

## MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

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### Directors

Jerry McGuairt, President Janet Groth, Vice President M. R. Gonzalez, Secretary/Treasurer  
John D. Dorris Alvaro Mandujano, Jr. Vanessa Cardwell Ronald Cooper  
Weldon Blackwelder Allan Childs Jeff Sims Puja Boinpally

### Employees

Ty Edwards, General Manager  
Office: Gail Reeves & Melissa Mills Field Technician: Anthony Bodnar

## **MINUTES OF REGULAR BOARD MEETING AND DRILLING PERMIT AND SHOW CAUSE HEARINGS**

On this the 16<sup>th</sup> of April, 2019, a Regular Board Meeting and Drilling Permit Hearing and Show Cause 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	Precinct 1, President
Janet Groth	Precinct 1, Vice President
M. R. Gonzalez	Prec. 2, Secretary/Treasurer
Puja Boinpally	Precinct 2 (Attendance: 10:58 am - 12:06 pm)
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton (Left at 1:30 p.m.)
Jeff Sims	City of Iraan
Allan Childs	At Large

Quorum Present.

Board members absent: John Dorris and Weldon Blackwelder

Others present: Ty Edwards, Mike Gershon, Gail Reeves, Melissa Mills, Anthony Bodnar, Paula McGuairt, Jeff Williams, Ed McCarthy II, Brock Thompson, Mike Thornhill, Ryan Reed, Geoff Pike, Kaveh Khorzad, Glenn Honaker, Oscar Hernandez, Tommy Ervin, Chris Mertz, Greg Perrin, Jeremy Gonzalez, David Coyer, Erin Atkinson, David Peters, Adam Foster, Claire Satterwhite, Johnny Loewen, John Wieler, and Aurora Sain/Fort Stockton Pioneer.

### **REGULAR BOARD MEETING**

- I Call to order regular Board meeting at 10:01 a.m. by President Jerry McGuairt.
- II Comments from **public and media**: Ty introduced the new reporter for the Fort Stockton Pioneer, Aurora Sain.

Agenda item taken up out of posted order.

VI Consider and/or act upon **Halff Associates, Inc. groundwater data presentation.**

Erin Atkinson and David Coyer with Halff Associates, Inc. presented their Groundwater Management System.

No action taken.

III Briefing on **Emergency Order Issued to Cockrell Investment Partners, L.P. and Belding Farms, LLC.**

On March 18, 2019, the Middle Pecos Groundwater Conservation District ("District") received a request for emergency action from Cockrell Investment Partners, L.P., dba Belding Farms, LLC ("Cockrell") related to a groundwater well, Belding Farms Well No. 25, MPGCD Registration No. 2005011506 ("Well 25"), belonging to Cockrell and completed in the Rustler Aquifer. Well 25 is critical to the irrigation operation on the Cockrell property and associated pecan orchard, furthermore, given the present timing in the agricultural season the collapse of Well 25 is extremely detrimental to Cockrell's pecan crop and without emergency action of the District could cause total loss of that crop and corresponding significant economic impact to Cockrell. Cockrell holds historic and existing use permits authorizing the withdrawal of groundwater from the Edwards-Trinity aquifer from eleven (11) wells. All eleven (11) wells are located on Cockrell's property within the Belding Farm and within the District's Management Zone 1. Cumulatively, these 11 wells are authorized to annually produce 5,880.42 acre-feet per year. The District can assist Cockrell by providing Cockrell with flexibility and legal authority to withdraw Edwards-Trinity groundwater from Well 25 as is necessary to irrigate their 425 acre pecan orchard. The order is authorized under Section 36.1011 of the Texas Water Code and the District's emergency rules to issue this order. Note that Well 25 is not one of the 11 wells in the historic and existing use permits.

The Order issued on March 26, 2019:

- (1) Cockrell is hereby authorized to aggregate production from Well 25 into Cockrell's existing Edwards-Trinity permits which authorize a total of 5,880.42 acre-feet, per year. Cockrell may not produce any additional amount of water exceeding that which is already authorized in their Edwards Trinity permits.
- (2) This order shall remain in effect for 75 days or until Cockrell has filed a drilling application with the District to recomplete Well 25 in the Edwards-Trinity, and subsequently Cockrell shall file an application to amend its Historic and Existing Use permits to include Well 25 pursuant to District Rule 11.1(b), whichever event is first in time.

