

MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

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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 Billy Jackson Jeff Sims Puja Boinpally Larry Drgac

Employees

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

**MINUTES OF REGULAR BOARD MEETING AND PUBLIC HEARINGS
May 20, 2025
405 North Spring Drive, Fort Stockton, Texas**

A quorum of the District’s Board of Directors held its regular Board meeting and Public Hearings 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 and hearings were able to register by emailing mpgcd@mpgcd.org prior to 9:30 a.m. on May 20, 2025.

On this the 20th of May 2025, a Regular Board Meeting and Hearings was 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
Puja Boinpally	Precinct 2
M.R. Gonzalez	Precinct 2
Weldon Blackwelder	Precinct 3
Larry Drgac	Precinct 3
Alvaro Mandujano Jr	Precinct 4
Billy Jackson	At Large
Vanessa Cardwell	City of Fort Stockton
Jeff Sims	City of Iraan

Quorum Present

Members Absent: Ronald Cooper

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

Others attending: Andrea Himmel, Paula McGuairt, Ryan Reed, Zach Swick, Ed McCarthy, Eddie McCarthy, Jeremiah Bihl, Ty Embrey, Geoff Pike, Glen Honaker, Mark Tisdale, Jeff Williams, Kirby Warnock, Josh Kercho, Mel Riggs, Steven Brite, Jake Bonnell, Adrian Dias, Margaret Campbell, and Chingiz Gadimov.

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**: Kirby Warnock made comments supporting the export fee increase and wanted the Board to consider water from East Texas as a solution for the water shortages in Texas.
- III Consider and/or act upon **Minutes of Regular Meeting on April 15, 2025**.

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 April 15, 2025, as presented. Motion seconded by Vanessa Cardwell.

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

- IV Consider and/or act upon **Treasurer's Report for the Month Ending April 30, 2025**.

General Manager Ty Edwards presented the Treasurer's report to the Board, Vanessa Cardwell made a motion to approve the Treasurer's Report ending April 30, 2025, as presented. Motion seconded by Puja Boinpally.

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

PUBLIC HEARING ON AMENDMENTS TO MANAGEMENT PLAN

- I Call to Order at 10:10 a.m. by President Jerry McGuairt.
- II Public hearing to receive public input on proposed Amendments to Management Plan.

Written Comments received by Fort Stockton Holdings, LP and Clayton Williams Farms, Inc. Comments are attached as Attachment A.
- III Adjourn. President Jerry McGuairt adjourned the hearing at 10:14 a.m.

PUBLIC HEARING ON ANNUAL STATUTORY INCREASE IN GROUNDWATER EXPORT FEES

- I Call to order at 10:14 a.m. the public hearing on annual statutory increase in export fees and a 3% increase effective in 2025 (21.22¢/1,000 gal).

General Manager Edwards went over the notice and addressed the reason for the export fee hearing today. The 88th Legislature in 2023 passed House Bill 3059, which became effective on September 1, 2023, and which amended Section 36.122 of the Texas Water Code to provide as follows:

1. an export fee may be imposed (a) by negotiating a fee with the exporter or (b) for a tax-based district such as the District, assessing a rate not to exceed 20 (twenty) cents (\$0.20) for each 1,000 (one thousand) gallons of water exported from the District;
2. effective January 1, 2024, the maximum allowable rate the District may impose for an export fee increases by three percent (3%) each calendar year;
3. a district governed by a special law in regard to an export fee on water exported from the district may charge an export fee in accordance with that special law or in accordance with § 36.122 (e) and (e-1); and
4. an export fee imposed under § 36.122(e) or an increase in an imposed export fee is not valid unless it is approved by the District's Board after a public hearing.

A separate banking account has been created to administer the export fees collected for a mitigation fund to ensure responsible management of local groundwater resources, this export fee increase will carry out the statutory purposes in Texas Water Code 36.207(b), which includes assessing and addressing impacts associated with groundwater development.

- II Adjourn hearing at 10:27 and consider and/or act on annual statutory increase in export fees and a 3% increase effective in 2025 (21.22¢/1,000 gal).

Janet Groth made a motion to approve the export fee increase as presented which increases the export fees to 21.22¢ per 1,000 gallons. Motion seconded by Vanessa Cardwell.

Motion passed. Vote: 9 FOR -1- Oppose 1 Absent 0 Abstain

Alvaro Mandujano Jr. voted against the motion.

