

**MINUTES OF THE FEBRUARY 10, 2011  
BOARD OF DIRECTORS MEETING OF  
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session February 10, 2011 at 9:00 a.m. in the Board Room of the District office at 603 East First Street in Dumas, Texas. The following persons were present:

**Members Present:**

Daniel L. Krienke;  
Bob Zimmer  
Harold Grall;  
Wesley Spurlock;  
Phil Haaland; and,  
Brian Bezner.

**Staff Present during part or all of the meeting:**

Steve Walthour, General Manager;  
Dale Hallmark, Assistant Manager/District Hydrologist; and,  
Kirk Welch, Public Information and Conservation Education Manager.

**Others present during part or all of the meeting:**

Sabrina Leven;  
Doug Lathem;  
Thomas Marek;  
David Swinford;  
Dusty Browder;  
Kenny Brown;  
Greg Batenhorst;  
Diana Douglass;  
Justin Crownover;  
F. Keith Good, Attorney; and,  
Ellen Orr, Paralegal.

President Zimmer declared a quorum present and called the meeting to order at 9:06 a.m.

President Zimmer gave the invocation and led the pledge.

President Zimmer then asked if there were persons present who desired to make Public Comment. No public comment was made.

Danny Krienke moved to approve items 2(a) through 2(d) of the Consent Agenda, consisting of the approval of the minutes of the January 10, 2011 meeting of the Board of Director; approval of district expenditures for January 1, 2011 through January 31, 2011, including the General Manager's expense and activity report; and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses for the period of January 1, 2011 through January 31, 2011 in the amount of \$13,158.10. Wesley Spurlock seconded the motion and it was unanimously approved by the Board.

David Swinford addressed the Board regarding upcoming bills related to groundwater legislation during the 82<sup>nd</sup> Legislative Session.

At 9:25 a.m. Gene Born arrived to participate in the Board meeting.



Danny Krienke moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071 for consultation with Keith Good of Lemon, Shearer, Phillips & Good, P. C. concerning attorney-client privileged matters involving legal counsel's consultation with the Board about compliance matters involving Castleberry Ranch, Ltd. Phil Haaland seconded the motion and it was unanimously approved by the Board.

Executive Session: At 9:47 a.m. the Board went into Executive Session to consult with Keith Good regarding attorney-client privileged matters. At 10:26 a.m. Director Harold Grall moved that the Board reconvene into regular session. Danny Krienke seconded the motion and it was unanimously approved by the Board.

At 10:33 a.m. the Board reconvened into regular session.

Director Brian Bezner stated that there had been a lot of new development in the Western four counties of the District and reported that he had been approached by District stakeholders who were concerned about the increased well construction activities within the District. Mr. Bezner stated that stakeholders had expressed concern to him that if you were to factor in new development with existing production figures from the Western four counties of the District that the groundwater production for those Western counties might possibly be in excess of the MAG amount. Steve Walthour stated that over the past few months the District staff had also been approached by District stakeholders similarly concerned that the District needed to slow down or stop well construction. Mr. Walthour presented the following tables for the Board's review:

Table – 2009 Groundwater production by county.

COUNTY	2009	Total Acres	Average Acre-Feet Per Acre	Number of Properties	2010 MAG in District GR09-01	2010 MAG out of District *
DALLAM	317,093	289,217	1.10	420	340,762	100,090
HANSFORD	152,686	203,896	0.75	375	270,396	-
HARTLEY	383,423	316,165	1.21	429	363,651	56,230
HUTCHINSON	53,414	65,548	0.81	96	54,174	82,509
LIPSCOMB	30,242	58,978	0.51	110	246,011	-
MOORE	199,292	207,215	0.96	357	207,724	38,012
OCHILTREE	65,840	115,290	0.57	233	256,701	-
SHERMAN	282,625	292,625	0.97	496	270,088	-
<b>TOTAL</b>	<b>1,484,614</b>	<b>1,548,934</b>	<b>0.96</b>	<b>2516</b>	<b>2,009,507</b>	<b>276,841</b>

\* 2010 MAG out of District may include some district production.

Table – 2009 Number of properties and property acre-feet per acre by county. Columns include all production above (>), or less than or equal to (<=) column heading.