Regular Meeting recessed at 10:35 a.m.

**PUBLIC HEARING ON A DRILLING PERMIT  
FOR COCKRELL INVESTMENT PARTNERS, LP**

I Call to order at 10:36 a.m. by President Jerry McGuairt.

Party representing application: Glenn Honaker, Kaveh Khorzad, Ryan Reed.

Protestant to application: None

Public Comment: None.

President McGuairt declared the application uncontested.

The following were sworn in to testify: Glenn Honaker/Manager at Belding Pecan Farms; Kaveh Khorzad/Hydrogeologist; Ty Edwards/General Manager MPGCD.

Manager Ty Edwards presented the application to the Board. The application requests a drilling permit to re-complete Well #25 (MPGCD# 2005011506) into an Edwards Trinity well. Well #25 is currently completed and authorized to produce groundwater from the Rustler Aquifer. Well #25 is located on 233.51 acres in Survey T&P RR CO Block 3 Section 100 Property ID #3467, approximately 1 mile West of FM 2037 and Old Alpine Hwy in Pecos County, Texas. Well #25 is proposed to be re-completed to 700-800 feet in depth into the Edwards Trinity Aquifer.

Well 25 is a Rustler Aquifer well that caved in. They want to plug the well back to the base of the Edwards-Trinity Aquifer, run casing into the hole and case to the Edwards-Trinity Aquifer, and complete the well into the Edwards-Trinity Aquifer. Once the well is complete, pump tests will be required to have an administratively complete application to amend their Historical and Existing Use Permit and amend it to an Edwards-Trinity Aquifer permit. They plan on returning to the Board within the 75 day window of the Emergency Order. Additional water is not being requested. The plan is to come back to the Board and request a Rustler Aquifer replacement well in a couple of years.

Kaveh Khorzad, Belding Farms Hydrogeologist, testified that the original plan was to re-work the Rustler well, but plans were scrapped because of missing casing and a large cavern around 730' down into the Edwards-Trinity Aquifer. Now, they would like to drill out the entire bore hole into the base and then set a tremie pipe and cement it up as much as possible. They would like to drill down to 700' to 800' to be below the cavern, and set a plug. Afterwards re-line it with casing and pressure cement down in place.

The well will be drilled by McKinley Drilling Company. There will be a video before drilling and after drilling. Regarding the cavern, the cavern is around 729' below surface, and over 5' in depth at this location.

II Adourn Hearing and Consider and/or Act on **Application for a Drilling Permit for Cockrell Investment Partners, LP.**

President Jerry McGuairt recessed the hearing at 10:46 a.m.

Vanessa Cardwell made a motion to approve the drilling permit, and require Cockrell Investment Partners, L.P. to notify the MPGCD General Manager before they set cement. Motion seconded by Alvaro Mandujano, Jr. Motion Carried unanimously. Vote: **8** For. **-0-** Opposed. **3** Absent.

**NOTE:** At 10:47 a.m. President Jerry McGuairt called to order both Show Cause Hearings on Alleged Violations of District's Rules, one by Duran Drilling and one by Drill Pro Water Well Drilling Company. The reason they were combined was because both violations occurred on the same piece of property that is owned by the same entity. **The wording of the agenda items are shown combined below.**

**SHOW CAUSE HEARING ON ALLEGED VIOLATION OF DISTRICT'S RULES BY DURAN DRILLING and DRILLPRO WATER WELL DRILLING COMPANY**

I Call to Order at 10:47 a.m. by President Jerry McGuairt.

Note: Puja Boinpally arrived at 10:58 a.m. and departed at 12:06 p.m.

II Show Cause Hearing on **alleged violations of District's Rules by Duran Drilling and by DrillPro Water Well Drilling Company.**

The following were sworn in for testimony: David Peters/Apprentice Driller for Duran Drilling. Johnny Loewen/Licensed Driller for Drill Pro Water Well Drilling Co. and John Wieler/ Apprentice Driller for DrillPro Water Well Drilling. Chris Mertz/Surface Landman for Jagged Peak Energy LLC. Ty Edwards/MPGCD General Manager.

