Charlton filed a motion requesting immediate referral to SOAH.

June 8, 2018 ORDER NO. 1 Regarding Party Status and Request for SOAH Hearing was issued by Middle Pecos GCD. This Order addresses whether Alpha Water met the condition to qualify as a party. If so, the District will immediately move forward with the referral to SOAH. Two issues to be addressed at the Hearing Continuation on June 19th: (1) Whether it is necessary that Alpha Water be registered to conduct business in Texas to be party in this hearing and, if so, (2) whether Alpha Water timely and properly met the condition of party status. It is also ordered that the parties have an opportunity to present argument and evidence to the Board on Tuesday, June 19, 2018 at 10:15 a.m. The General Manager is directed to issue hearing notice under District Rule 11.10.7.

For the Record: On June 7, 2018 the following were mailed a copy of the continued hearing notice issued under District Rule 11.10.7:

Mark Harral, Attorney representing Charlton Resources, LLC.

Adam Friedman, Attorney representing Alpha Water Resources

Adam Friedman, Attorney representing Alpha Water Resources, submitted a briefing on 06-15-2018.

- Registering in Texas is not a prerequisite for participating in administrative proceedings.
- Registration in Texas is unnecessary, therefore the District need not address the issue of timeliness. Whether Alpha Water complied with the District's "2 week" deadline, is a moot issue.
- Alpha Water respectfully requests that the Board affirm party status and proceed with the contested hearing.

Mark Harral, Attorney representing Charlton Resources, LLC, submitted a briefing on 06-15-2018.

- Alpha Water Resources must be registered to conduct/transact business in Texas which is required to be a party in this hearing. Texas Business Organization Code 9.001 and 9.008.
- Alpha Water should not be granted party status based on Texas Business Organization Code 9.051.
- Alpha Water failed to timely and properly meet conditions of party status on May 15, 2018. Reference MPGCD Rule 11.10.4(a)(1).
- An "uncontested" hearing is no longer available since Alpha Water did "appear at the initial preliminary hearing", and the MPGCD General Manager did not "propose" to grant the application".
- Charlton Resources, LLC requests that MPGCD contract with the State Office of Administrative Hearings (SOAH) for Conclusions of Law and Findings of Fact to Avoid Future Litigation.

Alpha Water's rebuttal: We have a lease agreement with MRK for the groundwater rights that are potentially affected by Charlton's deepening of a well, and drilling of another new well in a very sensitive area. Participating in an administrative hearing does not constitute transacting business in Texas. Party status does not constitute transacting business in Texas and therefore is not a criteria for party status.

Mike Gershon, on behalf of MPGCD General Manager Ty Edwards: The General Manager's position is that Alpha Water has demonstrated that they have a justiciable interest evidenced by the MRK lease, and they have alleged impact that will be addressed at the hearing on the merits. Also, Mr. Harral has timely requested the State Office of Administrative Hearings hearing.

Janet Groth made a motion to recognize Alpha Water as qualified to protest the application by Charlton Resources, LLC, and that the hearing is contested, and that Charlton Resources has requested a State Office of Administrative Hearings hearing in a timely fashion. Motion seconded by Weldon Blackwelder.
Motion Carried Unanimously. 10 For. -0- Oppose. 1 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.**

(Application is referred to State Office of Administrative Hearings.)

**PUBLIC HEARING ON CONSOLIDATED DRILLING
AND PRODUCTION PERMIT FOR DONOHUE INVESTMENTS LLC**

- I Call to order at 11:40 a.m. by President McGuairt.

Party representing application: Remie Ramos with the Fort Stockton Economic Corporation.

Protestant to application: No protestants

Public Comment: None.

Jerry McGuairt declared the hearing as uncontested.

Manager Ty Edwards presented the application to the Board. Donohue Investments, LLC has submitted an application for a consolidated drilling and production permit for 1 well located on 25.87 acres on the corner of 14th Street and Atkins on the East Side of Fort Stockton on Property ID #15739, in Pecos County, Texas. The well is projected to be 200-300 feet in depth and drilled into the Edwards Trinity Aquifer. The purpose of this well is for a Recreational Pond and requests a 1 time use of 10 acre-feet to fill the pond and 40 acre-feet a year for the estimated annual groundwater needs for the recreational pond from the Edwards Trinity Aquifer. Mr. Donohue is wanting to put in an RV park and a recreational pond where the old gravel pit is. They are wanting to drill a new well, and have completed a Notice-of-Intent. Mr. Donohue is registered in the State of Texas. The application is administratively complete.