COUNTY	>1.75	>1.5	>1.25	>1	<=1	TOTAL
DALLAM	33	77	163	231	174	405
HANSFORD	10	23	62	120	240	360
HARTLEY	50	126	211	283	136	419
HUTCHINSON	3	11	22	32	63	95
LIPSCOMB	0	3	11	19	89	108
MOORE	24	55	108	160	180	340
OCHILTREE	1	5	14	42	182	224
SHERMAN	15	47	115	236	247	483



Table – 2009 Well Density

Number of Wells per 640 acres		>=8	7	6	5	4	3	2	1	<1
Acres per Well		<=80	>80	>92	>107	>128	>160	>214	>320	>640
COUNTY	TOTAL									
DALLAM	415	15	400	392	367	328	208	115	45	8
HANSFORD	362	8	354	354	353	349	304	250	102	20
HARTLEY	428	5	423	418	392	364	236	146	41	4
HUTCHINSON	95	2	93	93	91	89	84	73	24	3
LIPSCOMB	109	1	108	108	106	106	90	71	43	12
MOORE	345	24	321	317	296	276	179	207	35	4
OCHILTREE	231	9	222	219	218	213	192	177	76	8
SHERMAN	492	17	475	472	461	445	359	237	102	17

The Board discussed methods available to it to address stakeholder's conservation concerns throughout the District, such as those restrictive conditions that could be applied to all existing, new permits and amended permit throughout the District and the regulation of spacing and well density throughout the District under Section 36.113 and Section 36.116 of the Texas Water Code. It was the Board's consensus that the District should require that a District-approved flow meter be installed at each Well on multiple well properties which will be pooled throughout District boundaries.

Doug Latham appeared and addressed the Board and outlined the plans of Castleberry Ranch, Ltd. to achieve compliance with District Rules. Danny Krienke moved that the General Manager of the District and the District's legal counsel be authorized by the Board to work with Dough Latham and other representatives of Castleberry Ranch, Ltd. to develop a Compliance Agreement with Castleberry Ranch, Ltd. for presentation to the Board for its consideration at its next regular Board meeting. Wesley Spurlock seconded the motion and it was unanimously approved by the Board.

Brian Bezner departed the meeting at 11:47 a.m.

Thomas Marek presented a report regarding irrigation research at the North Plains Research Field. Danny Krienke moved that the Board approve the research plan submitted by Texas AgriLife Research to the Board, subject to the District being acknowledged in any report, and that the District's responsibility for funding of the plan not exceed \$25,000.00. Phil Haaland seconded the motion and it was unanimously approved by the Board.

At 12:26 p.m. the Board recessed for lunch and reconvened at 1:09 p.m.

Steve Walthour presented a report to the Board regarding the planning and implementation of the District's Conservation Demonstration Projects and Conservation Programs relating to the use of reduced irrigation management.

Dale Hallmark presented the following report to the Board regarding the Dockum Aquifer:

During the September 20, 2010 District Board Meeting, the staff gave a presentation/report regarding the hydrogeology of the Dockum aquifer and the Board considered plans to assess possible District rules to address Dockum aquifer conditions.

To define the current situation, the General Manager proposed a three phase project. The first phase to consist of examining the probable Dockum well's drilling logs to determine how many are pumping from the Dockum and how many are pumping from both the Dockum and Ogallala and report the findings of the first phase to the Board by February



2011. The second phase may include various aquifer tests and monitoring as needed to provide a staff recommendation regarding the path the District should take to protect the Dockum aquifer including but not limited to District Rule amendments. The second phase should be completed by November 2011. The third phase will encompass staff recommendations to the board regarding Dockum aquifer management and potential rule changes. The third stage should be completed by January 2012.

The General Manager recommended the board authorize the staff to initiate the Dockum aquifer investigation as described above and the Board approved the recommendation.