Manager Ty Edwards: On 04-28-2017 Jagged Peak Energy, LLC (JPE) submitted 2 Notice of Intent to Drill forms from John Jagers who was the owner. Mr. Jagers has drilled several wells previously and was familiar with our rules. They drilled 2 wells in Section 14. They said it was on lease and provided a copy of the lease locations. We allowed them to drill the wells. When we went out to do the inspection and register the 2 wells – we actually found 4 wells drilled on the 2 sections. JPE was notified about the 2 extra wells, and in the process of registering the wells, we discovered that the wells were not on their oil and gas lease. This would require them to obtain production permits for the 4 wells.

Manager Ty Edwards testimony continued.

All four wells are dual completed in the Edwards-Trinity and the Pecos Valley aquifers, primarily pumping from the Edwards-Trinity. Jagged Peak Energy hired Ralph Lang and Associates to log the wells, and that is when it was discovered that all the well reports were wrong. Ralph Lang & Assoc. corrected the information for the well registrations.

On 03-19-2019 a production permit was approved for Jagged Peak Energy on the 4 wells that are the subject of today's Show Cause Hearing.

For the record:

Wedge Well #1: Drilled by Drill Pro Water Well Drilling. Notice of Intent submitted by John Jagers in April of 2017. Manager Edwards was told that the well was on lease, and he approved the well to be drilled. Well drilled May 2017. The well was drilled off lease and therefore required a Drilling Permit. The Drillers Report was sent to the JPE and to the State, but not to MPGCD. The information shown on the well report for lithology and well depths was incorrect. The well is dual completed in the Pecos Valley Alluvium and the Edwards Trinity Aquifers. Aquifer degradation unknown. Production Permit issued 03-19-2019.

Wedge Well #2: Drilled by Duran Drilling. Notice of Intent submitted by John Jagers. Manager Edwards was told that the well was on lease, and he approved the well to be drilled. Well drilled June 2017. The well was drilled off lease and therefore required a Drilling Permit. The Drillers Report was sent to the JPE and to the State, but not to MPGCD. The information shown on the well report for lithology and well depths was incorrect. The well is dual completed in the Pecos Valley Alluvium and the Edwards Trinity Aquifers. Aquifer degradation unknown. Production Permit issued 03-19-2019.

Wedge Well #3: Drilled by Drill Pro Water Well Drilling. No Notice of Intent to Drill ever submitted. Well drilled August 2018. The well was drilled off lease and therefore required a Drilling Permit. The Drillers Report was sent to the JPE and to the State, but not to MPGCD. The information shown on the well report for lithology and well depths was incorrect. The well is dual completed in the Pecos Valley Alluvium and the Edwards Trinity Aquifers. Aquifer degradation unknown. Production Permit issued 03-19-2019.

Wedge Well #4: Drilled by Drill Pro Water Well Drilling. No Notice of Intent to Drill ever submitted. Well drilled August 2018. The well was drilled off lease and therefore required a Drilling Permit. The Drillers Report was sent to the JPE and to the State, but not to MPGCD. The information shown on the well report for lithology and well depths was incorrect. The well is dual completed in the Pecos Valley Alluvium and the Edwards Trinity Aquifers. Aquifer degradation unknown. Production Permit issued 03-19-2019.

Adam Foster with Texas Department of Licensing and Regulation (TDLR)  
testimony: (Summarized)

On 04-15-2019 we did an on-site inspection of the four wells and did not find anything wrong with the surface completions of the wells. One of the wells did not have a correct GPS. Well drillers are required to submit a correct well report. I have not compared the well report that was submitted to the information that Ralph Lang and Associates found.

The TDLR rule about dual completions says that if the water quality in the two zones or aquifers differ, then there cannot be any mixing in the subsurface whether it is within the casing, or the gravel pack if it is an open bore completion. This TDLR rule came into effect in 1983, so any wells drilled prior to this and are in good working condition would be exempt from this rule. However action can be taken if it can be shown that those wells are a threat to groundwater.

