

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 July 17, 2018

On this the 17th of July, 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
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4

Quorum Present.

Board members absent: Weldon Blackwelder, Vanessa Cardwell, Allan Childs, and Jeff Sims

Others present: Ty Edwards, Mike Gershon, Gail Reeves, Melissa Mills, Anthony Bodnar, Paula McGuairt, Brock Thompson, Eddie McCarthy III, Gary Bryant, Geoff Pike, Ryan Reed, Tommy Soriero, Jr., Kaveh Khorzad, Tommy Ervin, Mark Harral, Jake Harral, Sinwang Ley, Rick Taylor, Brian L. Lasley, Oscar Hernandez, Gladys Dorris, 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**:

Oscar Hernandez: (Summarized) Regarding the Donohue Investment Production Permit that was approved on June 19, 2018. Point 1 There was a conflict of interest when a City official made the presentation for a private entity. Did the Board consider that? Point 2 At the time the application was approved for drilling and production of water, it is in direct conflict with a city ordinance that prohibits the drilling of water wells within the City Limits. He asked that the Board consider whether the action that it took last month is in violation of a law and thereby being a party to the violation that may have consequences. Mr. Hernandez reached his 5-minutes limit for public comment and could not finish his thoughts.

- III Consider and/or act upon **Minutes of Regular Meeting on June 19, 2018.**
John Dorris made a motion to approve the minutes as presented. Motion seconded by Puja Boinpally. Motion carried unanimously.
Vote: 7 For. -0- Oppose. 4 Absent.

PUBLIC HEARING ON A DRILLING PERMIT FOR B JL Family LP

- I Call to order at 10:12 a.m. by President McGuairt.

Party representing application: Brian L. Lasley

Public Comment: None.

Protestant to application: None

Application declared uncontested.

Ty Edwards, MPGCD General Manager, presented the application. B JL Family LP, has made application for a Drilling Permit for 1 well located on 20.288 acres in Survey T&P RR CO Block 49-8 Section 28 S/2 SE/4 SE/4 on Property ID #31658, approximately 2 miles East of HWY 285 from Reeves/Pecos County Line in Pecos County, Texas. The well is projected to be 250-950 feet in depth and drilled into the Pecos Valley, Dockum or Rustler Aquifer depending on which aquifer is productive of groundwater. The well is to be used for a water station and oil & gas fracking purposes. Mr. Edwards reported that the Edwards-Trinity Aquifer is gone in that area, and the Pecos Valley Aquifer is 0 – 180', and the Dockum Aquifer is present, and Dewey Lake is present. A pump test will be required for a production permit. Once the drilling is complete they will return for a production permit. The application is administratively complete.

- II Adjourn Hearing and Consider and/or Act on **Application for a Drilling Permit for B JL Family LP.**

President McGuairt adjourned the hearing at 1:21 p.m.

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

Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

**PUBLIC HEARING ON A PRODUCTION PERMIT FOR
LEY and SAUV ENTERPRISES, INC.**

- I Call to order at 10:22 a.m. by President McGuairt.

Party representing application: Sinwang Ley

Public Comment: None.

Protestant to application: None

Application declared uncontested.

Ty Edwards, MPGCD General Manager, presented the application. Ley and Sauv Enterprises Inc has made application for a Production Permit for 1 well located at 4070 West I-10 on 1.52 acres in Survey T&STL RR CO Block 146 Section 28 of Lots 1, 2, 3, Block 4, Hillside Addition to the City of Fort Stockton, in Pecos County, Texas. The purpose of this well is for a RV Park with 30 sites requesting Irrigation (1 ac/ft) and Public Supply (2 ac/ft) Use for a total of 3 acre-feet/year from the Edwards Trinity Aquifer. This is figured at 60 gallons per site per day. A "Non-Potable" sign will be put up to let the public know the water is not approved for public consumption to drink. Mr. Ley plans on planting about 30 pine trees. The application is administratively complete.

II Adjourn Hearing and Consider and/or Act on **Application for a Production Permit for Ley and Sauv Enterprises, Inc.**

President McGuairt adjourned the hearing at 10:30 a.m.

Alvaro Mandujano, Jr. made a motion to approve the application as presented. Motion seconded by Janet Groth. Motion carried.

Vote: 6 For. 1 Oppose. 4 Absent.

REGULAR BOARD MEETING – CONTINUED

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

Janet Groth made a motion to approve the Accounts Payable and Treasurer's Report for the Month Ending June 30, 2018. Motion seconded by John Dorris. Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

V Consider and review **2018-2019 draft budget.**

A draft Budget Worksheet and a blank General Manager's evaluation form were handed out to the Board for them to consider. No action taken.