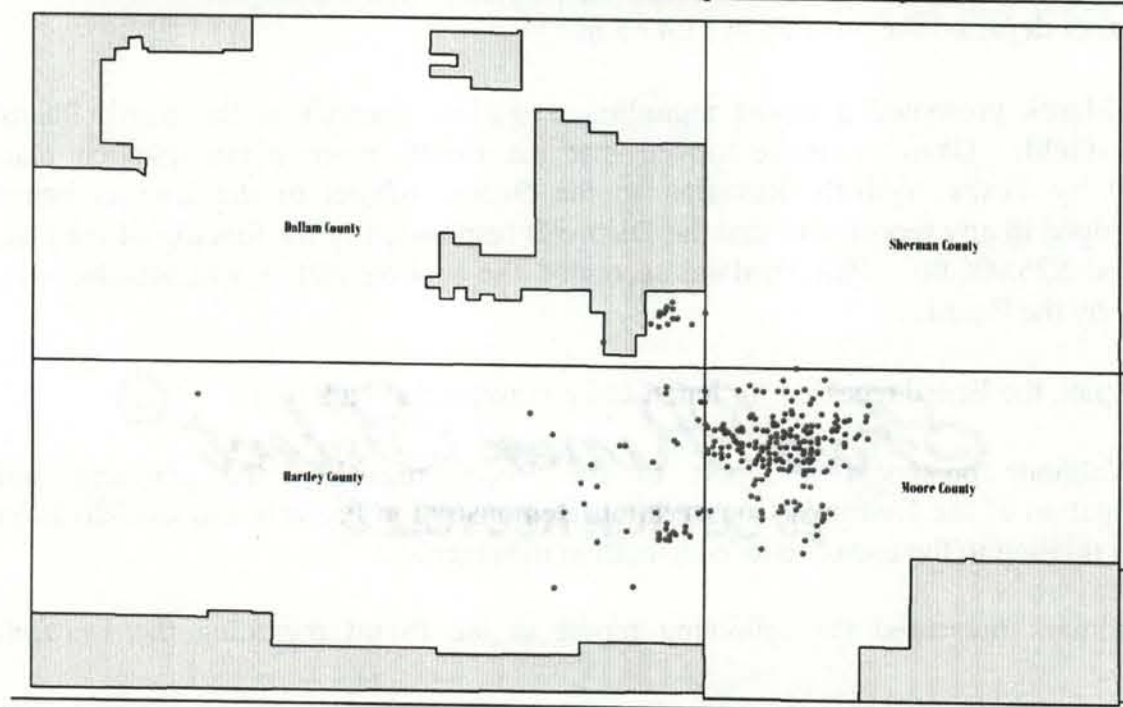
#### Phase I Examination of Existing Data

Using the District's GIS resources and databases, staff initially identified 698 wells that had a high probability of pumping groundwater from the Dockum Aquifer. The wells examined fell predominately within Northwest Moore and Northeast Hartley Counties and to a much lesser extent Southeast Dallam County and a very few were scattered about the above mentioned counties.

Staff examined the water well driller's reports for the wells in question and determined that there are 229 wells with a high probability of pumping from both the Ogallala and Dockum Aquifer. Staff identified 8 wells that have a high probability of pumping solely from the Dockum Aquifer. Staff determined that of the wells examined, 461 were pumping solely from the Ogallala Aquifer.

Ogallala Wells	Dockum Wells	Wells Pumping from both the Ogallala and Dockum Aquifer	Total Well Reports Examined
461	8	229	698

#### Location of Wells Pumping from both the Ogallala Aquifer and Solely from the Dockum



Red = Pumping From the Dockum Aquifer

Green = Pumping From Both the Ogallala and Dockum Aquifer

Of the 14,154 wells that have been drilled in the District, 1.7% possibly produces water from the Dockum Aquifer.



## Phase II. Data collection and Investigation

Staff proposes to collect water quality data from the Dockum wells and representative samples from the wells pumping from both Aquifers. Staff proposes to perform flow tests on the Dockum wells and investigate the possibility of performing aquifer tests on them. Staff proposes to attempt to install temporary pumps in the Districts Dockum monitor wells for the purpose of water quality and possibly pump tests. Staff proposes to further investigate the 229 wells apparently pumping from both aquifers to determine if it is possible to estimate the percent of pumping contributed by each aquifer.

## Phase III. Recommendations

Staff will propose recommendations to the Board regarding Dockum aquifer management and potential rule changes.

Dale Hallmark also presented the following report to the Board regarding a stratigraphic visualization model for Lipscomb County:

The District is requesting proposals for the development and completion of a Stratigraphic Visualization Model for Lipscomb County. The purpose of the project is to develop a regional, detailed Hydrogeological dataset and estimate groundwater availability. The project will include 3-D visualizations of the stratigraphy and projected future groundwater volumes of the Ogallala Aquifer. The project must also include a 3-D visualization of the current state groundwater model results.

The project is to consist of approximately seven tasks that outline as follows:

1. Data Collection, Well Evaluation, and Well Location Referencing
2. Geologic and Lithologic Interpretation and Data Entry
3. Data QA/QC
4. Determine Hydraulic Properties of the Aquifer
5. Develop a 3-D Visualization Model
6. Ogallala Aquifer Visualization
7. Letter Report, Presentation and Data and Technology Transfer

The District published an ad requesting statements of qualifications and availability to undertake the project from qualified Geo-scientific firms during the second week of February. The deadline for submittal of qualifications to the District is 5 PM February 18, 2011. After that deadline the District will review the qualifications and select applicants to submit project proposals.

