

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 PERMIT HEARINGS

May 21, 2019

405 North Spring Drive, Fort Stockton, Texas

On this the 21st of May, 2019, a Regular Board Meeting and Permit 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
Puja Boinpally	Precinct 2
John Dorris	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan
Allan Childs	At Large

Quorum Present.

Board members absent: Weldon Blackwelder, Janet Groth, and M. R. Gonzalez

Others present: Ty Edwards, Mike Gershon, Allan Standen, Vince Clause, Gail Reeves, Melissa Mills, Anthony Bodnar, Paula McGuairt, Ed McCarthy II, Brock Thompson, Geoff Pike, Glenn Honaker, Buck Benson, Tommy Ervin, Chris Mertz, Michelle Twele, Todd Suter, Schuyler Wight, David Peters, John Wieler, James Graham, J. C. Garcia, Billy Spence, James Cravens, Luke Bross, Robert Peropat, Bill Haley, Sara Hooverstol, John Briest, and Aurora Sain/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 made.

Regular Meeting recessed at 10:01 a.m.

**PUBLIC HEARING ON A DRILLING PERMIT
FOR SUTER FARMS, LLC**

I Call to order at 10:01 a.m. the Public Hearing on Application for a Drilling Permit for Suter Farms, LLC.

Party representing application: Todd Suter

Protestant to application: None

Public Comment: None.

President McGuairt declared the application uncontested.

Manager Ty Edwards presented the application to the Board. The application requests a Drilling Permit for 2 wells located on 632.26 acres in Survey T&P RR CO Block 3 Section 200 on Property ID #3621, approximately 15 miles Southwest of Fort Stockton on Old Alpine Highway in Pecos County, Texas. The wells are projected to be 400-500 feet in depth and drilled into the Edwards Trinity Aquifer. The purpose of these wells is for Livestock and Irrigation use. The well is outside of Management Zone 1. The application is complete.

II Adjourn Hearing and Consider and/or Act on Application for a Drilling Permit for Suter Farms, LLC.

President Jerry McGuairt recessed the hearing at 10:09 a.m.

Vanessa Cardwell made a motion to approve the drilling permit as presented. Motion seconded by John Dorris. Motion carried unanimously.

**PUBLIC HEARING ON A DRILLING PERMIT
FOR XTO ENERGY, INC.**

I Call to order at 10:10 a.m. the Public Hearing on Application for a Drilling Permit for XTO Energy, Inc.

Party representing application: James Graham

Protestant to application: None

Public Comment: None.

President McGuairt declared the application uncontested.

Manager Ty Edwards presented the application to the Board. The application requests a Drilling Permit for XTO Energy Inc., an Exxon Mobil Subsidiary, for 1 well located on 29.988 acres (Property Id# 45803) in Survey T&P RR CO Block 48 T/S 8 Section 10, approximately 2 miles West of FM 1776 on Weatherby Road in Pecos County, Texas. The well is projected to be 600-750 feet in depth and drilled into the Pecos Valley Aquifer. The purpose of this well will be Public Supply. The small well is for an office building which includes 40 to 60 people. This requires a Texas Commission on Environmental Quality permit, and pump tests. Once the pump tests are completed – XTO Energy will come back to us for a production permit.

James Graham with XTO noted that Associated Well Service, Inc. would be drilling the well, and that Collier Consulting would be conducting the pump tests.

II Adjourn Hearing and Consider and/or Act on Application for a Drilling Permit for XTO Energy, Inc.

President Jerry McGuairt recessed the hearing at 10:09 a.m.

Ronnie Cooper made a motion to approve the drilling permit as presented. Motion seconded by Jeff Sims. Motion carried unanimously.

The Regular Meeting was called back to order at 10:16 a.m.

REGULAR BOARD MEETING – CONTINUED

III Consider and/or act upon Correction to the Motion regarding the Minutes of Regular Meeting for March 19, 2019.

Background: The minutes of 03-19-2019 did not show the full motion, and passage of the motion for agenda item IV: (As shown below)

IV Consider and/or act upon Accounts Payable, Treasurer's Report and Line Item Transfers for the Month Ending February 28, 2019.

