

MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

P.O. Box 1644 Fort Stockton, TX 79735 Phone (432)336-0698 Fax (432)336-3407
405 North Spring Drive Fort Stockton, Texas 79735
Email: mpgcd@mpgcd.org Website: www.middlepecosgcd.org

Directors

Jerry McGuairt, President Janet Groth, Vice President M. R. Gonzalez, Secretary/Treasurer
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 Field Technician: Anthony Bodnar

MINUTES OF REGULAR BOARD MEETING

March 18, 2024

405 North Spring Drive, Fort Stockton, Texas

A quorum of the District's Board of Directors held its regular Board meeting in person with videoconference optional for the public and less than a quorum of the Board. 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 March 18, 2024.

On this the 18th of March 2024, a Regular Board Meeting were held by the Middle Pecos Groundwater Conservation District at the District's office at 405 North Spring Drive, Fort Stockton, Texas, with the following members present in person:

Jerry McGuairt	President, Precinct 1
Janet Groth	Precinct 1
M.R. Gonzalez	Precinct 2
Puja Boinpally	Precinct 2
Weldon Blackwelder	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Allan Childs	At Large
Vanessa Cardwell	City of Fort Stockton (Attended Via Zoom)

Quorum Present

Members Absent: Larry Drgac, Ronald Cooper, Jeff Sims

District employees and consultants participating: Ty Edwards, Gail Reeves, Bill Hutchison, Vince Clause, Anthony Bodnar, and Mike Gershon.

Others attending: Mel Riggs, Jeff Williams, Mark Tisdale, Paula McGuairt, Zach Swick, Buck Benson, Ryan Reed, Glenn Honaker, Ed McCarthy, Eddie McCarthy, Carlos Rubinstein, Andrew Quesada, Mike Thornhill, James Beach, Jason Hill, Kay Hardin, Jeremiah Bihl, Geoff Pike, Carl Craigo, James Cravens, Shane Kelton, Michael G. Rice, and Laura Raun.

REGULAR BOARD MEETING

I Board Meeting called to order at 10:00 a.m. by President Jerry McGuairt and roll call was taken.

II Comments from **public and media**:

Carl Craigo with the City of Midland gave public comment. Comments are attached as **Attachment A**.

III Consider and/or act to approve **Minutes of Regular Meeting on February 20, 2024**.

The draft Minutes were emailed to the Board prior to the meeting. Janet Groth made a motion to approve the Minutes for the meeting of February 20, 2024, as presented. Motion seconded by Puja Boinpally.

Motion passed. Vote: 8 FOR -0- Oppose 3 Absent 0 Abstain

IV Consider and/or act upon **Treasurer's Report for the Month Ending February 29, 2024**.

General Manager Ty Edwards presented the Treasurer's report to the Board. Janet Groth made a motion to approve the Treasurer's Report ending February 29, 2024, as presented. Motion seconded by Puja Boinpally.

Motion passed. Vote: 8 FOR -0- Oppose 3 Absent 0 Abstain

V Consider and/or act on **Petition to Adopt or Modify a District Rule by Cockrell Investment Partners, L.P.**

An executive session was called from 10:20 am to 10:47 am to consult with our attorney pursuant to Section 551.071 of the Texas Government Code on legal matters noted on agenda including pending lawsuits and next steps with legal procedure on pending petition for rulemaking.

General Manager Ty Edwards updated the board on the Petition the District received. Ryan Reed and Ed McCarthy requested to make a public comment.

Ryan Reed - Is happy to answer any question we have and doesn't want to rehash any issues.

Ed McCarthy -

EXPRESS PURPOSE OF MANAGEMENT ZONE 1 WATER-LEVEL THRESHOLDS

The MPGCD selected the current Management Zone 1 (MZ1) water-level thresholds for a network of 11 selected wells for the purpose of ensuring that aquifer water levels do not drop below the historical minima (i.e., deepest) values.