Mr. Foster was asked if there had been any enforcement around the State when drillers violate the TDLR rules. He said there has been, and considered on a case by case basis. He explained that usually TDLR recommends that the well be drilled out, or depending on the construction of the well, a certain portion of the well could be plugged so that only one zone is producing water. It depends on how the well is constructed and what is behind the casing.

Duran Drilling/Testimony by David Peters, Apprentice Driller:

Drilled one well, Wedge #2. Water quality samples were not pulled as the well was drilled. Cuttings were collected as the well was drilled. Mr. Peters said that they had been working with Jagged Peak Energy through Erin Prince. Mr. Prince told them that the well was approved to be drilled. Once the well was finished, the Drillers Report was emailed to Erin Prince in June of 2017. Mr. Peters apologized for all that has happened. When asked if Duran Drilling has drilled other wells in Pecos County, he replied yes - one in Coynosa. When asked if they had dual completed other wells in Pecos County, and the answer was no. When asked why this well was dual completed, Mr. Peters explained that they are not geologists, and they look at the sands and clays and limestone, and did not know that there were two aquifers present. He was asked if he knew he drilled deeper than he was supposed to, and he said yes.

Drill Pro Water Well Drilling Co/Testimony by Johnny Loewen, Driller:

Drilled three wells, Wedge #1, Wedge #3, and Wedge #4. Water quality samples were not pulled as the well was drilled. Cuttings were collected as the well was drilled. Wedge 3 and 4 were e-logged before the wells were cased. He presented the well logs on all 3 wells. He said that they had also been working with Jagged Peak Energy through Erin Prince. Mr. Prince told them that the wells were approved to be drilled. Once the wells were finished, the Drillers Reports were emailed to Erin Prince. Mr. Loewen apologized for all that has happened. When asked if they had dual completed other wells in Pecos County, the answer was no. He was asked if he knew he drilled deeper than he was supposed to, and he said no.

Jagged Peak Energy, LLC/Chris Mertz testimony:

Testified that Erin Prince worked under John Jagers, the previous owner of Jagged Peak. Mr. Prince is no longer with the company. Some of the issues discussed today are pre-Erin Prince and was handled by John Jagers (Wedge 1 and Wedge 2).

Ed McCarthy on behalf of Jagged Peak Energy stated for the record (Summarized):

In rules 76.100 through 76.103 talks about completing wells or drilling wells and having them completed in a way that if there is a dual completion that would have a result of injurious water being comingling between aquifers. There is not a specific standard that describes the difference in water quality. The rule speaks in terms of water that would be injurious to vegetation, land, or water. The reason for citing the two TWDB rules is that shows that this is a naturally occurring event in this part of Pecos County. And so, Jagged Peak Energy LLC is not causing the water quality problem as best I can tell and have not violated the rules of TDLR.

The Jagged Peak Energy water wells are located in a transition zone where the Pecos Alluvium aquifer and the Edwards-Trinity aquifers begin to blend. It is difficult to separate the two aquifers until you get into the cuttings. What you are looking for is if these waters are comingling and is there in affect a pollution of one aquifer such that it is no longer usable for its beneficial purposes than it was or would be without the comingling. As cited in Report #317 and Report #360 both describe the hydraulic connectivity of these two aquifers as naturally occurring mixing of the aquifers.

Note: Puja Boinpally left the meeting at 12:06 p.m. and did not return after lunch. A quorum of 8 Board Members remain.

Jagged Peak Energy, LLC/Chris Mertz additional testimony:

Testimony regarding water quality:

Wedge 1: 2,400 parts per million Total Dissolved Solids (TDS)

Wedge 2: 1,629 parts per million TDS. Chlorides 965. H2S -0- ppm. ORP 245. ph 7.6. Salinity 0.1%.

Wedge 3: 1,669 ppm TDS. Chlorides 989. H2S -0- ppm. ORP 246. ph 7.6. Salinity 0.1%.

Recess meeting for lunch at 12:09 p.m. Reconvene at 1:16 p.m. with a quorum of 8 Board Members: McGuairt, Gonzalez, Groth, Mandujano, Caldwell, Cooper, Childs, and Sims. Absent: Blackwelder, Boinpally, and Dorris

MPGCD General Manager/Ty Edwards:

The monitor well that is to be drilled and dual-aquifer completed in the Pecos Valley and Edwards-Trinity aquifers along the western edge of JPE's property as part of the Special Permit Conditions to the permit granted on 03-19-2019 is running into problems. The water well driller is reluctant to drill the well anticipating that the State will say the well is comingling the aquifers as a dual-aquifer completed well and make them plug the well.

