

MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

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Directors

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Alvaro Mandujano, Jr. Vanessa Cardwell Ronald Cooper
Weldon Blackwelder Allan Childs Jeff Sims Puja Boinpally Larry Drgac

Employees

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

**MINUTES OF THE REGULAR BOARD MEETING
AND PUBLIC HEARING ON PROPOSED DESIRED FUTURE CONDITIONS OF
RELEVANT AQUIFERS LOCATED WITHIN GROUNDWATER MANAGEMENT AREA 3
HELD BY VIDEOCONFERENCE AND TELECONFERENCE**

January 19, 2021

In accordance with Governor Abbott’s declaration of the COVID-19 public health threat and action to temporarily suspend certain provisions of the Texas Open Meetings Act, a quorum of the District’s Board of Directors held its regular Board meeting by videoconference and call-in. The public was invited to join this meeting by way of videoconference and toll-free call-in. Members of the public wishing to make public comment during the meeting were able to register by emailing mpgcd@mpgcd.org prior to 9:30 a.m. on January 19, 2021. A copy of the agenda packet was made available on the District’s website at the time of the meeting.

On this the 19th of January 2021, a Regular Board Meeting was held by the Middle Pecos Groundwater Conservation District with the following members present:

Jerry McGuairt	President, Precinct 1
Janet Groth	Vice President, Precinct 1
Puja Boinpally	Precinct 2
M. R. Gonzalez	Prec. 2, Sec./Treasurer
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan
Allan Childs	At Large

Quorum Present.

Members Absent: Larry Drgac and Ronnie Cooper.

District employees and consultants participating: Ty Edwards, Mike Gershon, Gail Reeves, Melissa Mills, Dr. Bill Hutchison, Allan Standen, Vince Clause, and Michelle Sutherland.

Others attending via Videoconference: Geoff Pike, Glenn Honaker, Ryan Reed, Ernie Cockrell, Buck Benson, Zachary Swick, Carlos Rubinstein, Ed McCarthy, Eddie McCarthy, Brock Thompson, Jeff Williams, Mike Thornhill, Mel Riggs, Mark Tisdale, Darrell Peckham, Gary Bryant, Gil Van Deventer, David Coyer, Jeff Aust, Ryan Smith, Daniel Lupton, and James Cravens.

REGULAR BOARD MEETING

- I Call to order regular Board meeting and roll call at 10:01 a.m. by President Jerry McGuairt.
- II Comments from **public and media**: No comments.

PUBLIC HEARING ON PROPOSED DESIRED FUTURE CONDITIONS OF RELEVANT AQUIFERS WITHIN THE DISTRICT IN GROUNDWATER MANAGEMENT AREA 3

- I Call to order at 10:05 a.m. by President Jerry McGuairt.
- II In accordance with Texas Water Code § 36.108, the District will receive public input at a hearing on the proposed desired future conditions (DFCs) of groundwater resources located within Pecos County and surrounding areas located within Groundwater Management Area (GMA) 3. The District's proposed DFCs for the next year 50-year regional planning cycle are:

Capitan Reef: average drawdown not to exceed an average of 4 feet in 2070 compared with 2006 aquifer levels.

Dockum: average drawdown not to exceed 52 feet in 2070 compared with 2012 aquifer levels.

Edwards-Trinity (Plateau) and Pecos Valley Alluvium: average drawdown not to exceed an average of 14 feet in 2070 compared with 2010 levels.

Rustler: average drawdown not to exceed 69 feet in 2070 compared with 2009 aquifer levels.

General Manager Ty Edwards explained that a 90-Day public comment period opened on October 28, 2020 to take comments on proposed Desired Future Conditions (DFCs) for aquifers located in the District, which were adopted by designated representatives of

Groundwater Management Area 3 districts at a Joint Planning meeting held on October 21, 2020 pursuant to Section 36.108 (d-2) of the Texas Water Code.

The aquifers for which proposed DFCs were adopted are: Capitan Reef Aquifer, Dockum Aquifer, Edwards-Trinity (Plateau) and Pecos Valley Alluvium Aquifer, and the Rustler Aquifer. Written comments on the proposed DFCs will be accepted at any time until 5:00 p.m. on Monday, January 25, 2021.

Dr. Bill Hutchison provided an overview of the Proposed Desired Future Conditions for Groundwater Management Area 3 (GMA 3). The information provided by Dr. Hutchison:

Four Explanatory Reports:

1. Capitan Reef Complex Aquifer – Draft – 01-07-2021.
2. Dockum Aquifer – Draft – 01-07-2021.
3. Edwards-Trinity (Plateau) and Pecos Valley – Draft – 01-07-2021.
4. Rustler Aquifer – Draft – 01-07-2021.

