

**MINUTES OF THE FEBRUARY 13, 2017  
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 13, 2017, at 9:00 a.m. in the Conference Room of the North Plains Water Conservation Center, 6045 West County Road E, Dumas, Texas 79029-7201. The following persons were present:

**Members Present at 9:04 a.m.:**

Harold Grall, President;  
Daniel L. Krienke, Vice-President  
Bob B. Zimmer, Secretary;  
Gene Born, Director;  
Justin Crownover, Director;  
Zac Yoder, Director; and  
Mark Howard, Director.

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

Steve Walthour, General Manager;  
Kirk Welch, Assistant General Manager/Outreach;  
Kristen Lane, Executive Assistant;  
Paul Sigle, Agricultural Engineer;  
Alyssa Holguin, Conservation Outreach Assistant; and,  
Curtis Schwertner, Natural Resource Specialist.

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

David Swinford;  
F. Keith Good, Attorney; and,  
Ellen Orr, Paralegal.

President Grall declared a quorum present and called the meeting to order at 9:04 a.m. Director, Gene Born, gave the invocation and President Grall led the pledge.

**1 – Public Comment**

No public comments were received.

**2 – Consent Agenda**

The Consent Agenda was discussed by the Board and consisted of: the review and approval of the Minutes of the regular January 17, 2017 Board Meeting; the review and approval of un-audited District expenditures for January 1, 2017 through January 31, 2017, including the General Manager's expense and activity report; the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses from January 1, 2017 through January 31, 2017, in the amount of \$8,237.96; and the review of a request by the Lipscomb County Appraiser to waive tax penalties and interest for a property (Account N164699) assumed by a new owner.

Daniel L. Krienke moved to remove the review of a request by the Lipscomb County Appraiser to waive tax penalties and interest for a property (Account N164699) assumed by a new owner from the Consent Agenda and to approve all the remaining items. Mark Howard seconded the motion and it was unanimously approved by the Board.

Daniel L. Krienke moved to deny the request of the Lipscomb County Appraiser to waive tax penalties and interest for a property (Account N164699) assumed by a new owner and to invite the Chief Appraiser to come visit with the Board. Bob Zimmer seconded the motion and it was unanimously approved by the Board.

***Action Agenda 3a - The Board received a report regarding agriculture water conservation demonstration programs.***

Kirk Welch and Paul Sigle presented the following:

**Irrigation Conservation Initiative**

Based on the data from seven years of the District's own on-farm demonstrations, and other demonstrations across the globe, several irrigation tools and technologies have proven to be effective in conserving groundwater, while allowing producers to maintain or even increase yields. Among the most effective of these tools are soil moisture probes and pivot monitoring and control systems. Select growers in the District are receiving intense training in the effective application of these same tools as part of the District's latest technology transfer initiative, the Master Irrigator Program. While the Master Irrigator targets 20-25 growers each year to increase the adoption of these conservation measures, the proposed Irrigation Conservation Initiative will expand adoption to a broader target group.

As part of the Irrigation Conservation Initiative, any irrigator in the District who attends a District sponsored educational presentation will be able to apply for a cost share on irrigation management tools, like soil moisture probes and pivot monitoring and control systems, for up to half of the cost of the practice for one year. Recipients may re-apply in subsequent years, contingent on fund availability. While flow meters have also been proven to be effective groundwater management tools as well, the Irrigation Conservation Initiative will not provide cost share on flow meters, since funds are available through 2021 for flow meters through the District's Meter Reimbursement Program, also supported by the Texas Water Development Board.

The Irrigation Conservation Initiative will leverage the District's existing demonstrations and technology transfer activities by allowing participants in these programs and associated field days to access the funds for implementation of these irrigation water management tools. In addition to the Master Irrigator Program and field days related to the District's "3-4-5 Gallon Production Maximization" project, growers will also be able to qualify for the cost-share by attending a special Technology Transfer Workshop to be presented by the District in cooperation with industry experts at least 3 times throughout the year.

An additional stipulation of the program is that a qualifying applicant must be able to measure the irrigation via flow meter for the field to which the cost shared practice will apply. This requirement is necessary to calculate actual water usage and savings associated with the applied conservation measures, but will have the potential additional benefit of encouraging growers to take advantage of the District's meter reimbursement program.