Alvaro Mandujano, Jr., made a motion to approve the accounts payable and treasurer's report (there were no line item transfers) for the month ending February 28, 2019.

The corrections to the motion are shown in bold red:

Alvaro Mandujano, Jr., made a motion to approve the accounts payable and treasurer's report (there were no line item transfers) for the month ending February 28, 2019. **The motion was seconded by John Dorris. Motion carried unanimously.**

Vanessa Cardwell made a motion to correct the minutes of 02-28-2019 as presented. Motion seconded by Ronnie Cooper. Motion carried unanimously.

IV Consider and/or act upon the Minutes of Regular Meeting for April 16, 2019.

Vanessa Cardwell made a motion to approve the minutes of April 16, 2019 as presented. Motion seconded by Ronnie Cooper. Motion carried unanimously.

V Consider and/or act upon Accounts Payable, Treasurer's Report and Line Item Transfers for the Month Ending April 30, 2019.

Ronnie Cooper made a motion to approve the accounts payable and treasurer's report (there were no line item transfers) for the month ending April 30, 2019. Motion seconded by Puja Boinpally. Motion carried unanimously.

VI Consider and/or act upon settlement agreement between MPGCD, Jagged Peak Energy, LLC, Duran Drilling and/or DrillPro Water Well Drilling Company resolving outstanding matters concerning alleged violations of regulatory requirements for drilling, well completion, permitting and submission of accurate well logs and reports associated with water wells drilled on Survey EV SWEATT Block OW Section 14 (112 acres) and Survey F.M. Hoffman Block OW Section 16 (46.2 acres)(reference location in Item VII below).

General Manager Ty Edwards reported that as the Board had requested, MPGCD Hydrologist Allan Standen to research the water quality to determine if water quality degradation is occurring in the area due to the Wedge wells being dual completed in the Pecos Valley and Edwards-Trinity aquifers.

Allan Standen along with Vince Clause took the floor and presented their report dated 5/21/2019.

Purpose: The Evaluation of the Impact of the Commingling between the Underlying Edwards-Trinity Plateau Aquifer (ETP) with the Overlying Pecos Valley Aquifer (PV) in Wells Drilled in Management Zone 3, Pecos County, Texas in consideration of Texas Department of Licensing and Regulation (TDLR) Rules.

This review supports the following conclusions:

1. PV Aquifer water quality becomes more brackish towards the Pecos River (Figure 1 in the report).
2. PV Aquifer generally has poorer water quality than underlying ETP Aquifer (Figure 4 in the report).
3. The PVA water quality generally becomes poorer with depth (Figure 4).
4. ETP Aquifer water quality becomes more brackish towards the Pecos River (Figure 2 in the report).
5. The downward migration and mixing of slightly more brackish groundwater of the PV Aquifer is offset by the higher artesian head of the underlying ETP Aquifer.
6. The commingling of PVA and ETP in dual-completed wells is not detrimental to local groundwater management.
7. The PVA and ETP commingling in dual-completed wells in Management Zone 3 does not cause quality degradation of either aquifer.

Ty Edwards: Once Mr. Standen completed his report and determined that there was no water quality degradation, and work began on a settlement agreement. The agreement being presented basically shows that Jagged Peak Energy, LLC (JPE) is going to agree to pay \$25,000 which is supposed to go towards science for the Edwards Trinity or Pecos Valley aquifers. Also agreed is for the well drillers to look at our rules, and TDLR rules, and not violate the rules again. Once a settlement agreement is in place, JPE will have 5 days for MPGCD to receive the payment, and for the drillers to correct any of the outstanding paperwork and water well issues that we have. As agreed to last month, JPE will be drilling a monitor well and pay to equip the well with a transducer and telemetry equipment. TDLR has said they will investigate commingling of the aquifers in this location, and if an agreement is reached, MPGCD will be sending Mr. Standen's report to TDLR. Mr. Edwards recommended that the settlement agreement be approved by the MPGCD Board.

Alvaro Mandujano, Jr., made a motion to approve the settlement agreement.

Allan Childs voiced concerns about reaching a settlement before the TDLR completed their investigation since their findings should be considered in MPGCD's decision.