REGULAR BOARD MEETING – CONTINUED at 10:28 a.m.

- V Consider and/or act upon **2025 Amendments to Management Plan.**

Dr. Bill Hutchison made the Board aware that the Management Plan is in a format that is consistent with the Texas Water Development Board's checklist to achieve administrative completeness. By adopting the Management Plan today, we will be on track to meet the deadline to have the Management Plan complete

and submitted to TWDB. Once approved we will send an email to “Surface Water Management Entities”.

Janet Groth made a motion to approve the 2025 Amendment to the Management Plan along with the Resolution and send it to Texas Water Development Board for their review and approval. Motion seconded by Puja Boinpally. Motion passed unanimously.

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

VI State legislative update (89th Legislative Session commencing January 14, 2025).

The District updated the Board on all relevant bills. The District is tracking all bills filed that affect GCD's, open government or elections. We will be providing testimony as necessary and are actively involved in the Legislative Committee through TAGD.

Ty Embrey joined the meeting and gave the Board a high-level overview of the status of the Capitol. The last day of session is June 2nd.

VII Update and possible action on Pecos County Groundwater Flow Model and Timeline on Tech Memos.

A new draft tech memo has been created for the model grid and in support of model development. That tech memo and all the tech memos have been and continue to be on the District's webpage with peer review and feedback encouraged. Belding Farms Data processed 5600 data points from 1957 to 2023. TWDB had over 47,000 water levels from 1940 to 2024. EcoKai transducer data from FSH joint study had over 500,000 data points for 2021-2024. LRE and the Halff data management system had 15,000 groundwater data points. While calibrating the database we realized all the data from numerous studies have not been added to the database. Several discrepancies were recognized on some of the Belding Farms' wells for elevations compared to the model grid. Belding Farms corrected the coordinates on the suspected wells and LRE updated the database.

We have finalized the existing groundwater pumping data, recharge, aquifer parameters, boundary flows, spring locations, and surface water. We have begun working on groundwater evapotranspiration, model run specifications, Model calibration datasets, model calibration, groundwater budget, and model sensitivity.

Dr. Hutchison updated the board on the Texas New Mexico legal battle that has been taking up much of his time. With that behind us the model should be finished by year end.

All tech memos associated with the model can be assessed at the following google link:

https://drive.google.com/drive/folders/1HYj8JRV4omAgKPJWBta-T20hZUbyaPS?usp=drive_link

VIII Update and possible action on **San Andres efforts at RRC and TCEQ, and MPGCD v. RRC and Commissioners**, Cause No. D-1-GN-24-005222 (200th District Court, Travis County) and second cause filed on October 11, 2024.

The Board was briefed on the regulatory hearing activity from last fall through this summer at the Railroad Commission, and ultimately the Commissioners' final action on our request that wells be added to RRC's plugging list and prioritized for plugging. The RRC denied all our requests, which is not a surprise. This procedure was required to exhaust administrative remedies before seeking a judicial opinion about RRC's jurisdiction and duty to plug. The next step was for the District to file an original petition for judicial review, declaratory relief, and mandamus relief in the Travis County District Court, which was accomplished on August 16, 2024. Because RRC undertook additional procedural steps, we were conservative to ensure that we exhausted administrative remedies and then filed a second original petition on October 11, 2024. The Railroad Commission has filed its Original Answer denying all allegations in the first lawsuit. District Judge Laurie Eiserloh with Travis County 455th District Court recently issued a notice asking for a briefing schedule.

The District has met with TCEQ's senior management and program staff and discussed the new grant program to plug wells in Pecos County. TCEQ held a Rulemaking hearing on January 29, 2025. The District attended the hearing and made comments. TCEQ held a workshop on 02-20-2025 to discuss and solicit feedback eligible and ineligible expenses and the definition of administrative costs, how the LWWGP will fund eligible projects and how TCEQ expects to apply the prioritization criteria that will be specified in the rule and what further refinements to the prioritization criteria might be included in the RFGA.

IX Update on **Fort Stockton Holdings, L.P. (FSH)-MPGCD Joint Study, Threshold Water Level Update and Drilling of New Rustler Monitor on Williams Farms**.