Because 90-plus percent of groundwater used in MZ1 is for irrigation, the MPGCD understood that the winter (*i.e.*, recovery) water levels represented the most stable and appropriate measure of aquifer conditions to meet the objective. In adopting the current thresholds, MPGCD also noted that summer water levels reflected cumulative drawdown directly related to the winter “static” water levels. Therefore, the winter thresholds are protective of the aquifer.

BASIS OF 2017 SELECTED THRESHOLDS – HISTORICAL DATA AND MPGCD VERIFICATION

In 2017, MPGCD based the selected thresholds on:

- the best available science including data from historical water-level measurements within MZ1;
- modeling verification utilizing a predictive tool in use by the District today; and
- Note: *Circa 2020* MPGCD received comprehensive historical data from Cockrell/Belding Farms for their wells. Analysis of those data clearly show that historic water levels within MZ1 were likely deeper than the water levels on which MPGCD established the thresholds in 2017. Therefore, the current water-level thresholds are more protective of the aquifer conditions than originally thought.

QUESTIONS RAISED BY COCKRELL/BELDING FARMS

Cockrell/Belding has continually raised the same questions about the aquifer conditions and the MZ1 thresholds without any regard for either the long-term historical data, or the more recent monitoring data. Cockrell’s claims include:

- Historical Pumping – Cockrell claims that historical pumping by FSH (and in the groundwater model in use by the District for permitting) is greatly overestimated. However, the current BEST AVAILABLE SCIENCE is a comprehensive review of remote sensing images that strongly indicate the historical pumping estimates are valid and consistent with observed historical water-level measurements. Cockrell has not offered any new data or facts to substantiate its claims. MPGCD adopted the current monitoring system as a means of continually auditing that data and providing a means of updating pumping/water-level correlations as better pumping estimates and additional water-level measurements become available.
- Harm to Aquifer Hydrology – Cockrell continuously conflates terms such as “recharge” and “recovery”. The local aquifer has demonstrably recharged in a consistent manner for thousands of years. Almost a century of documented observations confirm this fact. Water levels in MZ1 recover rapidly in the Edwards-Trinity (Plateau) Aquifer once pumping is reduced during the non-irrigation periods and prove that the aquifer is being managed in a sustainable fashion. If water levels remain above the historic minima MPGCD currently uses in its Rules, which are more conservative than necessary based upon the historic aquifer lows documented by the data Cockrell provided in 2020, there will be no harm to the Edwards-Trinity (Plateau) Aquifer. Again, Cockrell has not offered any new data or facts to substantiate its claim.

- Water-Quality Degradation – The vast majority of groundwater within MZ1 is brackish. Natural fluctuations can and do occur; however, as documented in other studies the brackish character of the Edwards-Trinity intensifies as the water travels beyond the Belding Area that comprises MZ1. Cockrell has not offered any new data or facts to substantiate its claims of water-quality degradation.
- “Year-Round Thresholds” – Cockrell contends that the summer (*i.e.*, maximum pumping period) water-level thresholds would add better protection of the aquifer. However, recent monitoring data show that summer water levels have a high correlation to the winter (*i.e.*, recovery) water levels. If the winter water levels are favorable, the summer levels will also be favorable due to the documented seasonal dynamics of the flow system. Even with some conversion of irrigation pumping to municipal pumping, the same holds true. Again, Cockrell has not offered any new data or facts to substantiate the claim.

MPGCD IS DOING THE WORK TO UNDERSTAND CONDITIONS – COMPREHENSIVE MONITORING

MPGCD has conducted comprehensive monitoring of MZ1 wells for almost a decade and continues to do so. As more data are collected, better correlations between pumping and water levels can be made. The monitoring program includes:

- Water-Level Monitoring – continuous monitoring of water levels in an extensive network of wells;
- Annual Pumpage Reports – requires and collects monitoring of pumping and submitted reports; and
- Water-Quality Monitoring – regular monitoring of selected wells for water-quality analyses.

