

**MINUTES OF THE APRIL 10, 2012
BOARD OF DIRECTORS MEETING OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session April 10, 2012, at 9:00 a.m. in the Board Room of the District office at 603 East First Street in Dumas, Texas 79029. The following persons were present:

Members Present:

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

Staff Present during part or all of the meeting:

Steve Walthour, General Manager;
Dale Hallmark, Assistant General Manager/District Hydrologist;
Kirk Welch, Assistant General Manager; and,
Kristen Alwan, Executive Assistant.

Others present during part or all of the meeting:

Mark Howard;
Sabrina Leven;
Shasta Dickey;
Grant Monie;
Greg Howard;
Pat Hartman;
Alan Beaver;
Eddy Carson;
C.C. Sysombath;
Khris Winenigs;
Kirk Carson;
F. Keith Good, Attorney;
Claire Y. Walsh, Attorney; and
Ellen Orr, Paralegal.

President Zimmer declared a quorum present and called the meeting to order at 9:10 a.m.

Wesley Spurlock gave the invocation and President Zimmer led the pledge.

President Zimmer asked if there were persons present who desired to make Public Comment. Mark Howard read the following to the Board:

Last year, during the HPWD's hearings on the new rules, I was in the unique position of being a producer in both water districts. I spoke several times at the different hearings and tried to inform those in attendance about what it was like to operate under the rules of the NPWD. I spoke in favorable terms about the North Plains rules and tried to explain that life would go on under a properly constructed set of rules. It is becoming apparent to producers all over the Panhandle that they need to be a part of the regulatory process concerning the use of the underground water resources that we own, but are regulated by local groundwater conservation districts.

I am speaking today because of comments that were presented to the board a couple of months ago. Those comments alarmed my family and I. I feel the need to present some different ideas to the board. I believe you will find these ideas to be strongly supported by many producers in the area.

No set of rules will ever be perfect and I realize that, but you need to also. I feel that operating under a good set of rules is preferable to operating under no rules at all, although we all want our property rights respected.

We need to have a set of rules that will allow us to operate our farms in the most efficient manner possible. We need to be able to create and execute production and marketing plans years in advance, in order to maximize the income from our water resources. It is not wise to leave producers in a state of inaction because of the fear of over-regulation. We want to use the least amount of water possible while achieving the highest economic return to its use.

The extreme weather we all experienced last year has shown me some areas of the rules that need to be adjusted.

1. *Returning the Allowable Annual Production to 2 acre-feet per acre. This level will allow us to operate in adverse and unusual weather conditions without feeling like we are criminals and in constant danger of being out of compliance. During the prior years when we were operating at higher Allowable Annual Production levels than we are now, we proved that we would only use the water necessary to finish our crops and not a drop more, as most producers built up their Conversation Reserve Bank to the maximum amount possible. At the present 1.5 acre feet level many producers feel that they would never use less than the maximum allowed.*

2. *We are finding that the acreage limit of 1600 acres for a Pooled Water Right Unit causes us to enter into crop rotations on our farms that do not make economic sense. There are so many variables that enter into the decision making process and none of them fit the design of a 2.5 section farm. As soon as you have a farm with 3 sections you may begin to have issues. There are other districts in the Panhandle that have different contiguous acre definitions, all of which allow the producer to*

drilling of wells is an economic decision that is best handled by the landowner/producer and is adequately covered by the present rules. Since we are operating under Allowable Annual Production limits, why would the district need to further intrude into the managerial realm of the producer by limiting his rights with any more drilling restrictions? Again the many economic factors of agricultural production will do this through time.

I am unable to provide more than a quick overview of these ideas in this short public comment period, but I look forward to providing any details that you might need to better understand our concerns. Thank you for your attention and consideration of these matters."

Eddie Carson, Pat Hartman, Alan Beaver, Chris Winenigs and Kirk Carson each addressed the Board and stated that they were in support of Mark Howard's position and the statements he made to the Board.