The Board and General Manager discussed the ongoing groundwater monitoring of the FSH threshold water levels. All wells are working and operating properly, and no wells are near any threshold water levels that would trigger cutbacks according to the FSH special permit conditions. A link to the FSH threshold water levels is available at <https://mpgcd.half.com/Dashboard>. General Manager Ty Edwards screen-shared and provided an overview of current data.

Williams Farms and Fort Stockton Holdings have approved the drilling of the Rustler Monitor Well. The seismic study was conducted the week of April 29- May

2, 2025. We are still awaiting the results of the study to adjust the location before we start construction.

X **Briefing and take action as necessary on withdrawal of its December 23 Petition for Inquiry and a restated petition for Inquiry filed at TCEQ by Cockrell Investment Partners, L.P on March 4, 2025.**

Legal Counsel Mike Gershon briefed the Board on the withdrawal of its December 23, 2024, petition and a restated petition of Inquiry filed at TCEQ by Cockrell Investment Partners, LP on March 4, 2025. Cockrell is an affected person as defined in Texas Water Code Section 36.3011 (as a local landowner and permit holder) and submitted its restated Petition for Inquiry pursuant to that statute and 30 Texas Administrative Code Section 293.23. It is Cockrell's position that the District has failed to adopt rules, the rules adopted by the District are not designed to achieve the desired future conditions and the groundwater in the management area of the District is not adequately protected by the rules it has adopted. Much of Cockrell's petition criticizes the Fort Stockton Holdings' permitting and settlement and is critical of the District's management and its approach to groundwater regulation.

TCEQ's Governor-appointed Commissioners will take up the restated petition on May 22, 2025, and allow oral argument by Cockrell, the District, TCEQ's Executive Director and Office of Public Interest Counsel, and other interested persons. We have received a lot of calls and other outreach because of how widely distributed the restated petition was, and because of TCEQ staff's report at the Texas Alliance of Groundwater Districts' quarterly business meeting. Comments in opposition to Cockrell's restated petition have been filed at TCEQ by City of Fort Stockton, Pecos County, PCWCID#1, Reeves County GCD, and jointly by all the districts in GMA 7 and separately GMA 3.

If the Commission grants the restated petition, a "review panel" is appointed by the Commission to hold hearings, investigate Cockrell's allegations, and file a report with the Commission with findings and a recommendation. The statutory remedies are to dissolve the District, dissolve the Board and call an election, appoint a receiver, or order the District to take certain corrective action regarding its rules.

XI **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 granted the petition to consider the appeal and take oral arguments, which have not yet been scheduled. We are waiting on the Court to schedule oral arguments.

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 Court took the same action as in Cockrell I.

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. On May 14th the Court set for submission without oral argument for June 4, 2024. Waiting for a decision from the Court, which abated the case awaiting the ruling from the Texas Supreme Court in Cockrell I and Cockrell II.

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 plea to the jurisdiction. Cockrell filed Plaintiff's First Amended Petition on August 5, 2024. Remains pending without further action.

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 plea to the jurisdiction. Cockrell filed Plaintiff's First Amended Petition on August 5, 2024. Remains pending without further action.

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

- 2025 Draft Appraised Values Pecos County
- 05-21-2025 GMA 3 Joint Planning Meeting
- Rig Data Report ending 05-19-2025 one rig in Pecos County
- Texas Drought Map for Pecos County 05-06-2025, 05-13-2025. Western Pecos County is in Extreme Drought decreasing as you go east with Severe Drought in the far eastern part of Pecos County.

- Water Use Reporting is ongoing for 2024 usage
- PCWCID#1 05-13-2025
- TPWMA Forecast 05-07-2025

XIII Consider and/or act to **accept the resignation of Jerry McGuairt**, Precinct 1 Director.

Jerry McGuairt announced he was moving to Dennison, TX and will no longer be living in his precinct. He thanks the board and was very happy with the time he served.

Vanessa Cardwell made a motion to accept Jerry McGuairt resignation. Motion seconded by Alvaro Mandujano, Jr.

Motion passed. Vote: 9 FOR -1- Oppose 1 Absent 0 Abstain

XIV Consider and/or act upon **Appointment of New Director for Precinct 1**.

Discussion was held on the boundaries of Precinct 1 and the legality of General Manager Ty Edwards being appointed as a director of Precinct 1. This seat would be up for election in November 2026. Weldon Blackwelder made a motion to appoint Ty Edward as Precinct 1 Director. Seconded by Larry Drgac.

