

# 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](mailto:mpgcd@mpgcd.org) Website: [www.middlepecosgcd.org](http://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 AND HEARING

December 19, 2023  
405 North Spring Drive, Fort Stockton, Texas

A quorum of the District's Board of Directors held its regular Board meeting and hearing 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 or workshop were able to register by emailing [mpgcd@mpgcd.org](mailto:mpgcd@mpgcd.org) prior to 9:30 a.m. on December 19, 2023.

On this the 19<sup>th</sup> of December 2023, a Regular Board Meeting and Hearing 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
M.R. Gonzalez	Precinct 2
Larry Drgac	Precinct 3
Alvaro Mandujano, Jr.	Precinct 4
Ronald Cooper	Precinct 4
Allan Childs	At Large
Jeff Sims	City of Iraan

Quorum Present

Members Absent: Janet Groth, Puja Boinpally, Vanessa Cardwell, and Weldon Blackwelder

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

Others attending: Rocky Rives, Paula McGuairt, James Kincaid, Glenn McCorkle, Kyle Kincaid, Thomas Kincaid, Dru Kincaid, Zach Swick, Buck Benson, Ryan Reed, Glenn Honaker, Geoff Pike, Ed McCarthy, Andrew Samson, Carlos Rubinstein, Andrew Quesada, Mel Riggs, 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**: No Comments

III Consider and/or act upon **Financial Audit for the Year ending 09-30-2023**.

Rocky Rives with Smith and Rives, PC Certified Public Accountants presented the audit to the Board and answered all questions. The opinion rendered is an unmodified opinion which is the best that can be rendered. The financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the major fund, and the aggregate remaining fund information of the MPGCD, as of September 30, 2023, and the respective changes in financial position thereof for the year ended in conformity with the "GAAP" (generally accepted accounting principles), including those principles generally accepted for government entities in the United States of America. There are no findings that require disclosure or corrective action in the audit report.

Ronald Cooper made a motion to approve the Financial Audit for year ending 09-30-2023 as presented. Motion seconded by Alvaro Mandujano, Jr.

Motion passed. Vote: 7 FOR -0- Oppose 4 Absent 0 Abstain

IV Consider and/or act to approve **Minutes of Regular Meeting on October 17, 2023**.

The draft Minutes were emailed to the Board prior to the meeting. Allan Childs made a motion to approve the Minutes for the meeting of October 17, 2023, as presented. Motion seconded by Jeff Sims.

Motion passed. Vote: 7 FOR -0- Oppose 4 Absent 0 Abstain

V Consider and/or act upon **Treasurer's Report for the Month Ending October 31, 2023**.

General Manager Ty Edwards presented the Treasurer's report to the board, Allan Childs made a motion to approve the Treasurer's Report ending October 31, 2023, as presented. Motion seconded by Larry Drgac.

Motion passed. Vote: 7 FOR -0- Oppose 4 Absent 0 Abstain

VI Consider and/or act upon **Treasurer's Report for the Month Ending November 30, 2023.**

General Manager Ty Edwards presented the Treasurer's report to the board. Alvaro Mandujano, Jr made a motion to approve the Treasurer's Report ending November 30, 2023, as presented. Motion seconded by M.R, Gonzalez.

Motion passed. Vote: 7 FOR -0- Oppose 4 Absent 0 Abstain

**PUBLIC HEARING ON PRODUCTION PERMIT  
APPLICATION FOR THOMAS C. KINCAID**

I Call to order at **10:19 a.m.** the public hearing on **Application for a Production Permit for Thomas C. Kincaid.**

Party representing application: Thomas C. Kincaid,

Protestant to application: None

Public Comment: None

President McGuairt declared the application uncontested.

General Manager Ty Edwards presented the application to the board. Thomas C. Kincaid, Jr has made an application for a Production Permit with the Middle Pecos Groundwater Conservation District for 1 well. The well is located on Property Id # 9807, Legal Description: 4740 135 T&STL Sec 3 N/2, approximately 15 miles Southeast of Fort Stockton on US Highway 285, in Pecos County, Texas.

The application requested authorization to withdraw 240-acre feet/year from the Edwards Trinity Aquifer. The rate of withdrawal is 260 gallons per minute and the purpose of the well will be for Irrigation Use.

The Drilling Permit was approved on May 16, 2023. Spring Branch Water Well drilled the well on September 5, 2023 and a pump test was conducted on October 20-23<sup>rd</sup>. The plan is to plant two 40-acre circles with center pivot irrigation to feed cattle on the ranch. Kincaid has agreed to allow the District to monitor the well each month along its normal monitoring route.

II Adjourn Hearing and consider and/or act on **Application for a Production Permit for Thomas C. Kincaid**

President Jerry McGuairt recessed the hearing at 10:30 a.m. Ronnie Cooper made a motion to approve the production permit application as presented from the Edwards Trinity Aquifer. Motion seconded by Alvaro Mandujano, Jr.