Gene Born moved to approve items 2a, 2b and 2d of the Consent Agenda, consisting of the approval of the Minutes of the March 20, 2012, Board of Directors Meeting and the Certified Agenda for the March 20, 2012 Board of Directors Executive Session; the approval of un-audited District expenditures from March 1, 2012, through March 31, 2012, including the General Manager's Expense and Activity Report; and, the approval of payment of professional services and out of pocket expenses to Lemon, Shearer, Phillips & Good, P.C. in the amount of \$12,079.33 for March 1, 2012 through March 31, 2012. Brian Bezner seconded the motion and it was unanimously approved by the Board.

The General Manager reported to the Board that District staff was presently checking and entering production reports that the District mailed to producers in December 2011.

The following Schedule of Well Permits was presented to the Board for its review. Wesley Spurlock moved to approve all of the following permits as active and complete wells because the wells are properly equipped and otherwise comply with District Rules:

| COUNTY | OWNER | WELL | C L | MAX | QTR | SEC | BLK | SUR | YARDS N S | YARDS E W |
|---------|-----------------------|---------|-----|-----|-----|-----|-----|-----|-----------|-----------|
| HARTLEY | FOUR STAR MIDDLEWATER | HA-3898 | C | 800 | NW | 55 | 13 | CSS | 101N | 155W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4041 | C | 800 | NE | 22 | 12 | CSS | 182N | 48E |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4134 | C | 800 | NW | 37 | 12 | CSS | 419N | 445W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4135 | C | 800 | NE | 37 | 12 | CSS | 557N | 897E |
| HARTLEY | LARSEN FARMS LLC | HA-4144 | B | 400 | SW | 26 | 12 | CSS | 8215 | 823W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4272 | C | 800 | SW | 20 | 12 | CSS | 137S | 157W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4273 | C | 800 | NW | 29 | 12 | CSS | 303N | 872W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4275 | C | 800 | SW | 29 | 12 | CSS | 4415 | 422W |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4276 | C | 800 | SE | 37 | 12 | CSS | 1015 | 146E |
| HARTLEY | FOUR STAR MIDDLEWATER | HA-4277 | C | 800 | SW | 37 | 12 | CSS | 1115 | 142W |
| HARTLEY | DON OPPLIGER FARMS | HA-4359 | C | 800 | SE | 16 | 12 | CSS | 394S | 479E |
| HARTLEY | DON OPPLIGER FARMS | HA-4361 | C | 800 | SW | 16 | 12 | CSS | 2755 | 54W |
| HARTLEY | DON OPPLIGER FARMS | HA-4364 | C | 800 | SW | 15 | 12 | CSS | 5335 | 644W |
| HARTLEY | DON OPPLIGER FARMS | HA-4380 | C | 800 | SW | 3 | 12 | C55 | 3485 | 259W |
| HARTLEY | DON OPPLIGER FARMS | HA-4382 | C | 800 | SW | 18 | 12 | CSS | 596S | 9W |