Kirk Welch presented the following report to the Board concerning District educational programs:

Several education activities are currently underway including expansion of the Water Wise Program, annual water festivals with the possible addition of a third festival in Dalhart, continuing education programs, and in-school presentations. After a successful pilot program in Lipscomb County, the Water Wise program is set to be presented to every 5<sup>th</sup> grader in the District this year. Staff and board members made initial introduction visits with the teachers and administrators of the schools during January, and the Water Wise kits are set to be shipped to the schools within the next week. Approximately 1000 5<sup>th</sup> graders across the District will be presented with the Water Wise curriculum and given a home conservation kit containing water saving devices. The students can work with their parents to easily install the low-flow showerhead and faucet



aerators to begin to save water immediately. Other materials help the students see where they are wasting water and how to be more efficient. Estimating that an average of 1.5 other individuals live in the students household, we can calculate that approximately 2500 residents in the District will be exposed to this information each year. The cost of the program is \$32.50 per student. It includes a comprehensive report at the end of the school year detailing the participation and the estimated water savings.

The District participated in multiple CEU training programs presented by Pioneer. Casey Tice, Christie Frost and Steve Walthour presented information on the District's rules and production reporting process to help fulfill producers' continuing education requirements on rules and regulations.

The District's annual water festivals are scheduled for March 25<sup>th</sup> in Perryton and April 29<sup>th</sup> in Dumas, and a third water festival is being considered for April 15<sup>th</sup> in Dalhart. The Dalhart event is a step toward making the water festival experience available to all 4<sup>th</sup> graders in the District. The Dallam and Hartley County schools have not participated in the past, however; they have indicated they would like to participate. In reviewing the options, it became clear that a third water festival in Dalhart was the most practical option, since the Dumas Community Building would not adequately accommodate the additional students. The Dalhart location will also significantly reduce the transportation cost of participation for these schools and may allow for a shifting of some of the attendees of the Dumas festival to relieve some crowding issues. Dallam/Hartley 4-H has committed their support to the project and we are seeking support from the Rita Blanca Lake Board for use of the Rita Blanca Coliseum.

We have conducted an in-class soil lab for the 4<sup>th</sup> grade at Green Acres Elementary in Dumas and have schedule to present in-class soil labs for all of the 5<sup>th</sup> grade on the week of February 21st. Mr. Welch stated that District staff is available to make in-class presentations throughout the District, by request.

Steve Walthour stated that in January, the Board approved a draft of a proposed inter-local agreement between the District and Panhandle Groundwater Conservation District (PGCD) regarding a section of land that is owned by David Peckenpaugh that is located in both Districts. The Board President, General Counsel, the General Manager and Mr. Peckenpaugh met with the Panhandle Groundwater Conservation District Board at the regular meeting on January 25<sup>th</sup>. The letter agreement from PGCD attached hereto as Exhibit "A" and incorporated herein for all intents and purposes, is the result of that meeting. Mr. Walthour recommended that the Board approve the following regarding Mr. Peckenpaugh's property:

1. The 35 acres within PGCD's authority may be used to calculate total production allocation on Section 55 only within the District at the legal production rate of one acre-foot per acre per year;
2. Direct the General Manager to submit copies of annual production reports to PGCD for Section 55; and
3. Construction of wells within Section 55 will be subject to the Rules of the district where the well is located.

Danny Krienke moved the Board approve the following for Mr. Peckenpaugh's property:

1. The 35 acres within PGCD's authority may be used to calculate total production allocation on Section 55 only within the District at the legal production rate of one acre-foot per acre per year;
2. Direct the General Manager to submit copies of annual production reports to PGCD for Section 55; and



Construction of wells within Section 55 will be subject to the Rules of the district where the well is located.

Harold Grall seconded the motion and it was unanimously approved by the Board.

Steve Walthour reviewed the District's procurement policy with the Board. Mr. Walthour stated that the District's current policy for purchases of vehicles, equipment and property for amounts less than \$25,000 is the District may solicit bids; however no public notice is required. The contract for purchases may be awarded by the General Manager or the Board. For purchase amounts over \$25,000, the District's policy is that bids must be sealed and public notice must be published two successive weeks. The contract is awarded ten days after publication. The District policy is based in part of Texas Local Government Code §271.024 (Competitive Bidding Procedure Applicable to Contract) and §375.221 (Competitive Bidding on Certain Public Works Contracts).

In 2009, both §271.024 and §375.221 were amended. Section 271.024 was amended as follows:

*"If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$50,000 from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter."*

Section 375.221 was amended to read as follows:

*"(a) A contract, other than a contract for services, for more than \$50,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, may be entered into only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 14th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement if: (1) there is an emergency; (2) the needed materials are available from only one source; (3) in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement; or (4) after solicitation, it is ascertained that there will be only one bidder. (b) If a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is for an estimated amount of more than \$50,000 or for a duration of more than two years, competitive sealed proposals shall be asked from at least three persons."*

The General Manager requested that the Board amend the District's procurement policy that shall follow all applicable statutes in awarding contracts for purchase of for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property.

