

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

April 16, 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 April 16, 2024.

On this the 16th of April 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
Ronald Cooper	Precinct 4
Allan Childs	At Large
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan

Quorum Present

Members Absent: Larry Drgac

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

Others attending: Mel Riggs, Mark Tisdale, Paula McGuairt, Glenn Honaker, Ed McCarthy, John Manning, Andrew Quesada, and Geoff Pike.

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:** No Comments

III Consider and/or act to approve **Minutes of Regular Meeting on March 18, 2024.**

The draft Minutes were emailed to the Board prior to the meeting. Alvaro Mandujano, Jr made a motion to approve the Minutes for the meeting of March 18, 2024, as presented. Motion seconded by Allan Childs.

Motion passed. Vote: 10 FOR -0- Oppose 1 Absent 0 Abstain

IV Consider and/or act upon **Treasurer's Report for the Month Ending March 31, 2024.**

General Manager Ty Edwards presented the Treasurer's report to the Board. Ronald Cooper made a motion to approve the Treasurer's Report ending March 31, 2024, as presented. Motion seconded by Weldon Blackwelder.

Motion passed. Vote: 10 FOR -0- Oppose 1 Absent 0 Abstain

V Consider and/or act upon **Explanation for Denial** of the Petition to Adopt or Modify a District Rule submitted by Cockrell Investment Partners, L.P.

General Manager Ty Edwards presented Explanation for Denial to the Board. Puja Boinpally made a motion to approve the Explanation for Denial as presented. Motion seconded by Vanessa Cardwell.

Motion passed. Vote: 10 FOR -0- Oppose 1 Absent 0 Abstain

Explanation for Denial is attached as Attachment A to the minutes.

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.halff.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. The case is pending the Court's advisory whether it will set it for submission and decision solely on the briefs, or 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 was timely filed October 9th. FSH has advised that it will intervene and file 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 was timely filed October 9th. FSH has advised that it will intervene and file 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.**


- Tx Drought Map 04-11-2024
- 04-13-24 Rig Data Report 1 rig in Pecos County
- Senate Interim Report
- Longfellow Drilling Update
- Groundwater Summit
- Cyber Security Training 2024

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

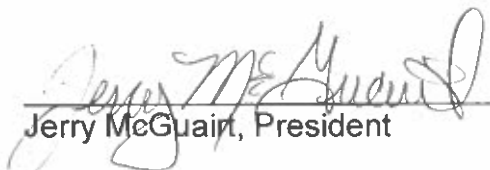
Next Board meeting is set for Tuesday, May 21, 2024.

XI **Adjourn** Board meeting.

Weldon Blackwelder made a motion to adjourn the meeting. Motion seconded by Jeff Sims. Motion carried unanimously. The meeting was adjourned at 10:41 a.m.



M. R. Gonzalez, Secretary/Treasurer
M.R. Gonzalez
Date Approved 5-21-24



Jerry McGuain, President

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EXPLANATION FOR DENIAL OF *PETITION TO ADOPT OR MODIFY* A DISTRICT RULE JOINTLY SUBMITTED BY COCKRELL INVESTMENT PARTNERS, LP AND ITS AFFILIATE BELDING FARMS

BACKGROUND

This statement was prepared at the direction of Director Alvaro Mandujano, Jr., who made a motion to deny the *Petition to Adopt or Modify a District Rule* that was submitted jointly by Cockrell Investment Partners, LP and its affiliate Belding Farms. Director Mandujano's motion was seconded by Director Weldon Blackwelder, and approved unanimously by all present Directors (8-0), with three Directors absent from the Board meeting. The motion was approved at the District's meeting held March 18, 2024, within 90 days of submission of the petition (submitted on December 19, 2023).

As part of his motion, Director Mandujano stated that he wanted this separate written statement to memorialize the reasons for denial of the petition and to serve as the explanation required by the applicable statute (Texas Water Code Section 36.1025(c)(1) and rule (District Rule 6.5(h)(2)), and consistent with District Board President Jerry McGuairt's suggested procedure.

EXPLANATION

Director Mandujano attended the hearing on the petition held February 20, 2024, and participated in the Board deliberation about the petition on February 20th and March 18th. The motion proposed denial of the petition after consideration of the petition, written public comments, public comments during the hearing, requested input from the District's professionals during and after the hearing, and Board discussion. Each subsection of the proposed rules (10.8(a)-(f)) is unnecessary standing alone, and together, because current rules adequately protect the aquifers and users of the aquifers in Management Zone 1. Specifically:

- our approach to metering and alternative measuring is sufficient
- a tremie pipe does not need to be installed in all new wells because we adequately measure water levels in other wells and can access many if not most wells that don't have tremie pipes
- additional transducers aren't needed because we've already identified wells to be measured with transducers and can add more if needed
- our water quality testing program is good, and the proposed testing of monitoring wells that don't have pumps doesn't make sense
- quarterly reporting does not enhance what rules already require and what rules already allow the GM to request from pumpers
- it's not necessary to impose the restrictions in the proposed subsection (f)—our General Manager is constantly reviewing data with our experts and briefing the Board, and current rules provide a process for accelerating review and restrictions if adverse effects are foreseeable