- VI Consider and/or act upon **Tax Abatement Policy and Guidelines**.
One change proposed to the tax abatement guidelines is to change the application fee from \$1,000 to \$5,000.

Second change proposed is to strike an item from the guidelines and that 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.*

The language referring to the “severability and restriction (b)” section relates only to the county and the city.

It takes 9 votes to make changes to the tax abatement guidelines, and only 7 Board Members are present today, so the item is tabled.

- VII Consider and/or act upon **Order of General Election for November 6, 2018**.

Ronnie Cooper made a motion to ORDER AN ELECTION to be held on NOVEMBER 6, 2018. The Pecos County Commissioners’ Court will meet on August 13th to set the EARLY VOTING locations, and thereafter the President of the Board (Mr. McGuairt) can sign the order and issue the ORDER OF ELECTION for Middle Pecos GCD. Motion seconded by M. R. Gonzalez. Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

- VIII Consider and/or act upon an **Engagement Letter with Smith & Rives, PC for the Audit for the Year Ending September 30, 2018**.

Alvaro Mandujano, Jr. made a motion to enter upon the engagement letter with Smith & Rives, PC to conduct the audit for the year ending September 30, 2018. Motion seconded by John Dorris. Motion Carried Unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

- IX Consider and/or act upon **Two Tax Deeds and Property Cards for Trust Property in the City of Fort Stockton (Parcel 17214 and Parcel 17340)**.

Parcel#17214 was sold for \$1,000 to the highest and best offer from Juan and Angelina Sanchez.

Parcel#17340 was sold for \$900 to the highest and best offer from Hillsboro Inlet, LLC.

Ronnie Cooper made a motion to acknowledge and accept the sales of the Trust Property Parcels #17214 and #17340. Motion seconded by John Dorris. Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

- X Consider and/or act on **Engagement** of Bickerstaff Heath Delgado Acosta to **represent the Board regarding Charlton Resources, LLC's** contested hearing.

John Dorris made a motion to approve the engagement of Bickerstaff Heath Delgado Acosta to represent the Board regarding Charlton Resources, LLC's contested hearing. Motion seconded by Janet Groth.

Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

Note: Mike Gershon will represent the General Manager in the hearing.

- XI Consider and/or act pursuant to District Rule 11.10.4(g)(1) to **set location of Charlton Resources, LLC contested hearings** to be conducted by the State Office of Administrative Hearings.

John Dorris made a motion to set location of Charlton Resources, LLC contested hearings to be conducted by the State Office of Administrative Hearings at the Pecos County Commissioners' Court Room. Seconded by Ronnie Cooper.

Motion carried unanimously. Vote: 7 For. -0- Oppose. 4 Absent.

- XII 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, Attorney for MPGCD: (Summary Update) Cockrell Investment Partners, L.P. filed their "Plaintiff's First Amended Petition" in the 112th Judicial District Court of Pecos County, TX on or about June 29, 2018. Fort Stockton Holdings L.P. (FSH) intends to intervene in the case, and once this happens Cockrell Investment Partners, L.P. (Cockrell) has the right to press forward with the relief that they have requested which is the opportunity to protest the FSH application and have a hearing on those applications. The parties will conduct discovery and take depositions once the intervention occurs.

With respect to the second half of the agenda item, the implementation of the settlement agreement, we have a draft set of proposed rules that will have further discussion and at some point set a hearing date, and take action.

Mr. Gershon recommended that the Board hold an Executive Session during the lunch hour regarding a briefing and the path forward.

Ryan Reed, Attorney for Cockrell Investment Partners, L.P.: (Summary)
The fundamental issue is Cockrell would like the MPGCD Board to implement a summer threshold which triggers a cutback on all non-H&E (Historical and Existing Use Permit) permits in the Proposed Management Zone 1. The cut-back would conserve and protect the water resource.

The Amended Petition was filed to make Cockrell's position even more clear. We feel we were never given the opportunity to participate in the settlement discussions in a reasonable manner. After the District denied FSH's 2011 production and transportation application on July 8, 2011 and the District Court upheld the District's denial – FSH and Republic Water Company of Texas, LLC entered into a groundwater lease agreement permitting Republic to seek a permit to produce the same groundwater on the same land from the same wells that were denied in the FSH application. Cockrell was granted party status in the Republic application process/hearings. On April 26, 2017 a Settlement Proposal among Republic, FSH, and MPGCD (District) was approved by MPGCD. Cockrell was prohibited from being a party to the settlement proceedings. Cockrell would like to 1) Have the Court to reverse the District's decision to deny Cockrell's request for party status; 2) Remand this matter to MPGCD for proceedings consistent with the Court's decision; and 3) Grant Cockrell such other and further relief to which it may be justly entitled.