Gene Born moved that the Board amend the District's procurement policy that shall follow all applicable statutes in awarding contracts for purchase of for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property.

No Board action was taken on Agenda item 3-K because of the amendment of the District's Procurement Policy in item 3-J above.



Steve Walthour presented a report to the Board regarding 2010 production reporting and the status of reimbursements for 2009 late filers. Mr. Walthour stated that there were 60 eligible reimbursements for 2009 late filers out of which 49 were reimbursed for filing their 2010 production reports by January 15, 2011. Beginning on February 7th, the District will be running public notices at the local radio stations and print media to remind water well owners to submit their 2010 annual production reports by the March 1st deadline. Also, Mr. Walthour stated that 33% of 2010 Production Reports had been received by the District as of 5:00 p.m. on Wednesday, February 9, 2011.

District Directors reported to the Board regarding meetings and/or seminars attended, weather conditions and economic development in each Director's precinct.

Steve Walthour presented the General Manager's Report, including information concerning upcoming meetings and conferences; the General Manager's activity summary; and the District activity summary.

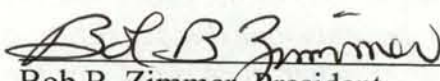
Wesley Spurlock moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071 for consultation with Keith Good of Lemon, Shearer, Phillips & Good, P. C. concerning attorney-client privileged matters involving legal consultation with the Board about options available to the District to pursue enforcement matters concerning certain persons who violated Rule 3 in calendar year. Danny Krienke seconded the motion and it was unanimously approved by the Board.

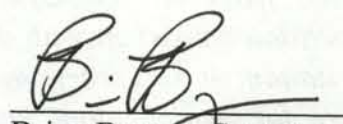
Executive Session: At 2:21 p.m. the Board went into Executive Session to consult with Keith Good regarding attorney-client privileged matters. At 2:37 p.m. Director Phil Haaland moved that the Board reconvene into regular session. Gene Born seconded the motion and it was unanimously approved by the Board.

The Board reconvened into regular session at 2:38 p.m.

By consensus, the Board set April 4, 2011 at 9:00 a.m. as its next regular meeting.

Phil Haaland moved to adjourn the meeting. Harold Grall seconded the motion and it was unanimously approved by the Board. President Zimmer declared the meeting adjourned at 2:43 p.m.

  
Bob B. Zimmer, President

  
Brian Bezner, Secretary



# Exhibit "A"

*Panhandle Groundwater Conservation District*

*201 W. Third / PO Box 637*

*White Deer, TX 79097*

*Ph: 806-883-2501*

*Fax: 806-883-2162*

*www.pgcd.us*



February 4, 2011

Mr. David Peckenpaugh

P.O. Box \_\_\_\_?

Farnsworth, TX 79033

Re: Letter of Acknowledgement

Dear Mr. Peckenpaugh,

Thank you for taking the time to come to White Deer to speak with Panhandle Groundwater Conservation District (PGCD) Board of Directors (Board) on January 25, 2011. Several issues were discussed that need to be considered when a property and the associated water rights are geographically situated in more than one groundwater conservation district. Our Board recognizes the importance of your desire as a landowner to use all acres of water rights in both Districts as a single management unit to ensure maximum operational efficiency. We believe this is possible with the cooperation of both Districts.

We would propose the following solution. PGCD acknowledges that there is approximately 35 acres of water rights in Section 55, Block R, AB&M Survey, contained our District. The rest of that section is in North Plains Groundwater Conservation District (North Plains). If North Plains agrees to a blended allocation, the 35 acres within PGCD's authority may be used to calculate your total production allocation on Section 55 only, at our legal production rate of one acre-foot per acre per year. This allocation on the 35 acres is subject to adjustment pursuant to the PGCD Depletion Rule. PGCD requests that if North Plains agrees to this allocation that they will submit copies of annual production reports to PGCD.

In the event that you desire a new well on the 35 acres in section 55 within PGCD, then you must obtain a permit from PGCD and the well will be subject to all requirements as set forth in PGCD rules, as amended and production allocations may not be counted in both Districts.



Please feel free to contact me or C. E. Williams at (806) 883-2501 with any questions. Thank you for your attention to this matter.

Respectfully,

John R. Spearman

Board President

Cc: North Plains Groundwater Conservation District

DRAFT