| HARTLEY | VYN LAND & CATTLE | HA-4480 | D | 1200 | SE | 3 | ESC | PSL | 1135 | 136E |
|------------|-------------------------|---------|-----|------|-----|-----|-----|-----------|-----------|-----------|
| HARTLEY | DON OPPLIGER FARMS | HA-4522 | C | 800 | NW | 17 | 12 | CSS | 393N | 878W |
| COUNTY | OWNER | WELL | C L | MAX | QTR | SEC | BLK | SUR | YARDS N S | YARDS E W |
| HARTLEY | DON OPPLIGER FARMS | HA-4523 | C | 800 | SE | 18 | 12 | CSS | 475S | 825E |
| HARTLEY | DON OPPLIGER FARMS | HA-4531 | C | 800 | SE | 19 | 12 | CSS | 577S | 866E |
| HARTLEY | DON OPPLIGER FARMS | HA-4533 | C | 800 | NE | 19 | 12 | CSS | 244N | 247E |
| HARTLEY | DON OPPLIGER FARMS | HA-4633 | C | 800 | NW | 33 | 12 | CSS | 410N | 854W |
| HARTLEY | DON OPPLIGER FARMS | HA-4634 | C | 800 | SE | 16 | 12 | CSS | 738S | 154E |
| HARTLEY | DON OPPLIGER FARMS | HA-4652 | C | 800 | SW | 12 | 12 | CSS | 139S | 317W |
| HARTLEY | DON OPPLIGER FARMS | HA-4660 | C | 800 | SE | 12 | 12 | CSS | 787S | 476E |
| HARTLEY | DON OPPLIGER FARMS | HA-4661 | C | 800 | SW | 13 | 12 | CSS | 481S | 206W |
| HARTLEY | DON OPPLIGER FARMS | HA-4662 | C | 800 | NW | 13 | 12 | CSS | 585N | 570W |
| HARTLEY | DON OPPLIGER FARMS | HA-4670 | C | 800 | SE | 13 | 12 | CSS | 633S | 685E |
| HARTLEY | MARK SCHNIEDERJAN | HA-4724 | C | 800 | SW | 417 | 44 | H&TC | 627S | 871W |
| HANSFORD | TRAY CATTLE CO | HN-4502 | D | 1200 | NW | 34 | R | B&B | 336N | 104W |
| HANSFORD | TRAY CATTLE CO | HN-4503 | D | 1200 | SW | 2 | R | B&B | 171S | 29W |
| HANSFORD | TRAY CATTLE CO | HN-4504 | D | 1200 | SE | 34 | R | B&B | 414S | 104E |
| HANSFORD | WILLIS BOYD | HN-4508 | C | 800 | SW | 131 | 45 | H&TC | 530S | 78W |
| HUTCHINSON | REX MCCLOY | HU-4701 | D | 1200 | NW | 18 | B | DAY L&C | 288N | 105W |
| HUTCHINSON | REX MCCLOY | HU-4702 | D | 1200 | NW | 138 | 5-T | T&NO | 108N | 461W |
| HUTCHINSON | REX MCCLOY | HU-4703 | C | 800 | NW | 1 | 0 | AB PEDIGO | 872N | 105W |
| HUTCHINSON | REX MCCLOY | HU-4704 | D | 1200 | NE | 2 | 0 | SPRR | 439N | 116E |
| HUTCHINSON | REX MCCLOY | HU-4705 | C | 800 | NW | 135 | 5-T | T&NO | 865N | 294W |
| MOORE | HARRIS FARMS INC | MO-4630 | C | 800 | NE | 39 | 2-T | T&NO | 828N | 852E |
| MOORE | REX MCCLOY | MO-4707 | C | 800 | NE | 181 | 3-T | T&NO | 580N | 488E |
| OCHILTREE | DANIEL KRIENKE | OC-4495 | D | 1200 | SW | 6 | 12 | H&GN | 772S | 661W |
| SHERMAN | RONALD ENGELBRECHT | SH-3502 | C | 800 | SW | 70 | 1-T | T&NO | 811S | 200W |
| *SHERMAN | 0408 TXUS OCHILTREE LLC | SH-3515 | C | 800 | NW | 189 | 1-C | GH&H | 174N | 850W |
| *SHERMAN | 0408 TXUS OCHILTREE LLC | SH-3545 | C | 800 | NW | 189 | 1-C | GH&H | 429N | 437W |
| SHERMAN | FRANK MININGER | SH-4288 | D | 1200 | SW | 137 | 1-C | GH&H | 230S | 269W |
| SHERMAN | NEED IT MORE LP | SH-4467 | C | 800 | SE | 55 | 3-T | T&NO | 868S | 866E |

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

The General Manager reported to the Board that on March 1, 2012, the District filed its calendar year progress report with the Texas Water Development Board along with a copy of the 2011 200-12 Report. In addition to the quarterly progress reports, the TWDB grant requires the District submit a report for each calendar year that includes:

- a. An annual summary of the work performed during the previous calendar year;
- b. An annual estimate of water savings realized as a result of the work performed under this contract (as described in Section II, Article III, Item 3.), and;