Remie Ramos with the Fort Stockton Economic Corporation was sworn in to give testimony. (Mr. Donohue was out of town on business.)

Mr. Ramos explained that Mr. Donohue approached the Fort Stockton Economic Corporation (EDC) for help with this project. The project did not fall under the funding guidelines. However, for the betterment of the community the Fort Stockton Economic Corporation is able to help them expedite the process to get things done. The EDC is working with Donohue and with the Texas Parks and Wildlife to get permits to stock the pond for recreational fishing. And, to designate some walking paths around the area.

Members of the Board questioned how they would handle the overflow in the event of a big rain. Mr. Ramos reported that Donohue owns the property all the way to Comanche Creek, and that the City of Fort Stockton owns Comanche Creek, so they were looking at the over flow drainage going into the creek.

There was a lot of concern voiced over the water loss due to evaporation and seepage. Mr. Ramos reported that the pond will be lined, and the ponds floodgate would be set higher to prevent overflow. The evaporation rate may be 50" to 80" annually.

Several Board members stated that the City of Fort Stockton does not own the Comanche Springs, and that the canal system belongs to the Pecos County WCID#1.

The hearing was recessed at 12:04 p.m. and reconvened at 1:01 p.m.

II Adjourn hearing and consider and/or act on Application for a Consolidated Drilling and Production Permit for Donohue Investments, LLC.

President McGuairt adjourned the hearing at 1:03 p.m.

Alvaro Mandujano, Jr. made a motion to approve the application as presented.
Motion seconded by Vanessa Cardwell.
Motion Carried. 6 For. 3 Oppose. 2 Absent.

Note: John Dorris away from the Hearing during the vote on Donohue Investments. And returned during the Parsley Minerals, LLC Hearing.

PUBLIC HEARING ON A PRODUCTION PERMIT FOR PARSLEY MINERALS, LLC

I Call to order at 1:08 p.m. by President McGuairt.

Party representing application: Chad Hollier, Service Line Manager - Delaware Basin

Public Comment: None.

Protestant to application: None

Ty Edwards, MPGCD General Manager, gave a recap for the hearing. Application for a Production Permit for a 4 well system located on H&GN RR CO Block 8 Section 92, approximately 2.5 miles southwest of Hwy 18 and FM 1450 intersection, in Pecos County, Texas. The purpose of this well system is for Industrial Use of 160 acre-feet/year from the Pecos Valley and Edwards Trinity Aquifers. The pump test was 50 to 60 gpm, and the water analysis shows 800 tds. The well depths are 183' to 233'. The water is needed for 1 frac job. The application is administratively complete.

Mr. Chad Hollier, representative for Parsley Minerals, LLC, was sworn in. He was asked if there was a business agreement. Mr. Hollier said there is a surface use agreement only.

II Adjourn hearing and consider and/or act on Application for a Production Permit for Parsley Minerals, LLC.

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

Weldon Blackwelder made a motion to approve the application as presented. Motion seconded by Alvaro Mandujano, Jr. Motion Carried Unanimously. Vote: 10 For. 0 Oppose. 1 Absent.

PUBLIC HEARING ON A PRODUCTION PERMIT FOR WILSON ESTATES

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

Party representing application: Tyler Wilson and Kelly Wilson

Public Comment: None.

Protestant to application: None

Jerry McGuairt declared the hearing as uncontested.

Ty Edwards, MPGCD General Manager, gave a recap for the hearing. Application for a Production Permit for 1 well located on Survey Mrs. SE Kuykendall, Block OW, Section 91, on the East corner of (South of I-10 and East of Alpine Hwy) Highway 67 and Interstate 10, in Pecos County, Texas. The purpose of this well is for Industrial Use of 15 acre-feet/year from the Edwards Trinity Aquifer. This is for a small water station. The application is administratively complete.

II **Adjourn hearing and consider and/or act on Application for a Production Permit for Wilson Estates.**

President McGuairt adjourned the hearing at 1:30 p.m.

Janet Groth made a motion to approve the application as presented.
Motion seconded by Weldon Blackwelder. Motion Carried Unanimously.
Vote: 10 For. -0- Oppose. 1 Absent.

REGULAR BOARD MEETING – CONTINUED

III **Consider and/or act upon Minutes of Regular Meeting on May 15, 2018.**
Ronnie Cooper made a motion to approve the minutes as presented. Motion seconded by Jeff Sims. Motion carried unanimously.
Vote: 10 For. -0- Oppose. 1 Absent.