Adam Foster with TDLR:

In the event that the MPGCD does nothing today, TDLR may open up an investigation into the dual-completed water wells. TDLR authority is only over the water well drillers. Mr. Foster was asked if there was anything that TDLR would do over the next 30 – 60 days with respect to an investigation. He replied that they can look at reports, and try to find any information or any data on the water quality in that area.

M. R. Gonzalez made a motion to have the drillers plug off the Pecos Valley aquifer in lieu of fines on all 4 wells. The motion died for lack of a vote, due to the fact the hearing had not been adjourned.

MPGCD Board consensus: In addition to exploring the current alleged violations, explore the issue of aquifer degradation due to the four dual-completed water wells. Have the MPGCD Hydrogeologist at the Show Cause Hearing(s) in June. Leave the evidentiary hearing open on both of the Show Cause Hearings for Duran Drilling and for Drill Pro Water Well Drilling Company. Have an Agenda Item on 05-21-2019 to *Notify Jagged Peak Energy, LLC to appear before the Board in a Show Cause Hearing on June 18, 2019.*

Note: Vanessa Cardwell left the meeting at 1:30 p.m. A quorum of 7 remained.

At 1:32 p.m. President McGuairt announced that today's Show Cause Hearings would be continued on June 18, 2019 at 10:00 a.m. at the MPGCD office.

- III Consider and act on **alleged violations by Duran Drilling and by DrillPro Water Well Drilling Company**, and consider and act on appropriate penalty or other enforcement remedy to be imposed or pursued in court

No action taken. Hearing continued to June 18, 2019 at 10:00 a.m. at the MPGCD office.

- IV Adjourn. No action taken.



**REGULAR BOARD MEETING – CONTINUED**

The Regular Board meeting reconvened at 1:32 p.m.

- IV Consider and/or act upon **Minutes of Regular Meeting for March 19, 2019.**  
Alvaro Mandujano, Jr. made a motion to approve the minutes of March 19, 2019 as presented. Motion seconded by Janet Groth. Motion carried unanimously.  
Vote: 7 For. 0 Opposed. 4 Absent.
- V Consider and/or act upon **Accounts Payable, Treasurer’s Report and Line Item Transfers for the Month Ending March 31, 2019.**  
Janet Groth made a motion to approve the accounts payable and treasurer’s report (there were no line item transfers) for the month ending March 31, 2019. Motion seconded by M. R. Gonzalez. Motion carried unanimously.  
Vote: 7 For. 0 Opposed. 4 Absent.
- VI Consider and/or act upon **Half Associates, Inc. groundwater data presentation.**  
Agenda item taken up out of posted order – See page 2 of these minutes.
- VII **Texas Department of Licensing and Regulation (TDLR) Presentation regarding Water Well Drillers and Pump Installers Regulations and related discussion of District’s drilling rules and enforcement authority of TDLR and District.**

Adam Foster with Texas Department of Licensing and Regulation (TDLR) gave the presentation regarding water well drillers and pump installers regulation and related discussion of District’s drilling rules and enforcement authority of TDLR and the District. Chapter 76 of the Texas Administrative Code and Chapters 1901 and 1902 of the Texas Occupations Code.

General Overview of the following:

- Chapter 76.20, 76.21, 76.70, 76.71, 76.72, 76.73, 76.78, 76.100, 76.101, 76.104, 76.105
- Chapter 76.70 State Well Reports Within 60 days from the completion or cessation of drilling, deepening, or otherwise altering the well the driller must submit a legible and accurate State of Texas well report. 30 days for plugging reports.
- Chapter 76.71 Responsibilities of Licensee Reporting Injurious Water or Constituents. Complete the Injurious Water on Constituent Report and mail to local Groundwater Conservation District, and to the landowner or person having the well drilled, deepened, or altered. 24 Hour window to notify landowner, and 30 days to notify TDLR.