Documentation for Aquifers that are Non-Relevant for the purposes of GMA 3 Joint Planning (Igneous and Ogallala Aquifers) 01-08-2021.

San Solomon Springs section. This can be found in the Texas Water Development Board – Report 360 – Chapter 17: Origin of the Waters in the San Solomon Spring System, Trans-Pecos Texas. There are no DFCs for these springs. This is a GMA 3 Reeves County GCD issue.

Technical Memoranda:

1. TM 16-01 Edwards-Trinity (Plateau) and Pecos Valley. Final on 02-13-2017 and updated with TM 17-01.
2. TM 16-02 Rustler Aquifer. Final on 02-13-2017.
3. TM 16-05 Dockum Aquifer. Final on 02-13-2017.
4. TM 16-06 Capitan Reef. Final on 02-13-2017.
5. TM 17-01 Edwards-Trinity (Plateau) and Pecos Valley Update 12-14-2017

**Groundwater Management Area 3
Proposed Desired Future Conditions and Expected Modeled Available Groundwater**

Aquifer	County	Proposed Desired Future Condition Drawdown (ft)	Time Period for Drawdown	Expected Modeled Available Groundwater, 2020-2070 (AF/yr)	Technical Basis
Capitan Reef Complex	Pecos	4	2006 to 2070	4	Scenario 4, GMA 3 Tech Memo 16-06
	Ward	2		103	
	Winkler	2		274	
Dockum	Crane	0	2012 to 2070	94	Scenario 17, GMA 3 Tech Memo 16-05
	Loving	5		453	
	Pecos	5.2		6,142	
	Reeves	20		2,539	
	Ward	30		2,150	
	Winkler	22		6,000	
Edwards-Trinity (Plateau and Pecos Valley)	Crane	58	2010 to 2070	4,991	Scenario 11 Extended to 2010, GMA 3 Tech Memo 16-01
	Loving	5		2,982	
	Pecos	14		122,899	
	Reeves	8		185,744	
	Ward	63		19,976	
	Winkler	161		34,939	
	Loving	28		200	Scenario 1, GMA 3 Tech
	Pecos	69		3	

Comments from Gil Van Deventer (Licensed Professional Geoscientist) with Trident Environmental: Summarized comments on the proposed Desired Future Conditions for the Capitan Reef Complex Aquifer (CRCX) from his 7-page written comments: Objection to the Desired Future Conditions (DFC) proposed for the Capitan aquifer in Groundwater Management Area 3 (GMA 3) where it is confined, because the Proposed DFC drawdowns are inexplicably and excessively conservative for the large, and mis-understood aquifer. DFCs should not be adopted without first estimating what the modeled available groundwater (MAG) will be. The prohibitively high level of scientific uncertainties of the model need to be minimized to acceptable levels; and the simpler Aquifer Analysis approach done in 2010 is more suitable for an interim DFC. The model is only useful for aquifer-wide planning and evaluation of conceptual flow dynamics and not as a reliable tool for determining DFCs or MAGs. The CRCX Groundwater Availability Model is not yet reliable enough for use by groundwater conservation districts to adequately manage the CRCX as a resource because it has a prohibitively high level of scientific uncertainty, particularly if it relates to considering production permits and developing modeled available groundwater estimates. In Dr. Bill Hutchison's Technical Memo 16-06 (TM 16-06) he recommends that the DFC values should not be relied upon in the evaluation of any permit applications. Essentially, the simulations with the CRCX GAM have shown that the model cannot be considered reliable in the context of permit review. He also recommended an alternative tool should be developed as part of any permit application and/or review process.

DFCs should not be adopted without first estimating what the modeled available groundwater will be. The reason for this is to ensure that whatever the MAG is, that districts understand how that value relates to current and projected groundwater use and to any proposed groundwater supply projects.

Establishing the DFC, without the use of the CRCX GAM may be the better option until model uncertainties can be resolved. (Mr. Van Deventer submitted written and verbal comments.)

As for the DFCs in the Pecos Valley, Edwards-Trinity (Plateau), Dockum, and Rustler aquifers, the recently created Reeves County GCD should have precedence on establishing GMA 3 DFCs since they represent the largest political subdivision in GMA 3, and their comments should be thoroughly and competently developed.