IV **Consider and/or act upon Accounts Payable and Treasurer's Report for the Month Ending May 31, 2018.**
Weldon Blackwelder made a motion to approve the Accounts Payable and Treasurer's Report for the Month Ending April 30, 2018. Motion seconded by John Dorris. Motion carried unanimously.
Vote: 10 For. -0- Oppose. 1 Absent.

V **Consider and/or act upon Tax Abatement Guidelines.**

The only change proposed to the tax abatement guidelines is to change the application fee from \$1,000 to \$5,000.

Board discussions: An item requested to be struck from the guidelines appears on page 4 item XII **Severability and Restriction (b)** *Any property that is owned or leased by a member of the Board of Directors of the District is ineligible from receiving tax abatement from the District; provided, however, that property subject to an agreement in effect before the person becomes a member of the Board of Directors is not ineligible for tax abatement.*

This item was tabled for further research.

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.**

Ed McCarthy Jr., attorney representing Fort Stockton Holdings, L.P. (FSH), Clayton Williams Farms, Inc., and Republic Water Company of Texas, LLC: reported that the two parties are unable at this point to reach an agreement on some of the proposed modifications to bring to the MPGCD Board. At this point FSH is going to probably intervene with litigation against the District, in support of the District. We would like to move forward with the rule making so we can take it to the next step and continue to support the recommendations of Dr. Hutchison and his report and rules for Management Zone 1.

Ryan Reed, attorney for Cockrell Investments Partners, L.P. (Cockrell): Cockrell agrees with FSH's assessment. The unwillingness on FSH's part to negotiate on the proposed rules that stem from the Settlement Agreement that the Board entered into with FSH regarding MPGCD implementation of proposed management zone 1 rules that are developed in coordination with FSH and other stakeholders.

Cockrell's position is that there has been no coordination with us to ensure that these proposed rules adequately protect the water users in management zone 1. MPGCD Hydrogeologist Dr. Bill Hutchison developed the proposed rules based on recharge and the MPGCD proposed summer threshold is 2896 which will trigger a meeting with in 60 days between FSH and MPGCD to discuss the data. Our concern is that there is nothing in the proposed rules that address a summer stop-gap in the event that water levels decline. Based on the "Prison Well" Cockrell has proposed that 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 Wells rises above 2,950 ft. msl for at least 15 days.

Dr. Ron Green, Hydrogeologist for Cockrell offered the following considerations:

- Monthly monitoring, with a Stop-Gap or a Summer Threshold that would invoke summer pumping cut-backs if reached.
- The "Prison Well" is used as an indicator of historical water well levels, and are not suggesting that the singular well be used for the trigger for cut-backs.
- Consider other paths other than cut-backs, such as lowering pumps in existing wells, deepening wells to access more water, or drilling additional wells in other formations. The additional concerns arise with these methods of using water that is in storage. This water is used in periods of drought, and other management practices might be more advisable.

MPGCD General Manager Ty Edwards added that telemetry systems are installed on all 11 threshold wells, and should be available on the web for anyone to view. The wells will be monitored daily.

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

- Well Registrations: Current registrations total 3,115 Exempt wells. 920 Non-Exempt wells. We have received 3 new well registrations.
- Drought Monitor Map: In packet. We currently have abnormally dry to moderate drought conditions in Pecos County, and portions of the county have no drought conditions.
- Water Analysis: 30 analysis pulled this month.
- We are inspecting every new well registration for coordinates and taking pictures.
- New monitor well: University Lands/Neill Woodward

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

- Texas Alliance of Groundwater Districts: 7th Annual Texas Groundwater Summit date is August 28-30, 2018. Held in San Antonio.
- Notice of Deadline to File Applications for Place on the Ballot has been posted as required. Application will be accepted from July 23 – August 20th at 5 p.m.
- Far West Texas County Judges and Commissioners Association Conference to be held in Terlingua, TX on September 12-14, 2018. Mr. Edwards will be a guest speaker on September 13th regarding "Emerging Water Issues".
- FM 1053 Imperial Highway Sag: The center line of the Highway has sunk .55 ft in one month.
- Imperial, TX Holliday Well: A meeting is set up between the Texas Railroad Commission and Ty Edwards, and Scott Sherman for June 26 & 27 in Austin. The purpose of the meeting is to take proactive steps to address the sink hole and the road stability, with the additional benefits of keeping the road open for the regional community and important economic activities, and protect the groundwater sources by fixing the well issues. The meeting will explore a possible partnership with TxDOT to seek a BUILD grant for road projects to improve the safety of Highway 1053.