Motion failed. Vote: 2 FOR -7- Oppose 1 Absent 1 Abstain

XV **Administer the Statement of Elected Officer and Oath of Office for Precinct 1 Director**.

No Action

XVI Consider and/or act upon **MPGCD Board Reorganization (Election of Officers)**.

Director Alvaro Mandujano Jr made a motion that Janet Groth run the next meeting as acting president and this item be tabled until next meeting. Seconded by Jeff Sims.

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

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

Next Board meeting is June 17, 2025.

XVIII **Adjourn** Board meeting.

Puja Boinpally made a motion to adjourn the meeting. Motion seconded by Vanessa Cardwell and the motion carried unanimously. The meeting was adjourned at 11:33 a.m.

M. R. Gonzalez
M. R. Gonzalez, Secretary/Treasurer

Date Approved 6/17/25

Jerry McGuairt
Jerry McGuairt, President
by
Janet Groth, V.P.

LAW OFFICES OF
McCARTHY & McCARTHY, L.L.P.

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May 19, 2025

Ty Edwards, General Manager
Middle Pecos Groundwater Conservation District
P.O. Box 1644
Fort Stockton, Texas 79735

via e-mail

Re: Proposed Middle Pecos Groundwater Conservation District Groundwater
Management Plan

Dear Mr. Edwards:

On behalf of our clients, Fort Stockton Holdings, LP (“FSH”) and Clayton Williams Farms, Inc. (“CWF”), we appreciate the District circulating the proposed Management Plan and inviting comments. On the whole, we believe the District is on the right path with its Management Plan and continued efforts to document activities designed to enhance the scientific data available to the District and its constituents to utilize the available aquifers on a long-term sustainable basis. In particular, FSH and CWF appreciate the District’s efforts with both the Joint Groundwater Study and the continued monitoring activities within Management Zone 1.

The District’s enhanced monitor well system in Management Zone 1, and its accessibility through the District’s website is a great resource. These monitoring efforts will be bolstered by the new Rustler well being added in Management Zone 1 to provide additional site-specific data regarding any interaction between the aquifers under the District’s jurisdiction. We look forward to continuing to work with the District in the years to come to further enhance the data available to all users.

We continue to support the District’s use of the conservative triggers that have been adopted based upon the historically available data and records provided both from state archives and local groundwater producers. Our one caution to the District with respect to the draft Management Plan is the multiple citations to the Meadows Center report on groundwater sustainability prepared by Dr. Robert Mace. The report contains recommendations that reflect the opinions and/or aspirations of Dr. Mace vis-à-vis groundwater management practices that do not coincide with and, in some instances conflict with current Texas law. The paper should be treated as the expression of public policy positions espoused by the author on behalf of the Meadows Foundations, which do not necessary reflect or protect the interests of private property owners.

Additionally, the paper reflects more of a survey paper than a report based upon actual field work and data collected in the manner the District is currently engaged in collecting through its extensive monitor well system in Management Zone 1. The District’s ongoing field work,

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including the recent commencement of the drilling of the new Rustler Well in Management Zone 1, will provide the District with data that will provide the best available science upon which analysis and conclusions can be made by the District. Dr. Mace's paper looks at "sustainability" through mile high lens that is more generic, and lacks the site specific field data the District seeks. As such, we hope there will be only limited references to that paper as a policy reference, and that the District continue to rely upon its ongoing data collection and field work in the adoption and implementation of its updated Management Plan.

During the last ten years the District has continued to collect both historic and current data. This information, particularly data which can be documented as occurring during continuing periods of drought provides the District with substantive resources that will allow it to update and refine its current groundwater model that is superior to the state's existing regional model – the GAM. With an updated model to be developed as part of the ongoing Joint Groundwater Study, the District will have a more refined tool to evaluate issues of sustainability best practices for management of the aquifers subject to its jurisdiction. We urge the District to stay its current course and continue its data collection efforts.

If you have any questions, please do not hesitate to contact me at 512-904-2313, or via e-mail at ed@ermlawfirm.com.

Sincerely,

MCCARTHY & MCCARTHY, LLP


Edmond R. McCarthy, Jr.

ERM/tn

cc: Mike Gershon, District Counsel
Fort Stockton Holdings LP
Clayton Williams Farms, Inc.