Mr. Edwards explained that TDLR will be receiving Allan Standen's report, and explain that we believe we are following the rules properly. The TDLR investigation could take 6 months to a year. If the TDLR investigation results in having the water well(s) plugged, then we should allow JPE to drill replacement wells into only one of the zones, and correct any production issued accordingly.

Vanessa Cardwell seconded the motion made by Mr. Mandujano. The motion passed unanimously. The vote: 8 FOR. -0- Oppose. 3 Absent.

Alvaro Mandujano, Jr., made a motion to allow Ty Edwards the authority to attest to the MPGCD signing of the settlement agreement due to the absence of M. R. Gonzalez. Motion seconded by Jeff Sims. The motion passed unanimously. The vote: 8 FOR. -0- Oppose. 3 Absent.

- VII Consider and possible action to order **Jagged Peak Energy, LLC** to appear before the Board at a show-cause hearing under Section 15 of the District's rules regarding alleged violations of District's rules governing drilling, well completion, permitting and submission of accurate well logs and reports associated with water wells located on Survey EV SWEATT Block OW Section 14 (112 acres) and Survey F.M. Hoffman Block OW Section 16 (46.2 acres) approximately four miles east of the intersection of FM 1776 and Mobil Road, and to direct the General Manager to issue the hearing notice for the date of our regular June Board meeting at 10:00.

This item dismissed due to the action taken in agenda item VI shown above.

- VIII Consider and/or act upon **protest of R360 Environmental Solutions, LLC's** request to the RRC to build a Solid Waste Disposal Facility in Northern Pecos County 2 miles south of the Pecos River on Hwy 18.

General Manager Ty Edwards gave the following brief background:

This is a solid waste disposal facility located 2 miles south of the Pecos River on Highway 18 on Schuyler Wight's property composed of a 300 acre lease. R360 Environmental Solutions (R360) filed their application for a Commercial Oil & Gas Waste Treatment & Disposal Facility with the Texas Rail Road Commission (RRC) in early 2017. MPGCD protested the application, and R360 withdrew their application. R360 re-filed their application and MPGCD protested it. Currently R360's application is administratively complete and is awaiting a hearing date to be set at the RRC. R360 has asked MPGCD to withdraw the protest, and is the reason they are here today.

One of the main reasons that we protested it is the close proximity to the Pecos River and Santa Rosa Spring. The groundwater depth is around 35 feet in that area, and with the pits being 25 feet deep, there is very little separation.

Luke Bross with R360 presented a power point presentation to the Board. R360 is an oil and gas waste disposal recycling company. They are a wholly owned subsidiary of Water Connections, Inc. and is the nation's largest E&P waste disposal company with over 40 facilities, and 22 land-fills. This facility is designed for 30-year lifespan, and will also depend on the industry and market.

As Oil and Gas companies drill a deep well to say 20,000 feet, they have drill cuttings, mud, fluids that they add, and drilling waste. This is trucked to us and we treat and dispose of it.

The leachate collection pond will have a duplicate in case one fills up. The leachate is siphoned off and trucked to a disposal well. There is a 50-acre-landfill with a berm around it. This cell is an engineered cell and is triple lined with a geo-synthetic liner. A 60 mil liner is on top of that, and then there is the leak detection system and a leachate collection system, and underneath that there is another 60 mil liner, and underneath that is another geo-synthetic liner.

The landfill area will serve as the treatment staging area, and where we will dry the waste before it goes into the landfill cell. This cell is roughly 10' or 15' deep. Once the cell is closed – it will be covered up, and then the cell will be expanded and operations will continue. We continuously haul off and keep our leachate levels low.

There is groundwater monitoring wells surrounding each one of our facilities to monitor the groundwater. Each well will be sampled quarterly for the following RRC required parameters: Benzene, Total Petroleum Hydrocarbons, Total Dissolved Solids, Chloride, Bromide, Sulfate, Nitrate, Carbonate, Calcium, Magnesium, Sodium, and Potassium. There will be a total of 7 monitor wells. One up gradient well, and six down gradient wells across the permitted unit. There were initially going to be 5 monitor wells, and 2 more monitor wells have been added at the request of MPGCD. Base line water quality analysis samples will be pulled once the wells are drilled, and then sampling will be done quarterly and only includes the facility parameter. All 7 monitor wells will be sampled quarterly, and the results are submitted to the RRC and to MPGCD. Sampling will continue for 5 years after the facility is closed.