IX Directors' Comments. None

- X Consider and/or act upon agenda for next meeting.**
Tax Abatement Guidelines, RV Park issues to discuss, BGL Family application, Mandujano application, Call for an Election

XI **Adjourn Board meeting.**

Weldon Blackwelder made a motion to adjourn the meeting. Seconded by M. R. Gonzalez. Motion carried unanimously. The meeting adjourned at 2:17 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuair, President

Date Approved 7-17-18

Attachment A
Rule Changes Adopted 06-19-2018

Note: Black Font: Unchanged wording from the previous rules.
Light Gray Font: New wording
Light Gray Strikeout: Wording being removed from the rules.

Rule changes passed:

9.2.7 ~~Transfer of Registration Ownership Transfer:~~ Upon submission to the District of ~~written notice of ownership-transfer of ownership or control of any water right or water well covered by a registration and documents evidencing the transfer ownership must be filed with the District, and permit amendment shall be secured, if required by these rules,~~ the District's General Manager will amend the well registration to reflect the new owner(s). ~~Any person who becomes the owner of a previously filed registration must, within 45 (forty five) calendar days from the date of the change in ownership, file a request for transfer of the registration.~~

RULE 11.1 REQUIREMENT FOR PERMIT TO DRILL, OPERATE, OR ALTER THE SIZE OF A WELL OR WELL PUMP; PERMIT AMENDMENT

- (a) **Permits Required:** No person may drill, operate, equip, complete, or alter the size of a well or well pump without first obtaining a permit or approved pre-registration, as applicable, from the District as provided by statutory law and these rules.
- (b) **Permit Amendment Required:** A permit amendment is required prior to any deviation from the permit terms regarding the maximum amount of groundwater to be produced from a well, ~~ownership of a well or permit,~~ the location of a proposed well, the purpose of use of the groundwater, the location of use of the groundwater, or the drilling and operation of additional wells, even if aggregate withdrawals remain the same. A Historic and Existing Use Permit may not be amended to modify the purpose of use for which the Historic and Existing Use Permit was originally granted, but may be amended to modify the place of use to a place inside or outside the district. The District may authorize a permit holder to lease or otherwise transfer ownership of a Historic and Existing Use Permit or the amount of groundwater production authorized under such a permit, as long as the purpose of use does not change and as long as the withdrawal is made from the same aquifer and within the same management zone, if applicable, and such transfers are subject to the Rule 11.9.1 and Rule 11.10.10.

- (c) Absent an express reservation of rights in the transferor, the transfer of ownership of the well(s) designated by a permit is presumed to transfer ownership of the permit, and the transfer of the land and well site on which the well is located is presumed to transfer ownership of the well. The ownership of a permit may be transferred separately from the ownership of water rights and a well and land and well site on which the well is located, ~~or place of use,~~ subject to these Rules and permit conditions, with sufficient documentation of an ownership or contractual right to hold the permit. If a transferor retains any interest in the permit, the District may issue a second permit to the transferee that contains the benefits severed and transferred. The District may thereafter amend the permit of the transferor accordingly, along with any appropriate conditions relevant to the transfer imposed by the District. The District shall limit the amount of production authorized in the transfer of a permit to a different location of use to the amount of water produced and beneficially used by the transferor under the original permit.
- (d) If the production authorized for two or more wells that have been aggregated to function as part of a Well System under Rule 11.2 and one or more wells under the Well System will be transferred, the District may allocate a pro rata share of the total authorized production to each well transferred unless the conveyance documents transferring the well(s) clearly provides for a different method of allocation.
- (e) ~~The District shall schedule a hearing for all activities for which a permit or permit amendment is required.~~ Upon submission to the District of written notice of transfer of ownership or control of any water right or water well covered by a permit and documents evidencing the transfer, the District's General Manager will amend the permit to reflect the new owner(s).