Participants in the program will report on the crop and acres to be effected, as well as crop yield, total water use and estimated savings attributed to the applied practice or practices. The data collected from participants will be tabulated and publicized for demonstration and technology transfer and reported annually to the Texas Water Development Board.

As our own demonstrations and others have proven these to be effective conservation tools, the District desires to encourage even more adoption of these practices by partnering with the TWDB to cost share funds available to our producers. The District has requested the TWDB to participate in the Irrigation Conservation Initiative by

providing \$200,000 for cost share for demonstrating, training and providing irrigation management tools through the TWDB Agricultural Water Conservation Grant under the category of "Demonstration and Technology Transfer". This application for agricultural water conservation grant funds is for 2017, 2018, 2019 and 2020.

The District has determined that the Irrigation Conservation Initiative should be ongoing, based on the proven conservation benefits, and the continuing decline of the groundwater resource.

Daniel L. Krienke moved that District staff prepare and submit a grant application to TWDB to participate in the Irrigation Conservation Initiative by providing \$200,000 for cost share for demonstrating, training and providing irrigation management tools through the TWDB Agricultural Water Conservation Grant under the category of "Demonstration and Technology Transfer" for calendar years 2017, 2018, 2019 and 2020. Zac Yoder seconded the motion and it was unanimously approved by the Board.

### **Limited Applied Irrigation Assistance Program (USDA-NRCS RCPP)**

The Limited Applied Irrigation Assistance Program will address inefficient use of irrigation and moisture management concerns within the Ogallala Aquifer by encouraging agricultural water users to leave water in the ground through adoption of on-farm water conservation strategies or improved irrigation efficiency. The proposed project will build on existing programs such as EQIP, CSP and AWEPP to address water conservation needs in the proposed region and establish an economic incentive for producers to participate in the project. Additionally, by leveraging state and local cost-share for the purchase of equipment, this project will result in enhanced adoption of conservation equipment such as flow meters, soil moisture probes and chemigation valves.

The RCPP priority areas include High Plains UWCD, Hemphill County UWCD, Llano Estacado UWCD, Mesa UWCD, North Plains GCD, Sandy Land UWCD, and South Plains UWCD. The project's resource concerns and practices are split into two priorities, high and medium priorities. High priorities include structures for water control (587, flow meters and chemigation valves) and irrigation water management (449, soil moisture probes). Medium priorities include irrigation systems, sprinkler (442), micro irrigation systems (441), irrigation pipeline (430) and well decommissioning (351).

District staff and USDA-NRCS Resource Team Leaders met on Thursday, February 2<sup>nd</sup>, to discuss the District's involvement in the RCPP. USDA-NRCS has allocated approximately \$300,000 per year for the seven participating GCDs. The District staff will be responsible for verifying that the practice is installed and functional. Producers interested in the program will sign up at their local USDA-NRCS office, and USDA-NRCS personnel will contact District staff when the producer's practice is ready for the final check.

#### **Present at the Meeting:**

- Mike Caldwell, USDA-NRCS Resource Team Leader for Moore, Sherman, Dallam and Hartley counties;
- Rick Harrell, USDA-NRCS Resource Team Leader for Hansford, Hutchinson, Ochiltree and Lipscomb counties;
- Paul Sigle;
- Dale Hallmark;
- Odell Ward;
- Kirk Welch;
- Harold Grall;
- Mark Howard; and,
- Zac Yoder.

## **Master Irrigator Program**

The District has 11 qualified applicants and one applicant from outside of the District. A new NRCS engineer from Lubbock will also attend the sessions. Promotion for the program so far has included:

Social Media (Facebook, Twitter, Instagram); October 17, 2016 – Present Save the Date Cards mailed: January 6, 2017

Pioneer Crop Production Clinics: January 9-12 (Dalhart, Dumas, Stratford and Spearman)

Direct Mailing of Brochure: January 26, 2017

Email Campaign to Graduates: January 31, 2017; Email Campaign to General: January 31, 2017; and News Release: February 3, 2017

### **Plans for the final month:**

High Plains Irrigation Conference: February 15, 2017

Social media continued

Follow-up email campaigns News release follow-up

Possibly paid advertising (newspaper and radio)

### **2017 Session Dates:**

Session 1: Agronomics	March 22, 2017
Session 2: Irrigation Scheduling	March 29, 2017
Session 3: Systems	April 5, 2017
Session 4: Systems & Special Topics	April 12, 2017

### **Master Irrigator Project Advisory Committee:**

Danny Krienke, North Plains Groundwater Conservation District; Leon New, Irrigation Engineer; Steve Amosson, Texas A&M AgriLife; Charles Hillyer, Texas A&M AgriLife; Scott Strawn, Texas A&M AgriLife; Shawn Carter, Crop Production Services; Cameron Turner, Texas Water Development Board; Keith Sides, USDA-NRCS; David Reinart, Better Harvest; Stan Spain, Spain Farms; Bryce Howard, Farmer.