Comments from Ryan Reed, attorney for Cockrell Investment Partners, L.P. (Cockrell): Summarized from the 5 pages of comments submitted on DFCs for GMA 3 and GMA 7: The following comments, observations and recommendations are relative to the DFCs for the Edwards-Trinity (Plateau) and Pecos Valley Alluvium. The District should provide a more extensive narrative and supporting documentation as to how the DFCs will protect a landowner's private property interest in groundwater in place – specifically addressing groundwater exports to locations outside of MPGCD and include quantitative justification in support of qualitative generalizations or conclusions. The socioeconomic impacts are of groundwater depletion rates that will result from the proposed DFC, which will very likely cause seasonal or more permanent impacts relative to groundwater availability to specific landowners in the District and should be quantified with greater specificity. Belding Farms opposed the creation of unmet water

needs, particularly those due to the export of groundwater outside the production area. Regarding environmental impacts which include impacts on spring flow and other interactions between groundwater and surface water, Belding Farms believes that the District should address with greater specificity how the DFCs will contribute to the preservation and restoration of Comanche Springs. We believe that depleted spring flows are a manifestation of groundwater uses that are not sustainable.

III Adjourn hearing. The Public hearing was adjourned at 10:33 a.m. by President McGuairt.

REGULAR BOARD MEETING – CONTINUED

The regular session resumed at 10:33 a.m.

III Consider and/or act regarding suggested revisions, if any, on proposed DFCs of groundwater resources located within Pecos County and surrounding areas located within GMA 3.

MPGCD attorney Mike Gershon advised that the Board could take action today to suggest DFC revisions to GMA 3, delegate authority to Directors, Ty, and/or Bill to do so, or give this some thought and consider whether to suggest DFC revisions at the February 16th Board meeting.

Ty Edwards announced that the next GMA 3 Desired Future Conditions meeting is scheduled for February 17th, which is the day after our Board Meeting. Reeves County GCD is not seeking changes in this round of DFCs meetings. They may seek changes in the next round in 2026.

No action required today. No action taken.

IV Consider and/or act to approve **Minutes of Regular Meeting on November 17, 2020.**

Janet Groth made a motion to approve the Minutes for the meeting of November 17, 2020 as presented. Motion seconded by Allan Childs.

Motion passed. Vote: 9 FOR. -0- Oppose 2 Absent 0 Abstain.

** NOTE: Agenda items V, VI, and VII were combined and approved with one motion.

V Consider and/or act upon **Treasurer's Report for the Month Ending October 31, 2020.**

VI Consider and/or act upon **Treasurer's Report for the Month Ending November 30, 2020.**

VII Consider and/or act upon Treasurer's Report for the Month Ending December 31, 2020.

All three financial reports were summarized by General Manager Ty Edwards. After discussion Alvaro Mandujano, Jr. made a motion to approve the Treasurer's Reports for the months ending October 31, 2020, and November 30, 2020, and December 31, 2020. Motion seconded by Jeff Sims. Motion passed.

Vote: 9 FOR. -0- Oppose 2 Absent 0 Abstain.

VIII Consider and/or act upon setting Mileage Rate for 2021 (56 cents per mile).

After a briefing about IRS's default rate of 56 cents per mile, M. R. Gonzalez made a motion to set the 2021 mileage rate at 56 cents per mile. The motion was seconded by Allan Childs. Motion passed.

Vote: 9 FOR. -0- Oppose 2 Absent 0 Abstain.

IX Consider and/or act upon Contract with Nature Conservancy (\$32,000) to update Pecos County 3D model around Diamond Y Spring area.

See attachment A for the description of the services to be performed.

The Nature Conservancy (TNC) has presented a contract for services to MPGCD for a detailed stratigraphic and fault analyses of the Diamond Y Springs study area to be carried out by Allan Standen. The work will enhance our understanding of aquifers and groundwater flow around Diamond Y Springs Preserve. The amount of the contract is for \$32,000 which is the total cost of the project.

MPGCD attorney Mike Gershon pointed out that the contract was written from the point of view of TNC, and if anything goes wrong the language in the contract only protects TNC. Mr. Gershon recommended that he would contact TNC's attorney and have language added to protect MPGCD as well.

Janet Groth made a motion to approve the contract once it is amended with the immunity/liability language, and to delegate authority to Ty Edwards to sign the contract. Motion seconded by Alvaro Mandujano, Jr. Motion passed.

Vote: 8 FOR. 1 Oppose 2 Absent 0 Abstain.

X Update on HALFF Data Management System.

Halff representatives David Coyer and Jeff Aust were on the Zoom video call and presented an update on the system.

David Coyer with Halff Data Management System gave an overview and update as to where the system is currently. We have imported the District's information and the well data, owner data, drillers, water levels, water quality, and production is in. The Hydro-API has yet to be completed. This is the transducers and the 11 threshold wells associated with Fort Stockton Holdings, L.P., that will give us a snapshot of daily water levels in the threshold wells as well as Comanche Springs.