RULE 11.9 PERMIT APPLICATIONS

11.9.1 Requirements for All Permit Applications:

- (a) ~~Application Forms:—~~ Each original application for a water well Drilling Permit, Production Permit, and permit amendment requires the filing of a separate application. The application must be completed on the District's form and may be supplemented. ~~Application forms will be provided by the District and furnished to the applicant upon request.~~ Each application for a permit shall be in writing and

~~sworn to, and shall include the following information relevant to the appropriate type of application to be filed, as that information is identified and requested on the District's application form:~~**(1) the name, and mailing address, phone number, and email address of the applicant and the owner of the land on which the well or Well System is or will be located;**

(b) In addition to the information required of all permit applications in Rule 11.9.1(a), an application for a drilling permit or to amend a drilling permit must include the following information:

- ~~(12) if the applicant is other than the does not owner of the well site(s) and proposed well(s) property, documentation establishing the applicable authority to construct, drill and complete operate each well on each for the proposed well site use;~~
- ~~(23) the location of each well and the estimated rate at which water will be withdrawn;~~
- (3) the conditions and restrictions, if any, placed on the rate and amount of withdrawal;
- ~~(54) the date the permit is to expire if the each well(s) is/are not drilled or if each the existing well(s) is/are not properly completed to meet all statutory and regulatory requirements for the intended purpose of use;~~
- (5) a declaration that the applicant will comply with all District well plugging and capping guidelines and report closure to the Commission;
- (6) a location map of all existing wells within a one half (1/2) mile radius of the proposed well or Well System or the existing well or wells to be modified;
- (7) a map or other document from the Pecos County Tax Appraisal District indicating the ownership and location of the subject property;
- (8) a document indicating the location of each proposed well or each existing well to be modified, the subject property, and adjacent owners' physical and mailing addresses;
- (9) notice of any application to TCEQ to obtain or modify a Certificate of Convenience and Necessity to provide water or wastewater service with water obtained pursuant to the requested permit; and
- (10) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose.

(c) In addition to the information required of all permit applications in Rule 11.9.1(a), an application for a production permit or to amend a production permit must include the following information:

- (1) if the applicant does not own the well site(s), proposed well(s), and groundwater, documentation establishing the applicable authority to operate each well and produce and beneficially use the groundwater from each well;
- (2) the annual amount of groundwater ~~requested~~ claimed to be necessary for beneficial use during each year of the proposed permit term ~~by the applicant and determined by the Board to be necessary for beneficial use throughout the permit term~~ with information supporting the annual amount of use requested for each proposed purpose of use;:-

- (5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;
- (6) the location of the use of the water from the well or Well System;
- (7) the conditions and restrictions, if any, placed on the rate and amount of withdrawal;
- (8) a declaration that the applicant will comply with the District's rules and all groundwater use permits and plans promulgated pursuant to the District's rules;
- (9) a declaration that the applicant will comply with the District Management Plan;
- (10) a drought contingency plan;
- (11) the duration the permit is proposed to be in effect, if greater than one year;
- (12) a written statement addressing each of the applicable criteria in Rules 10.2 and 11.10.10(a), (b), and (c) and substantiating why the applicant believes the Board should consider each of these applicable criteria in a manner favorable to the applicant; and
- (13) if groundwater is proposed to be exported out of the District, the applicant shall describe the following issues and provide documents relevant to these issues:
 - (A) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
 - (B) the projected effect of the proposed export on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
 - (C) how the proposed export is consistent with the approved regional water plan and certified District Management Plan.
- ~~(14) a hydrogeological report shall be attached to an application that requests a new production permit for 1,000 acre feet or more per year from one or more wells or an associated Well System or whether the application requests a new production permit or amendment to an existing production permit in an amount that when combined with the amount of an existing production or historic and existing use permit or permits associated with the same well or wells or Well System is at least 1,000 acre feet per year.s-meeting-the following conditions:~~
 - ~~(1) requests to operate a nonexempt well or Well System with an annual maximum permitted use of at least 1,000 acre feet; and~~
 - (2) requests to amend and increase by at least 250 acre feet the annual maximum permitted use of a Production Permit for a well or well system. This report must address the area of influence of the well(s) and any associated Well System for which a permit is being requested and a description of the aquifer that will supply water to each well, and be complete in a manner that complies with the requirements adopted in Rule 11.9.3.