- Chapter 76.100 (c) (1) Commingling All wells shall be completed so that aquifers or zones containing waters that differ in chemical quality are not allowed to commingle in the casing, borehole annulus or the filter pack and cause quality degradation of any aquifer or zone. When aquifers or zones of lesser quality are overlying the production zone, the borehole annulus shall be pressure grouted with bentonite or cement from the top of the production zone back to the surface unless the formations make total grouting impossible or impractical. In this case the entire borehole annulus which is groutable shall be grouted and sealed including proper surface annular grouting and completion.
- TAC Chapter 1901.255 Abandoned and Deteriorated Water Wells: Effective September 1, 2003 Groundwater Conservation District (GCD) Enforcement Action Authority on Abandoned and/or Deteriorated Wells.

VIII Briefing and possible action regarding groundwater-related legislation filed in the **86<sup>th</sup> Legislative Session.**

Ty Edwards reported that there are 6 bills that the Texas Alliance of Groundwater Districts (TAGD) will oppose.

- 1) HB 2122 Relating to the regulation of production of retail public utility wells by GCD.
- 2) HB 2249 Relating to the regulation of production of wells for retail public utilities by a GCD.
- 3) HB 3998 Relating to the transfer of the administration of surface water rights permitting from the Texas Commission on Environmental Quality to the Texas Water Development Board and the regulation of groundwater.
- 4) SB 851 Relating to the award of attorney's fees and other costs in certain groundwater proceedings involving a GCD.
- 5) SB 1010 Relating to rules adopted by GCD's overlying a common aquifer.
- 6) SB 2027 Relating to the standard of judicial review for a suit involving a GCD.

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

Well Registrations: 25 exempt well registrations from Bob Hayter. Our total registrations are 3,176 and 942 of those are non-exempt registrations.

Production Permits: Cockrell Investment Partners, LP will seek an Amendment to their Historic & Existing Use Production Permit. Water Bridge will be Seeking a production permit for 4 wells.

Drilling Permits: Charleton Resources will reapply for a San Andres well in May. XTO Energy looking to drill a Non-Exempt Well.

Monitor Wells: Working on monitor well installations for Jagged Peak (Paid for Equipment), Hayter Ranch (Paid for Equipment), Junior Mandujano (Paid for Equipment). Jagged Peak monitor well is out for bids, 830' Well with steel casing and 8" hole. Crawford and Crawford has requested the same kind of monitoring equipment we use.

Drought Monitor: The drought monitor report submitted in Board Information.  
Water Analysis: Will start pulling analysis soon.

- X Consider and/or act upon **General Manager's Correspondence.**
- Rig Data Report: Pecos County has a rig count of 24 as of 04-12-2019.
  - There is a Texas Alliance of Groundwater Districts (TAGD) regular business meeting in Austin, TX, on June 4-5, 2019.
  - The Texas Attorney General, Ken Paxton, rendered an opinion (#KP-0247) regarding the term "agricultural crop". The Summary of the opinion is that a court would likely conclude that a groundwater conservation district does not have the authority to define "agricultural crop" as "food or fiber commodities grown for resale of commercial purposes that provide food, clothing, or animal feed" to the extent that it excludes other products that constitute an agricultural crop under section 36.001 of the Water Code.
  - TAGD Texas Groundwater Summit is scheduled for August 20-22, 2019.

- XI **Directors' Comments.**  
Alvaro Mandujano, Jr.: After watching the Fort Stockton City Council meeting on the Fort Stockton Pioneer web-site, there is a need to let the Council and public know that MPGCD cannot change rules quickly. We have hearings before passing any rule or rule changes.

- XII Consider and/or act upon **agenda for next meeting.**  
Action item regarding a Show Cause Hearing for Jagged Peak Energy; Possible hearing on an amendment to Cockrell Investment Partners, LP Historic and Existing Use permit(s); Possible hearing for a drilling permit for XTO.

- XIII **Adjourn** Board meeting.

M. R. Gonzalez made a motion to adjourn the meeting. Seconded by Janet Groth. Motion carried unanimously. The meeting adjourned at 2:41 p.m.

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M. R. Gonzalez, Secretary/Treasurer

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Jerry McGuairt, President

Date Approved \_\_\_\_\_

Minutes prepared by Melissa Mills