On March 12, 2012, the District held a meeting with prospective cooperators for the 2012 200-12 program. During the meeting, the District went over the draft contract that a cooperator will sign to be reimbursed for their time during the project, the project protocols, and equipment needs. As of the date of the meeting, it was reported that the District has eleven cooperators, including four board members. The District is still looking for someone in Hansford and Hutchinson Counties to participate in the program. Mr. Walthour reported that District staff will be purchasing equipment the next few weeks. The District will pay the cost of the equipment and seek all or partial reimbursement from the Texas Water Development Board and from the USDA NRCS. Mr. Walthour presented the following 200/12 Program Estimated Cost to the Board:

| Vendor | Each unit | Number Needed | Estimated Total |
|------------------|---------------|-----------------|-----------------|
| Aquaspy | \$1,630.00 | 39 | \$63,600.00 |
| Moisture probes | | | |
| Better Harvest | \$765.00 | 24 | \$18,360.00 |
| Corn program | | | |
| Crop Metrics | | | \$19,000.00 |
| Emp Survey | \$7.00/ ac | 1900ac possible | |
| VRI Speed | \$10.00/ac | 400ac estimate | |
| Imagery | \$4.00/ac | 400ac estimate | |
| John Deere Water | \$2,400 | 4 | \$9,800.00 |
| Moisture probes | | | |
| Pivotrac | \$2500-\$4000 | 12 | \$40,000.00 |
| Pivot monitoring | | | |
| Valley | \$3,300.00 | 1 | \$1,650.00 |
| box upgrade | | | |
| Texas AgriLife | \$3,648.57 | | \$25,540.00 |
| EPIC | | | |
| Grant Agreement | | | \$85,783.33 |
| | | | |
| | | Total | \$263,733.33 |

Wesley Spurlock moved to approve the above 200/12 Program Estimated Costs for 2012 as presented by the General Manager. Brian Bezner seconded the motion and it was unanimously approved by the Board.

Steve Walthour reported that the Speaker of the House and the Lieutenant Governor have issued Interim Charges to their respective natural resource committees for priorities of work in preparation for the next legislative session. Both sets of charges contain items related to groundwater. Mr. Walthour presented the official lists of the charges to both houses of the Legislature. Both sets of charges address implementation of the State Water Plan, Conservation, Education and effects on the State of a continued drought. The Senate charges focus on evaluation of the current system for regulating groundwater, including possible consolidation of groundwater conservation districts, and the efficiency of the current system for managing groundwater, compared to the State's management of surface water.

The House Natural Resources Committee met on March 22, 2012, to discuss the

of desalination projects in Texas; (4) Including an evaluation of the regulation of brackish groundwater and whether opportunities exist to facilitate better utilization of this groundwater to meet future needs; (5) Interim Charge Number 4, relating to ways to promote conservation in agricultural irrigation. General Manager, Steve Walthour, and District Director, Danny Krienke, attended the meeting and reported to the Board that Director, Harold Grall, was quoted extensively.

Mr. Walthour reported to the Board that over the past year, the District has experienced an increase in water well drilling; the activity associated with the District's irrigation conservation demonstration projects; and increased focus on aquifer monitoring, including water quality and real time water level measurements. All of these activities require a greater field presence. To address this challenge, one Natural Resources Specialist that was designated to splitting time between in-house permit processing and field inspections has been moved to doing entirely field inspections. In addition to this re-assignment, the General Manager requested the board fund a new staff position to assist in all phases of field investigation operations, but primarily to focus on reading flow meters and general compliance matters.

Gene Born moved to amend the 2011-2012 Budget Personnel line item by \$40,000.00 to fund the employment of a new field staff position. Brian Bezner seconded the motion and it was unanimously approved by the Board.

The General Manager stated that the District sent settlement letters with invoices to fourteen well owners for twenty-six properties for failing to timely file their 2011 Annual Production Reports with the District. The majority of these well owners filed their 2011 annual production reports after the March 1st deadline but prior to April 1, 2012. Mr. Walthour stated that the invoices addressed the late filing fee authorized by the board and are reimbursable if the owners file their 2012 reports by January 15, 2013. One notice was sent to a well owner that has failed to timely file their 2011 Annual Production Report with this District by April 1st. The General Manager recommended that the Board issue as Show Cause Notice and Order to Sam and Jill Watson for 9:00 a.m. for the next regularly scheduled Board meeting for failure to timely file 2011 Annual Groundwater Production with the District.