XI Update on FSH-MPGCD Joint Study and Implementation.

The District has installed the transducers and direct read cable in the Threshold wells associated with FSH permit. We have received the Insitu view link and associated equipment and plan on installation in the coming weeks.

XII Update on MPGCD Groundwater Flow Model.

The District is currently working on Tech Memo 4,6, and 7. Once we have a draft report they will be added to the below Memoranda. The link to review the process of the model development is <https://drive.google.com/drive/folders/1nbz4nbnLe5Nbg2-HihvdjAzWDvh-LiCt?usp=sharing>

MPGCD Model - Technical Memoranda
12.01.2020 version 02

Tech Memo Number	Subject	Draft 1 Completion Date	Most Recent Draft and Completion Date	Notes	Number of Pre- or Post-Processor Programs	T.M. Pages
1	Overview of Technical Memoranda	11.30.2020	12.1.2020 (v2)	Updated text (USA Capitan model files), updated list of T.M.s	0	6
2	Model Grid	11.30.2020		Need reference for Allan Standen's geologic model	1	63
3	Grid Implementation (DISU)	12.1.2020			0	4
4	Existing Groundwater Pumping Data					
5	Groundwater Pumping (WEL)					
6	Recharge (WEL)					
7	Aquifer Parameters (NPF)					
8	Boundary Flows (GHB)					
9	Springs (DRN)					
10	Surface Water (RIV)					
11	Groundwater Evapotranspiration (EVT)					
12	Model Run Specifications (NAM, OC, TDS, IC, Belver)					
13	Model Calibration Datasets					
14	Model Calibration					
15	Groundwater Budgets					
16	Model Sensitivity					

XIII Briefing and take action as necessary on Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District and its Board President in

his official capacity, Fort Stockton Holdings, L.P. and Republic Water Company of Texas, L.P., Cause No. P-12176-112-CV (Pecos County District Court) and/or Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District and its General Manager in his official capacity, Fort Stockton Holdings, L.P., and the Cities of Abilene, Midland and San Angelo, Cause No. P-8277-83-CV (Pecos County District Court).

This agenda item was taken up after XIV

XIV Progress Reports: Well Registrations, Production Permits, Drilling Permits, Data Loggers, Drought Monitor Map, Water Quality Analysis and General Manager's Correspondence.

- Comanche Springs: On December 1, 2020 Ty Edwards, Anthony Bodnar, and Ruben Rameriz (PCWCID#1) spelunked into Comanche Springs and successfully changed the transducer equipment in the spring to record conductivity measurements along with temperature and pressure.
- Electric E-Line: The electric E-Line has been anchored into the back of the MPGCD field pickup. It can measure water levels to 1,000'.
- Water Well Camera: The water well camera is now installed in the MPGCD trailer, and we have trained with the company representative on how to use it. The camera can film wells 3,500' deep.
- Legislature: The WTRGA (West Texas Regional Groundwater Alliance) has prepared a 2021 Bill Priorities that include the following:
 - * House Bill (HB) 634: Publication of notices
 - * HB 666/HB 668/Senate Bill (SB) 152: Lawyers' fees language & Landowners notices
 - * HB 711/SB 126: Aboveground storage tanks
 - * HB 749/SB 234: Lobbying activities
 - * HB 768: Open Meetings audio and video for internet
 - * HB 966: Award of attorney fees and other costs language
 - * HB 1030: Notice publication via alternative media
- Legislative Report: The December 2020 Interim Report to the 87th Texas Legislature's House Committee on Natural Resources discusses Comanche Springs under the topic labeled Groundwater-Surface water interaction on page 61. On page 68 of the report under the title "Water Exports" the May 2020 contract with Fort Stockton Holdings and the 3 cities of Midland, Abilene, San Angelo is mentioned.
- Legislative: Interim report for Senate Committee on Water and Rural Affairs:
- **Interim Charge #3 (Groundwater Regulatory Framework)**
Recommendations summarized as follows:

There is still room for improvement in our groundwater regulations in the state. It is concerning that there are cases such as Mr. Yanta's which occur where a landowner obtains the best available science with no method to submit their findings to a GCD. Private property rights combined with sound

science is paramount to our success as a state, which means our residents must have a seat at the table.

The same applies to a private property owner's right to challenge a regulation they feel is impractical or burdensome on their water rights. Thanks to recent court cases, those who challenge a GCD can do so in federal court and avoid the attorney's fees tied to district courts. We should therefore revisit a loser pay system or adjust the current standards and, if not, eliminate the attorney's fee requirement.