- (15) the hydrogeological report required in Subsection (14~~5~~) shall be updated for each and every permit amendment application that requests an increase in production of at least 1,000 acre feet per year from one or more wells or an associated Well System authorized under an existing production or historic and existing use permit or permits that currently authorizes at least 1,000 acre feet per year.
- ~~(g) An applicant subject to subsection (f) of this section shall agree to conduct a pumping test for each well for which a production permit is being requested, and to submit the results of the pumping test to the District within 30 days of the well coming on line and beginning to produce groundwater for beneficial use.~~
- (16) the results of a pump test for each well for which a production permit or amendment to a production permit is being requested depends upon the following thresholds:
- (A) If the annual amount of groundwater withdrawal from one or more wells or an associated Well System in any calendar year during the permit term is more than 20 acre feet and less than 1,000 acre feet, the pump test(s) and results must meet the requirements of Rule 11.9.2(a);
 - (B) If an application is subject to the hydrogeological report requirements in Subsections (14) and (15) of this rule, the pump test(s) and results must meet the requirements of Rule 11.9.2(b).
- ~~(h) Hydrogeological reports required under Rule 11.9.2(f) shall address the area of influence of the well or Well System for which a permit is being requested and a description of the aquifer that will supply water to each well, and be complete in a manner that complies with the requirements adopted in Rule 11.9.3.~~
- (d) The General Manager or Board may waive one or more of the informational requirements for an application to amend a production permit depending on the nature of the amendment provided that the Board has sufficient, relevant information to consider the application at the hearing.
- (e) **The applicant must provide the District with the information contained in Rules 11.9.1(a) and 11.9.2-relevant to the type of application that is required in this Rule 11.9 for the District to declare that the application is administratively complete. If the District provides a written list of application deficiencies, the applicant shall have 60 (sixty) calendar days to fully respond to the General Manager's satisfaction, after which a deficient application expires. The applicant may request an extension of this 60-day period or a ruling on the administrative completeness of its application by filing a written request with the District. The District will set an applicant's request under this rule on its next regularly scheduled Board meeting agenda, with three (3) calendar days' notice compliant with the Texas Open Meetings Act. The Board will consider and take action on an applicant's request under this rule at this meeting.**

11.9.2 Specific Capacity Pump Test and Pump Test Report Requirements

- (a) Specific Capacity Pump Test and Pump Test Report Requirements required by Rule 11.9.1(c)(16)(A)(for one or more nonexempt wells or an associated Well System proposed to be authorized to annually withdraw less than 1,000 acre feet): The specific capacity pump test will provide the District with site-specific aquifer properties and well-yield information necessary to better evaluate a production permit application. The District is aware that a pump test to obtain aquifer specific capacity information requires site preparation, specialized monitoring equipment, monitoring during the test and pump test data analysis which can be time consuming and somewhat costly. The District will assist the production permit applicant with site preparation, provide the required water level monitoring equipment and conduct the technical analysis of the specific capacity pump test.

As part of its consideration of the relevant permitting factors in Rules 11.10.10, the MPGCD Board will consider the specific capacity pump test analysis results provided by the applicant along with input on these results from MPGCD's General Manager and professionals and, if there is a contested hearing, input on these results from any parties admitted into the contested hearing.

The dedicated pump must have the production capacity to meet the permit applicant's requested groundwater demand. The District must be notified at least 14 days in advance of any specific capacity pump test. A specific capacity pump test conducted without prior approval from the District will be deemed noncompliant with MPGCD permit requirements.

If the specific capacity pump test activity is found to be flawed or not acceptable by the District's General Manager, the District's General Manager may require the specific capacity pump test to be repeated.

The District Manager has the authority to exempt a permit applicant from this requirement provided the permit applicant provides good cause why other information submitted with the application is sufficient to describe the type of site-specific aquifer properties and well-yield information that would be obtained from the pump test and associated analysis.

- (1) Specific Capacity Pump Test Site Preparation
- (A) Availability of local monitor wells: The District is working to expand its understanding of the groundwater resources within the District to ensure the best available science is considered during the permitting process. If a well located within 1,000 feet of and completed within the same aquifer as the permit applicant's specific capacity pump test well is available to be monitored during the pump test, the General Manager may require that it be monitored during the test. This monitor well would provide additional, important aquifer properties. A monitor well(s) may not be actively pumping during the pump test.