Motion passed. Vote: 7 FOR. -0- Oppose 4 Absent 0 Abstain

### REGULAR BOARD MEETING – CONTINUED

#### VII Consider and/or act upon **2024 Meeting and Holiday Schedule**.

The Board Meeting and Holiday Schedule was presented to the Board. Allan Childs made a motion to approve as presented. Jeff Sims seconded the motion.

Motion passed. Vote: 7 FOR -0- Oppose 4 Absent 0 Abstain

#### VIII Update and Possible action on **Groundwater Model Technical Memos 5-16**.

- The model grid has been updated with the geologic work from LRE Water. The tech memos will be updated.
- Other tech memos using the updated grid will be updated with a general target of completing the work by the end of September.
- A more detailed schedule for completion will be presented at the February meeting.
- All draft tech memos and underlying data are available on the google drive for stakeholder review and comment. The link to the google drive is:

[https://drive.google.com/drive/folders/1nbz4nbnLe5Nbg2-HihvdjAzWDvh-LiCt?usp=drive\\_link](https://drive.google.com/drive/folders/1nbz4nbnLe5Nbg2-HihvdjAzWDvh-LiCt?usp=drive_link)

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

A preliminary hearing 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. Another Preliminary hearing is set for February 6, 2023.

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.

#### X 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>.

**President Jerry McGuairt recessed the Regular Board meeting at 10:59 a.m.** and called an Executive Session. Pursuant to Section 551.071 (Items IX, XI) of the Texas Government Code, the Board convened in a closed session regarding the Texas Open Meetings Act exemption covering pending litigation. President McGuairt advised that any action on this matter will be taken in open session and no action will be taken in executive session.

The Executive Session adjourned at 12:02 p.m.

The presiding officer, President Jerry McGuairt, stated that no action, no decisions, and no votes were made in executive session.

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, the El Paso Court of Appeals on July 13<sup>th</sup> denied Cockrell's motion for rehearing after further briefing thereby affirming the trial court's ruling in favor of the District's decision. A new deadline to appeal to the Texas Supreme Court is September 27<sup>th</sup> by petition for review. A 2<sup>nd</sup> new deadline to appeal has been approved for October 27<sup>th</sup>. On November 9<sup>th</sup>, the District and FSH filed brief responses with the Court advising that in accordance with Rule 53, each party will respond if the Court requests responses. A Petition for Review is under review by the Court.

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 El Paso Court of Appeals on July 10<sup>th</sup> denied Cockrell's motion for rehearing after further briefing thereby affirming the trial court's ruling in favor of the District's decision. The Court of Appeals issued a substitute opinion and judgment with its reasoning that there is no jurisdiction in the courts for Cockrell to pursue its claim, including the reason that Cockrell prematurely filed its lawsuit by not waiting for its motion for rehearing filed at the District to expire. On August 2<sup>nd</sup>, the Court of Appeals issued a revised opinion and judgment correcting typographical errors. On September 18<sup>th</sup> Cockrell requests extension to file appeal

with Texas Supreme Court. On October 25<sup>th</sup> Cockrell timely filed Petition for Review. On November 9<sup>th</sup> the District and FSH file brief responses with the Court advising that in accordance with Rule 53, each party will respond if the Court requests responses. On November 28<sup>th</sup> Petition for Review is "under review" by the Court.

**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, a hearing in front of Judge Ables occurred on May 30, 2023. The Court ruled in favor of FSH and MPGCD by granting their Pleas to the Jurisdiction. There was a disagreement with Cockrell over the finality of the trial court's judgment and fee reimbursement, which Judge Ables cleared up by signing a modified order on July 19<sup>th</sup>. August 14<sup>th</sup> is the deadline for Cockrell to file its appellate brief at the Court of Appeals. Cockrell timely filed and the District and FSH's appellate briefs were timely filed September 26<sup>th</sup>. On October 13<sup>th</sup> 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 (83<sup>rd</sup> District Court)(Cockrell IV); and**

In Cockrell IV, the lawsuit was filed on August 17<sup>th</sup> and served on September 13<sup>th</sup> by agreement. The District's answer and counterclaim was timely filed October 9<sup>th</sup>. 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 (112<sup>th</sup> District Court)(Cockrell V).**

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

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

- Tx Drought Map 12-12-2023
- 12-16-23 Rig Data Report
- FS Pioneer
- Election Filings
- TxDOT-FM 1053
- 2024-IRS Mileage Rate

- PCWCID#1 11-14-23
- Agenda-Reeves County GCD 11-16-2023
- Updated 2024-Candidate Requirements for MPGCD Election

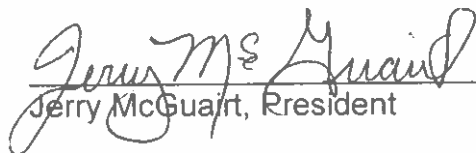
XIII **Directors' Comments** and consider and/or act upon **agenda for next meeting**.

Next Board meetings are set for January 16, 2024.

XIV **Adjourn** Board meeting.

Allan Childs made a motion to adjourn the meeting. Motion seconded by Jeff Sims. Motion carried unanimously. The meeting adjourned at 12:10 p.m.

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

  
\_\_\_\_\_  
Jerry McGuirt, Resident

Date Approved 2/20/2024