Brian Bezner moved to issue a Show Cause Order and Notice to Sam Watson and Jill Watson for failure to timely file the 2011 Annual Groundwater Production Report for the East One-half (E/2) of Section Sixty-six (66), Block Two (2), GH&H Survey, Hansford County, Texas, Property identification number 2326, with the District and set a hearing for 9:00 a.m. on the next regular Board meeting date for Sam Watson and Jill Watson to appear before the District and show cause why their operating authority or permit should not be suspended, cancelled, or otherwise limited and/or why such they should not be subject to injunction or civil penalties as set forth in the District's Rules for failure to comply with the Rules. Gene Born seconded the motion and it was unanimously approved by the Board.

Assistant General Manager, Dale Hallmark, provided a PowerPoint presentation to the Board showcasing the District's Observation Well Hydrographs which indicated declines in the water table over the past several years.

3. Order the appointment of an election Judge and an alternate election Judge for the District;
4. Provide Notice of the Appointment as an election Judge and alternate Judge and Writ of Election and authorize the number of Clerks which the Judge may appoint in the election;
5. Order the appointment of an early voting ballot board judge and an alternate early voting ballot board judge; and,
6. Order a Writ of Election for the early voting ballot board judge and authorize the number of clerks to serve on the early voting ballot board.

Wesley Spurlock moved to:

1. Appoint Pauletta Rhoades as the District's early voting clerk;
2. Appoint Debbie Babitzke as the District's Deputy early voting clerk;
3. Order the appointment of Debbie Babitzke as the District's Election Judge for one election to be held on May 12, 2012, and Dickie Babitzke as the District's alternate Election Judge for one election to be held on May 12, 2012;
4. Authorize the attorneys for the District to provide Notice of the Appointments and the Writ of Election on behalf of the District as mandated by the Texas Election Code;
5. Appoint Debbie Babitzke as the District's early voting ballot board judge for one election to be held on May 12, 2012, and appoint Dickie Babitzke as the District's alternate early voting ballot board judge for one election to be held on May 12, 2012;
6. Order the Writ of Election for the early voting ballot board judge and to authorize the general counsel of the District to provide any required notices by the Texas Election Code on behalf of the District.

Phil Haaland seconded the motion and it was unanimously approved by the Board.

Brian Bezner moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.074 to deliberate the purchase, exchange, lease or value of real property with a third party. Harold Grall seconded the motion and it was unanimously approved by the Board.

Executive Session: At 10:40 a.m., the Board went into Executive Session to deliberate the purchase, exchange, lease or value of real property with a third party. At 10:49 a.m., Director Danny Krienke moved that the Board reconvene into regular session. Brian Bezner seconded the motion and it was unanimously approved by the Board.

By consensus, the Board set its next regular Board meeting for May 22, 2012 at 9:00 a.m.

Phil Haaland moved to adjourn the meeting. Brian Bezner seconded the motion and it was unanimously approved by the Board. President Zimmer declared the meeting adjourned at 11:06 a.m.



Bob B. Zimmer, President



Brian Bezner, Secretary

**CERTIFIED AGENDA OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT
BOARD OF DIRECTORS' EXECUTIVE SESSION**

Under penalty of perjury, the undersigned presiding officer certifies the following facts are true and correct and the following topics, and none other, were deliberated, discussed or reviewed in an Executive Session of the North Plains Groundwater Conservation District Directors which was convened on April 10, 2012:

Persons Present:

Bob Zimmer, President
Brian Bezner, Secretary
Gene Born, Director
Danny Krienke, Director
Phil Haaland, Director
Wesley Spurlock, Director
Harold Grall, Director
Steven D. Walthour, General Manager of the District
Kirk Welch, Assistant General Manager of the District
F. Keith Good, Attorney
Claire Y. Walsh, Attorney
Ellen Orr, Paralegal

Beginning Time: 10.40 a.m.

Ending Time: 10.49 a.m.

Topics Deliberated and Applicable Exception to the Texas Open Meetings Act:

1. Deliberation by the Board regarding the purchase, exchange, lease, or value of real property, because deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person.

Exempt from the Open Meetings Act pursuant to Texas Government Code Section 551.074.



Bob Zimmer, Presiding Officer