Surface water that does not touch the waste is collected in surface water ponds. The rainfall and surface water that does come in contact with the waste collection is collected in the leachate ponds and is disposed down a well. Rainfall on the solid waste pits goes through a drainage system, then to a holding pit, and then gets hauled off continuously.

We do not plan on drilling any water wells. We plan to haul water in, and haul water off. We do not have plans on putting in an injection well on the site.

John Briest, a licensed professional engineer, explained that the RRC requires a design for a 24-Hour control for the “100 year flood event” which is 48” in 12 hours.

Leak detection methods: There are multiple layers in the system. There is a separation layer from the waste to what they call the leachate collection layer, and any leachate that would come off from the waste would drain into a sump, and then it is evacuated up for disposal. Underneath that there is a 60 mil polyethylene plastic liner, and under that is a leak detection layer which if that primary liner is leaking it would be detected. Once detected it is monitored on a weekly basis. Under the leak detection layer is another 60 mil liner for the secondary liner, and then underneath that would either be a geo-synthetic clay liner or in some instances a one foot compacted clay liner. Lastly there would be

a prepared subgrade. Everything is sloped towards the sump, so when the sump fills up you know there is a leak. The liquid is evacuated out to the disposal.

In response to Allan Standen, MPGCD Hydrogeologist, questioning if there is base line testing for water quality, Mr. Briest said that the groundwater testing is done when the monitor wells are initially drilled,

Ronnie Cooper, MPGCD Board member, asked about liner failures after the close of the facility and after the "5-year required testing" is complete. Mr. Briest explained that there is a 7.5 million dollar bond with the RRC. Mr. Cooper asked if that is good for a lifetime, and Luke Bross said 'Yes'.

Bobby Prophat with R360 said the facility is open 24 hours a day, 7 days a week. There is always someone on site and constantly checking things. He said that the EPA has a leak detection number, and it is calculated on the size noted in the application. Mr. McGuairt asked the protocol in the event a leak is detected and contamination results. Mr. Prophat said they would remediate immediately and could include digging out the pit and fixing the liner – in a worst case scenario. Then we would build a new cell, line it, and put that material in the new pit.

Allan Standen, MPGCD Hydrogeologist, suggested to measure recent water levels, and make sure the 34' is representative.

Ronnie Cooper, MPGCD Board Member, requested to see more testing on the water, and he believes it is more shallow than 35'.

Ty Edwards, MPGCD General Manager, requested that the "100-year-event" figures be updated to the newly released NOAA amounts of 6" to 7". Also, R360 has agreed to submit all the reports to the RRC and to MPGCD. And, have agreed to add two additional groundwater monitor wells and brings the total up to 7 wells. They have had to put in more liners, and put in more pipes in case the water levels come up, and that is all due to our protest. He recommended that the Board withdraw the protest.

Puja Boinpally made a motion to withdraw the protest of R360 Environmental Solutions, LLC. Motion seconded by Vanessa Cardwell. Motion Carried.
The vote: 7 FOR. 1 Oppose. 3 Absent.

As a matter of record: R360 Environmental Solutions, LLC, presented 2 original letters to be signed in order for MPGCD to formally withdraw the protest. The letters were both signed by Ty Edwards. MPGCD will keep one original, and R360 Environmental Solutions, LLC will send the 2nd original to The Texas Rail Road Commission to Ms. Humberson.

IX Consider and/or act upon an Engagement Letter with Smith & Rives, PC for the Audit for the Year Ending September 30, 2019.

John Dorris made a motion to approve the engagement letter with Smith & Rives, P.C. for the audit for the year ending September 30, 2019. Motion seconded by Ronnie Cooper. Motion carried. Note: Allan Childs stepped out of the meeting. Vote: 7 FOR. -0- Oppose. 4 Absent.

X Briefing and possible action regarding groundwater-related legislation filed in the 86th Legislative Session.

Ty Edwards presented the Board with a legislative update. He said that most of the bills that we were concerned about are dead as a stand-alone bill.