RECOMMENDATIONS:

- Deny the Cockrell Rulemaking Petition;
- Do not allow Cockrell's recommendations to unnecessarily penalize “regular permit” pumpers;
- Keep in mind that Cockrell's recommendations **do not** apply to Cockrell's 5880 ac-ft Edwards-Trinity (Plateau) Aquifer wells;
- MPGCD should “Stay the Course,” and allow MPGCD’s staff and hydrogeologic team to complete their ongoing study targeted for completion in October 2024;
- Continue ongoing water-level monitoring, and possibly add more monitor wells;
- As applicable, incorporate technological advances in monitoring equipment;
- Encourage/facilitate installation of meters on all production wells within MZ1;
- Enhance telemetry within transducers/meters throughout MZ1 to facilitate more real-time reporting; and
- If circumstances change in the future, MPGCD’s monitoring well system will provide advance warning to the District to facilitate its ability to respond and adopt new rules and regulations as needed.

CONCLUSIONS:

Cockrell has not offered any new data or science to substantiate the need for new rules for MZ1. Cockrell's claims are based on speculative and anecdotal claims, not data and science. The claims seek to engage in an emotional response to unknowns and intangible fears that the District has already addressed with its comprehensive monitoring program and protective measures. The District's program and thresholds can be enhanced at any time if data and science indicate the need. Accordingly, Cockrell's proposed petition for rulemaking should be rejected.

Ryan Reed - Respectfully disagrees and believes the proposed rules are a starting spot to benefit the Middle Pecos and to make sure rules are in place to protect all groundwater users in the District as things change in the future.

Jr Mandujano makes a motion to deny the Petition submitted by Cockrell Investment Partners understanding that he would prepare a written statement for the Board to approve next month. Weldon Blackwelder seconded the motion. Discussion then Motion passed. Vote: 8 FOR -0- Oppose 3 Absent 0 Abstain

VI Update and Possible action on **San Andres efforts at RRC and TCEQ.**

A prehearing conference with the Railroad Commission was held on September 26, 2023, in accordance with Tex. Nat. Res. Code § 89.041 to Determine the Proper Plugging of Twelve Wells, Pecos County, Texas; District 08. The conference was continued to allow for more briefing and introduction of evidence regarding jurisdiction. A second prehearing conference was held on February 6, 2023, which required extensive argument, witness testimony, and examination and questioning by the Judge and accompanying Technical Examiner. Briefs have been filed and are awaiting a ruling by the Judge.

The District has met with TCEQ and discussed the new grant program to plug wells in Pecos County. Kelly Keel has been moved from interim to permanent Executive Director of TCEQ. We've been told by TCEQ that her appointment will help get the ball rolling with a number of their required rulemaking efforts, including their Well Plugging program. The District will continue to work with TCEQ and work through this program to help plug wells in Pecos County.

VII Update on **Fort Stockton Holdings, L.P. (FSH)-MPGCD Joint Study, Implementation and Threshold Water Level Update.**

The Board discussed the ongoing groundwater monitoring of the FSH threshold water levels. All wells are working and operating accordingly. A link to the FSH threshold water levels is available at <https://mpgcd.half.com/Dashboard>. Ty screen-shared and provided an overview of current data.

VIII Briefing and take action as necessary on following lawsuits:

- A. **Cockrell Investment Partners, L.P. v. MPGCD and its Board President in his official capacity, FSH and Republic Water Company of Texas, L.P.**, Case No. 23-0742 (Texas Supreme Court)(Cockrell I);

In Cockrell I, Cockrell timely filed its petition by review. The Court requested responses to the Petition for Review, which were timely and separately filed by the District and FSH on February 27th. The Court will determine whether to grant, dismiss, refuse, or deny the petition. If granted, the Court is expected to request briefing on the merits by all the parties.

- B. **Cockrell Investment Partners, L.P. v. MPGCD and its General Manager in his official capacity, and FSH**, Case No. 23-0593 (Texas Supreme Court)(Cockrell II);

In Cockrell II, the parties are on the same procedural timeline as in Cockrell I. Cockrell timely filed its petition by review. The Court requested responses to the Petition for Review, which were timely and separately filed by the District and FSH on February 27th. The Court will determine whether to grant, dismiss, refuse, or deny the petition. If granted, the Court is expected to request briefing on the merits by all the parties.