Eddie McCarthy, Attorney for Fort Stockton Holdings, L.P: (Summary)
Mr. McCarthy reported that Fort Stockton Holdings, L.P. will intervene in the lawsuit very soon to support the District's action. Cockrell Investment Partners, L.P. had the opportunity to become a party to the Permit application at the beginning, and did not.

Mr. Ryan was in agreement to keep the lawsuit in its current state of abatement or near abatement until FSH intervenes, and once FSH intervenes the terms of discovery and entering deadlines would proceed.

No action taken at this time. An executive session has been announced for the lunch hour pursuant to 551.071 on this agenda item.

XIII Update on the **San Andres Limestone Well Plugging and Site Remediation Initiative**

The Texas Railroad Commission is working with us on San Andres water wells that we can prove were Oil & Gas permitted (permitted and drilled as Oil and Gas wells and when the Oil and Gas operations were finished, they were turned over to the land owner and converted to a water well). We are asking the Railroad Commission to treat these flowing wells as an environmental disaster and use state funds to plug the wells. This fund is not tax funds, it is comprised of fees generated from the Oil and Gas industry. The wells are now our biggest problem and Boehmer Lake is at the top of the list to plug. Boehmer Lake is a 25 to 30 acre pond with very high levels of Total Dissolved Solids (TDS) near Imperial Texas on Highway 1053. We have taken periodic water samples in the area that show the Pecos Valley Aquifer around 25,000 TDS. This one well could take millions of dollars to plug. We are anticipating getting started on the plugging of Boehmer Lake within the next year. Regarding Highway 1053 near Imperial, TX, the road is continuing to sag. TXDOT has no plans on re-entering that well. They may re-route the Highway eventually.

We have been working with Oil & Gas Operators over the years, and as a result Devon Energy has plugged 2 of the largest flowing wells plus 2 other wells.

MPGCD is seeking a grant from the Texas Commission on Environmental Quality (TCEQ). The total grant application is for \$498,259. MPGCD will match \$200,000 with In-Kind services that include our time and not actual dollars. The grant is for more research with our 3-D models in that small area, and to try and plug 2 or 3 of the lower flowing and highly TDS concentrated wells in the area. If the grant is approved, and we get on the list to plug – it could still take 3 to 5 years.

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

- Well Registrations: Current registrations total 3,117 Exempt wells. 920 Non-Exempt wells. We have received 2 new exempt well registrations.
- Drought Monitor Map: In packet. We currently have no drought conditions.
- Water Analysis: 30 analyses pulled this month.
- Production Permits: We are in talks with several RV parks to get them permitted. And a production permit for Black Mountain SWD is in the works.
- New monitor well: University Lands/Neill Woodward has a well that we ran a camera in, and we started using as a monitor well.
- Change of Ownership: Steve Hoelscher did a change of ownership to Chris Swinbank. Mr. Swinbank will be drilling replacement wells. Mr. Hoelscher had Historical and Existing Use permits for Irrigation Use, and Mr. Swinbank may want to retire those permits and request new production permits for Industrial Use.
- Diamondback E&P, LLC has submitted a “Notice of Intent to Drill” on the Griffin Estate. They intend to drill into the Capitan Aquifer, and Intera Geoscience and Engineering has been hired for the job. The area of drilling is north of Diamond Y Springs.

XV 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.
- Region F Regional Water Planning Group will meet on July 19th in Big Spring, TX.
- Groundwater Management Area 7: The desired future conditions explanatory report is administratively complete. The Texas Water Development Board will provide modeled available groundwater values for the GMA7 aquifers soon.
- Article “State Climatologist: Texas facing long, hot summer” Parts of West Texas have received rain in July, but then will return to dry conditions.

XVI **Directors' Comments.** None

An Executive Session was called at 11:53 a.m. by Presiding Officer Jerry McGuairt pursuant to the Texas Open Meetings Act, Sections 551.071 of the Texas Government Code, to consult with attorney regarding Agenda Item XII.

The meeting was recessed for lunch at 11:53 a.m.

The Executive Session adjourned at 12:53 p.m.

The regular session reconvened at 1:02 p.m. President McGuairt stated that no decisions or votes were made in executive session. No action taken in Open Session.

XVII Consider and/or act upon **agenda for next meeting.**
1 or 2 permits. Pump tests. Budget Workshop. Tax Abatement Guidelines.

XVIII **Adjourn** Board meeting.

John Dorris made a motion to adjourn the meeting. Seconded by Puja Boinpally. Motion carried unanimously. The meeting adjourned at 1:02 p.m.

M. R. Gonzalez, Secretary/Treasurer

Jerry McGuairt, President

Date Approved _____