### ***Action Agenda 3c - The Board received a report and discussed wind energy development in the North Plains GCD.***

The General Manager reported that in addition to the Ogallala Aquifer and its oil and gas resources, the Texas Panhandle is well known for its wind. Over the past ten years, the area has seen significant development in wind energy projects to tap this largely unused resource. Wind turbines are springing up across the District with the promise of providing clean energy to the nation. Wind energy projects are unique economic development opportunities to a largely agricultural and petroleum based economy, adding value to property and providing jobs to the area without using groundwater resources. Mr. Walthour reported that in the past, the District has approved tax abatements to assist wind energy farm startups for the area if the County Commissioner Courts first approved the abatements for the project.

Mr. Walthour stated that David Swinford has worked on wind energy development after he retired as a member of the Texas Legislature. Mr. Walthour then introduced David Swinford.

Mr. Swinford made a presentation to the Board regarding wind energy and how this new energy source can affect the District from jobs to property values. Mr. Swinford discussed

the benefits of wind energy projects to the community and the District and, specifically, he discussed a proposed wind energy project for Moore and Hartley Counties, Texas.

The Board recessed at 10:18 a.m. and reconvened at 10:24 a.m.

***Action Agenda 3b - The Board received the following report regarding groundwater production reporting for 2016.***

The General Manager stated that as of February 13, 2017, the District has received 1,201 Annual Production reports. Of those, 937 have been entered and processed by the District. The owners/agents of the processed reports have been submitted their preliminary Conservation Reserve calculations. District staff has begun the QA/QC on a few of the reports. Reports are being entered and processed at a more efficient rate than in past years.

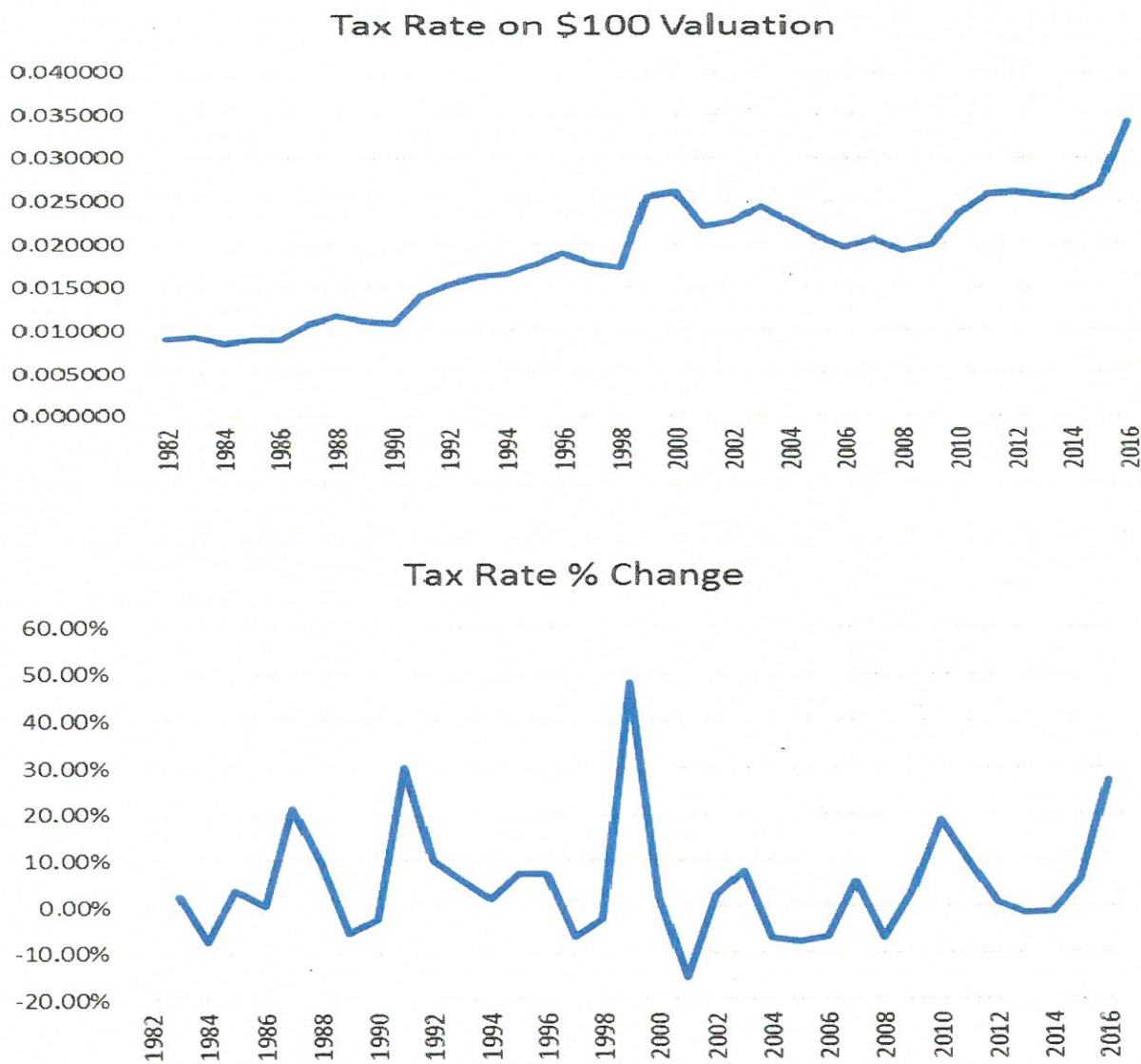
***Action Agenda 3d - The Board received the following report and considered action related to District legislative initiatives and the 85th legislative session, including a proposed amendment to the District's Enabling Legislation to remove the five cents per \$100 valuation ad valorem tax cap.***