- * HB 722 the Brackish Groundwater bill, it will be acted on by the full Senate before midnight on May 22.
- * HB 720 the Aquifer Storage and Recovery and Aquifer Recharge Studies bill is very likely to pass the Senate and be sent to Governor Abbott.
- * HB 1066 the Extensions of Groundwater Transfer Permits bill has been sent to Governor Abbott and he has until May 20 to make a decision.
- * SB 2 the Omnibus Property Tax Reform bill must be approved by the full House and Senate by midnight on Sunday, May 26.

Note: Allan Childs returned to the meeting

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

- * Well Registrations: 2 non-exempt well registrations since our last meeting. Our total registrations are 3,178 and 944 of those are non-exempt registrations.
- * Production Permits: None at this time.
- * Drilling Permits: None at this time.
- * Monitor Wells: We will be installing transducers and telemetry equipment at Hayter Ranch, Alvaro Mandujano, Jr., and Jagged Peak Energy, LLC.
- * Water Quality: Will begin pulling quarterly samples in June.
- * Drought Monitor: The drought monitor report submitted in Board Information.

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

- * The 2019 Estimated Taxable Property Values have been released by the Pecos County Appraisal District. The values show an increase of possibly \$100,000.
- * There will be a TAGD meeting on June 4 – 5, and a draft agenda is attached.

- * RigData report for 05-17-2019 shows the Pecos County rig count at 26. 24 of the rigs are in the Coyanosa area.
- * Groundwater Summit: The Summit will be held in San Antonio, TX, on August 20-22, 2019. Pecos County Judge Joe Schuster will be on a panel at the Groundwater Summit.

XIII Directors' Comments and consider and/or act upon agenda for next meeting.

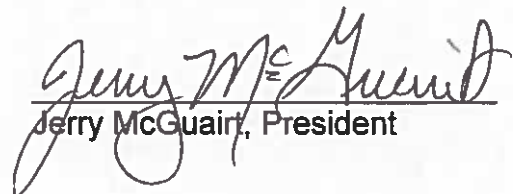
- * Possible drilling permit hearings.
- * Dr. Bill Hutchison will be here to present the Cockrell Investment Partner's model review.
- * The Board will consider whether or not Dr. Bill Hutchison will be hired to move forward with the model for Desired Future Conditions and for permitting.
- * Alvaro Mandujano, Jr., asked about the emergency permit status that was granted to Cockrell Investment Partners last month. Ty Edwards reported that they have drillers scheduled for the first week of June.

XIV Adjourn Board meeting.

John Dorris made a motion to adjourn the meeting. Seconded by Jeff Sims. Motion carried unanimously. The meeting adjourned at 11:50 a.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuair, President

Date Approved 06-18-2019

Regular Meeting: 05-21-2019

- III Consider and/or act upon **Correction to the Motion regarding the Minutes of Regular Meeting for March 19, 2019.**

Background:

The minutes of 03-19-2019 did not show the full motion, and passage of the motion for agenda item IV:

- IV Consider and/or act upon **Accounts Payable, Treasurer's Report and Line Item Transfers for the Month Ending February 28, 2019.**
Alvaro Mandujano, Jr., made a motion to approve the accounts payable and treasurer's report (there were no line item transfers) for the month ending February 28, 2019.

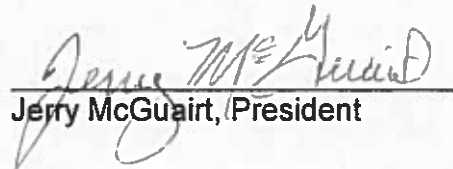
On 05-21-2019 Vanessa Cardwell made a motion to correct the minutes dated 03-19-2019 for agenda item IV. The corrected motion is:

Alvaro Mandujano, Jr., made a motion to approve the accounts payable and treasurer's report (there were no line item transfers) for the month ending February 28, 2019. **The motion was seconded by John Dorris. Motion carried unanimously.**

Today's motion seconded by Ronnie Cooper . Vote: Carried Unanimously.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuair, President

Date Approved 5-21-19

This amendment will be attached to:

- 1) Treasurers' Report for the Month Ending February 28, 2019.
- 2) Minutes of 03-19-2019.

Submitted by Melissa Mills.