- (B) Installation of Water-level Transducers and the Determination of Static Water Levels
- i. The District staff will assist in the installation of District's own water-level transducers into the permit applicant's well to be pump tested and additional transducers into any monitor wells identified for the specific capacity pump test.
 - ii. The District staff will determine the depth from the static water level of the well to the top of the pump intake (pump test water column thickness) prior to a pump test to understand at what water level depth the water level will drop below the water level transducer or below the pump intake. It is recommended that the water level transducer depth should be located at least 10 feet above the pump intake.
 - iii. Prior to a specific capacity pump test, static water levels of the pump test well and any associated monitor wells must be measured by transducers for at least 24 hours prior to the pump test.
 - iv. The District's staff will make sure that the transducers are time synchronized if there is more than one transducer. The transducers will be programmed to collect water levels every 15 minutes during the entire pump test event which includes: 24 hours before pumping commences, during pumping (8 or 12 hours), and for at least 8 hours after pumping concludes (well recovery measurements).
- (2) Determination of Specific Capacity Pump Test Discharge Rate: The specific capacity pump test discharge rate should be representative of the production needed to meet the permit applicant's requested instantaneous production rate (expressed in gallons per minute) and annual quantity of production (expressed in gallons or acre-feet per year). The District's General Manager will provide guidance to the permit applicant on a recommended pump test discharge rate.
- (3) Monitoring of Specific Capacity Pump Test Discharge Rate: During a specific capacity pump test, the water level within the well usually declines and, as it does, the well discharge rate will also decrease. The permit applicant needs to provide a flow meter or a method to accurately estimate (within 10% of the actual rate) the pump test discharge rate during the specific capacity pump test. The pump test discharge monitoring method must be pre-approved by the District's General Manager before the pump test begins.

There should be allowance for increasing the pump rpm to maintain a constant discharge rate during the specific capacity pump test or, with the District General Manager's approval, the average discharge rate during the pump test could be used to calculate the well's specific capacity.

(4) **Specific Capacity Pump Test Time Period:** The specific capacity pump test time period will vary depending on the aquifer and will be confirmed by the District's General Manager in the following ranges:

(A) At least an 8-hour specific capacity pump test for the Edwards-Trinity, Pecos Alluvium and Dockum aquifers.

(B) At least a 12-hour specific capacity pump test for the Rustler, Capitan, San Andres and Igneous aquifers.

(5) Specific Capacity Pump Test

(A) The District staff will help initiate the pump test at an agreed-upon time determined by the District General Manager and the permit applicant. The District will verify that the water-level transducers are active and collecting water level data.

(B) Using a conductivity meter provided by the District measure the discharge water conductivity at 5 to 10 minutes after the pump test has started, mid-way through the pump test and at the end of the pump test. The District's staff will collect the first and last conductivity measurements.

(C) The permit applicant is responsible for monitoring and recording the pumping well's discharge rate changes during the pump test and the mid-pump test water quality conductivity measurement.

(D) Upon completion of the required time for the pump test, the District's staff will shut down the pump test and confirm that the water-level transducers are still active and collecting water level data.

(6) Post Specific Capacity Pump Test: After the completion of the water level recovery measurements, the District's staff will:

(A) Remove transducers from all the wells, and collect pump test information from the permit applicant (variation in pump test discharge rates or the time which permit applicant adjusted pump rate to fixed discharge rate and mid-pump test water quality measurement).

(B) The District's staff will download all the water level transducer data into an Excel spreadsheet with notations on the variations of pump discharge rates with time.

(C) District's groundwater consultant (PG or PE) will take pump test data provided by the District and calculate specific capacity and determine aquifer properties for the monitor wells (if available).

(D) District's groundwater consultant will prepare a brief report to provide to the District's Board and the permit applicant.

11.9.4

(b) **Pump Test and Pump Test Report Requirements Associated with Hydrogeological Report required by Rule 11.9.1(c)(15) and (16)(B)(for one or more nonexempt wells or an associated Well System proposed to be authorized to annually withdraw at least 1,000 acre feet): The American Society of Testing and Materials**

(ASTM) documents D4043 (Selection of Aquifer Test Method) and D4050 (Field Procedure, Pump Tests) provide guidance for designing and implementation of pump tests, and D4105 (Confined Aquifer Pump Test Analysis) or D4106(Unconfined Aquifer Pump Test Analysis) provide guidance to determine aquifer properties. A permit applicant can purchase these documents at <http://global.ihs.com/standards.cfm?publisher=ASTM&RID=Z06&MID=5280> and is strongly encouraged to review these documents prior to designing and conducting any pump tests.

(a1) Pump Tests:

Pump tests conducted without prior approval from the District may be deemed noncompliant with the District's Production Permit requirements. The District must be notified at least 48 hours in advance of any pump test conducted as part of the hydrogeological investigation.

Texas registered geoscientists (P.G.) and/or engineers (P.E.) with five years or more of groundwater experience will be required to oversee the design and implementation of each pump test and associated monitor wells and will evaluate the pump test results to determine aquifer properties. Aquifer properties to be determined from the pump tests include specific capacity, transmissivity, hydraulic conductivity, and possibly storage coefficient or storativity values.