- C. **Cockrell Investment Partners, L.P. v. Ty Edwards, In His Capacity as General Manager, and FSH**, Case No. 08-23-00178-CV (El Paso Court of Appeals)(Cockrell III);

In Cockrell III, the District Court ruled in favor of FSH and MPGCD by granting their Pleas to the Jurisdiction. Cockrell appealed and timely filed its appellate briefs, then the District and FSH's appellate briefs were timely filed. On October 13th Cockrell filed a reply brief. Waiting for Court to advise whether there will be oral argument.

- D. **Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District**, Cause No. P-8626-83-CV (83rd District Court)(Cockrell IV); and

In Cockrell IV, the lawsuit was filed on August 17th and served on September 13th by agreement. The District's answer and counterclaim were timely filed October 9th. FSH has advised that it will intervene and file a plea to the jurisdiction.

- E. **Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District**, Cause No. P-13031-112-CV (112th District Court)(Cockrell V).

In Cockrell V, the lawsuit was filed on August 23rd and served on September 13th by agreement. The District's answer and counterclaim were timely filed October 9th. FSH has advised that it will intervene and file a plea to the jurisdiction.

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

- Crane County Well Blowout Information
- Tx Drought Map 03-14-2024
- 03-16-24 Rig Data Report 0 rigs in Pecos County
- 03-21-2024 GMA 7
- Longfellow Drilling Update
- Groundwater Summit

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

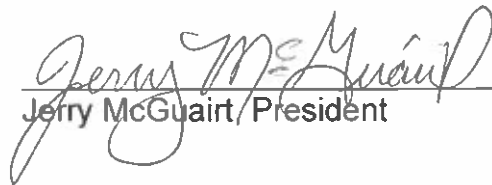
Next Board meeting is set for Tuesday, April 16, 2024.

XI Adjourn Board meeting.

Alvaro Mandujano, Jr made a motion to adjourn the meeting. Motion seconded by Allan Childs. Motion carried unanimously. The meeting was adjourned at 11:37 a.m.



M. R. Gonzalez, Secretary/Treasurer



Jerry McGuairt, President

Date Approved 4-18-24



Subject: City of Midland Statement on the Cockrell's ruling request

Date: March, 18, 2024

In our diligent pursuit of sustainable water management and responsible stewardship of the Edwards-Trinity Aquifer, the Cities of Midland, San Angelo, and Abilene have conducted thorough investigations into the aquifer's dynamics, water quality, and annual recharge capabilities. Our comprehensive analysis, corroborated by studies from FSH and the Middle Pecos Groundwater Conservation District, confirms the aquifer's ability to support sustainable water withdrawal under our permit conditions. This aligns with the scientific consensus upon which the permit conditions were established and affirms our confidence in the aquifer's long-term viability.

The conversion of water volumes under the FSH's Operating Permit to include export authority for municipal, industrial, or agricultural use does not impose an additional burden on the aquifer or other permit holders. It represents a reallocation of existing resources within the framework of responsible aquifer management, ensuring no net increase in permitted water volumes.

We recognize the complexity of groundwater management and the diverse needs of all aquifer stakeholders. As such, we are committed to acting as responsible, good neighbors, contributing to the collective effort to maintain aquifer health. Our actions and investments in this joint regional water project reflect a deep commitment to sustainable water use and aquifer preservation.

Concerns have been raised about proposed rule changes potentially targeting specific permits and driven by economic interests. However, any new rules or amendments to existing regulations must be grounded in science, equitable, and considerate of all users' rights and the aquifer's sustainability. We trust the District's governance to navigate these challenges thoughtfully, ensuring that any adjustments to the regulatory framework serve the broader goal of long-term aquifer health and resilience.

We urge a collaborative approach to rulemaking, one that prioritizes the aquifer's sustainability and supports equitable access to groundwater resources. Our collective future depends on our ability to manage this critical resource wisely, and we are committed to being part of a solution that benefits all.


Carl Craig, PE
Utilities Director
City of Midland

www.MidlandTexas.gov

Utilities • 300 N. Loraine, Midland TX 79701 • 432-685-7251