Groundwater conservation districts (GCDs), the state, local jurisdictions, water users, and private property owners must continue the progress made over the last several years for transparency, collaboration, and the use of the best available science to manage the water resources of our state. Following the 86th Legislative Session, many GCDs worked to create a collaborative, transparent environment engaging local leaders, the public, and state officials. These efforts should continue as they have provided much needed clarity on the inner workings of rules, permits, and enforcement at the GCD level.

GCD's mission to balance competing interests over a finite resource is untenable at times. Water is the only resource a human requires to survive, but the survival at the expense of another is never good policy. All interests must be considered with the individual rights as to ownership as the basis for consideration.

The consideration of all basin user groups during DFC development is contrary to absolute property rights. The preservation of private property ownership must be paramount to any decision made by a GCD. In order to avoid costly litigation at the expense of the water rights owner, GCD's should always err on the side of private property ownership who have a right to turn their water into economic profit, and user groups have a right to contract for the resource. That said, in order to protect the basin of origin and keep the highest level of transparency, there should be consideration for notifications to the public and affected persons for transfers out of the basin. The basin of origin user groups should have the opportunity to purchase the rights in order to protect their interests. While an individual's private property rights include the right to pump permitted water under their property, transfer water to another user, and possibly outside the basin, the total impact on the basin should be considered. Specifically, the opportunity for the water right holder to convert water to financial gain should be part of the conversation within the basin of origin.

- RigData Report for 01-15-2021: Pecos County has 2 rigs in operation.
- Groundwater Management Area 7 Joint Planning Meeting is to be held January 21, 2021 in Sonora, TX. Agenda presented to the Board.

- Drought Map was provided in the Board Packet. Pecos County is in moderate drought with some severe drought. Comanche Springs is flowing 3 weeks later than last year.
- Well Registrations: Total Well Registrations are 3,295 as of 12-31-2020. Exempt 2,334 Non-Exempt 961.
- 09-30-2020 Audit: Smith & Rives, PC is currently working on our audit.
- Ironshore Specialty Insurance renewal: The insurance that covers administrative appeals expires on 02-05-2021 and it is time to renew.
- Texas Water Trade: The Texas Water Trade would like to partner with MPGCD to submit a grant application. The objective of this TWDB grant is to provide the required matching funds to Texas Water Trade's awarded U.S. Department of Agriculture Regional Conservation Partnership Program for irrigation efficiencies and crop switching in Management Zone 1. The purpose is to reduce groundwater pumping in Management Zone 1 as part of the restoration project to induce year-round flow at Comanche Springs. MPGCD staff will request Board authorization to request up to \$200,000 for the 2021 TWDB Ag Water Conservation Grant funding opportunity. Applications are due by February 10, 2021.
- Texas Farm Bureau: Pecos County resident Mr. Warren Cude is now a State Representative for District 6 on the Texas Farm Bureau Board of Directors. He was elected in December 2020.
- Upcoming Production Permits: Raymond Franco wants an irrigation well on his property. We have some wells in Bakersfield that have new ownership and will seek a production permit.
- Water Quality: 8 analysis taken this month.

XIII Briefing and take action as necessary on Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District and its Board President in his official capacity, Fort Stockton Holdings, L.P. and Republic Water Company of Texas, L.P., Cause No. P-12176-112-CV (Pecos County District Court) and/or Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District and its General Manager in his official capacity, Fort Stockton Holdings, L.P., and the Cities of Abilene, Midland and San Angelo, Cause No. P-8277-83-CV (Pecos County District Court).

An Executive Session was called at 11:50 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.

The Executive Session ended at 12:26 p.m. President McGuairt stated that no action or votes were taken in executive session.

The regular session reconvened at 1:01 p.m.

No discussion and no action on agenda item XIII.

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

Directors' Comments: Mr. McGuairt announced that General Manager Ty Edwards has been in the position for 4 years now and thanked him for his service and dedication to the District.

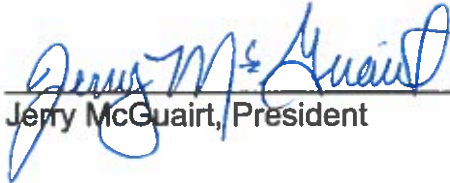
Next agenda: Possible audit presentation. Possible Production Permit hearings.

XVI **Adjourn** Board meeting.

Allan Childs made a motion to adjourn the meeting. Motion seconded by Janet Groth. Motion carried unanimously. The meeting adjourned at 1:04 p.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 2/16/21