(2b) Pump Test Monitor Wells:

Monitor wells are required for applicant well fields with multiple wells. Monitor wells selected by the applicant for the pump test must comply with the District's monitor well requirements and the monitor well selection must be pre-approved by the District's General Manager. Monitor wells may not be actively pumping during the pump test. The use of existing private wells within two miles of the pumping wells and within the same groundwater producing formation is acceptable if the well meets the District's monitor well requirements.

A monitor well selected for the pump test is required to monitor only the applicant's aquifer and exhibit a connection with the pumping wells indicated by a minimum of 0.2 feet of drawdown during the pump test. For confined aquifers, the District may also require a monitor well in an overlying aquifer to monitor potential water level fluctuations and to determine whether there is communication between the applicant's aquifer and overlying aquifers.

(3e) Pump Test Requirements:

- (A4)** If possible, the District and/or the applicant will meet with any adjacent landowners with large operating wells (>250 gpm) within a two-mile radius of the pump test pumping wells prior to the pump test. The District and/or the applicant will inform the landowners of the date of the pump test, and, if possible, determine whether the landowners' wells will be active during the scheduled pump test. If the landowners' wells are going to be active during the pump test, the District will request that the landowners do not vary the pumping rates during the pump test.
- (B2)** The designed pump test results must be able to be used to mimic the well field's impact of the applicant's requested acre feet per year pumpage.
- (C3)** Static water levels of each pump test pumping and monitor wells should be measured every 12 hours for a total of 36 hours for the Pecos Valley Alluvium, Edwards-Trinity Plateau, and Dockum clastic aquifers and for a total of 72 hours for the Rustler and Capitan Reef Complex karstic aquifers and the San Andres karstic formation prior to the beginning of the pump test.
- (D4)** Flow meters will be used to monitor each pumping well's groundwater production.
- (E5)** Measure water levels and pump test discharge rates and times during pump test at acceptable frequency according to ASTM 4050.
- (F6)** A metered pump test of not less than a continuous 36 hours for the dominantly clastic aquifers, including the Pecos Valley Alluvium (clastic), Edwards-Trinity Plateau (carbonate karst and clastic), and Dockum (clastic).
- (G7)** The documentation of times of field activities, weather changes, and pump test adjustments and/or problems will be recorded.
- (H8)** A recovery phase of a period sufficient for a 95 percent recovery of beginning water levels of each pumping well and 90 percent recovery for each monitor well, not to exceed time period of pumping activity. Water level measurements during recovery should be measured at the same frequency as during the pumping phase (frequent at beginning and decreasing frequency with time).
- (I9)** Water quality parameters (pH, temperature, and conductivity) of the pump test wells' discharged water will be measured at the beginning of the pump test and every 12 hours during the pump test.
- (J10)** Water quality analysis will include TDS, SO₄, Cl, Ca, Mg, Na, HCO₃, F, Br, and NO₃ from each pumping well and will be collected twice—prior to and at the end of each pump test.

The applicant may request that the District's General Manager consider a variation of the above pump test requirements. The District's General Manager has 30 days to review and approve or disapprove the variance request.

(4d) Pump Test Report Requirements:

- (A4)** A discussion about the general characteristics of the aquifer, including, but not limited to: confined or unconfined, clastic or karstic, variation in aquifer thickness, and interpreted degree of karst development. Discuss whether the production wells are partially or fully penetrating and the impact on monitor well selection.
- (B2)** For each pump test and monitor well, tables listing water level changes with times, initial water levels at the start of pump test (for pumping and monitor wells), pump test date, start time, end time, changes during and final pumping rates, and water quality parameters measured during the pump test, as a report appendix.
- (C3)** For each pump test and monitor well, a table listing the water level recovery measurements with times as a report appendix.
- (D4)** Copies of field notes collected during the pump test as a report appendix.
- (E5)** A discussion of the reasoning for the selection of the pump test analysis method used to estimate the aquifer properties for each pumping and monitor well in the pump test.
- (F6)** A table listing final estimated aquifer properties for each pumping and monitor well in the pump test.
- (G7)** A table of the pumping wells water quality parameters collected during the pump test.
- (H8)** A discussion of any observed groundwater quality changes (if any) that occurred during the pump test.

If the pump test activity or analysis is found to be flawed or not acceptable by the District's General Manager, the District's General Manager may require that the pump test or analysis be repeated in an acceptable manner before the groundwater Production Permit application may be considered.