The General Manager reported that in 1955, the Texas Legislature ratified the creation of the District by the voters in the area. As part of the creation of the District, the District's tax rate was limited to no more than 50 cents per \$100 of taxable assessed value. The maximum tax rate was consistent with the tax law created in the 39<sup>th</sup> Texas Legislature in 1925. Today, TWC Section 36.020 limits the maintenance and operating tax rate to 50 cents per \$100 assessed valuation. TWC Section 36.020 was created in 1995 to replace Section 52.201 that also limited a District's tax rate to 50 cents on \$100 assessed valuation (39th Legis., Ch. 25, Sec. 3c, subsec. G, as amended).

In January, the Board discussed the codification of the District's Enabling Legislation by the Texas Legislative Council. During the discussion, the Board was made aware that the District's maximum tax rate on taxable assessed property valuations was decreased during the 1999 legislative session to 5 cents on \$100 of assessed value. The Board briefly reviewed the history and the four amendments to its original Enabling Legislation. The amendments in 1983, 1985 and 2015 largely dealt with Board election dates. In 1999, the District's Board apparently sought to change the District's Enabling act and the 76<sup>th</sup> Texas Legislature, through HB 3849, amended the name of the District to "North Plains Groundwater Conservation District", ratified the annexation of all or part of Lipscomb and Dallam counties, increased the number of directors from 5 to 7, and amended the District's duties and powers to regulate all groundwater within the District. The Board Meeting Minutes in 1999 indicate that the Board received reports on the proposed changes and was notified that the District was required to file notice of the changes it sought in the newspaper. In addition to the above listed amendments, through HB 3849, the Board apparently sought, to move director elections to the uniform election date in May and amend the maintenance and operating ad valorem tax cap. The General Manager reported that he had reviewed the Board Minutes from 1999 and cannot find any record that the Board considered changing the maximum tax rate limit. Today, the reduced rate is applicable, regardless of whether the Board considered, or approved, a change in the ad valorem tax cap in its Enabling Legislation in 1999.

To analyze the District's tax rate and taxable property valuation, the General Manager reported that he used the District's tax rates from 1982 to present and audit reports that provided taxable valuation from 1996 to present because tax valuation data before that year is not readily available. From 1982, the District had four annual tax rate increases over 20 percent. The District's percent tax rate changed substantially in 1987 by 21% and again in 2016 by 27% based on property devaluation directly related to oil and gas industry downturn in those years. The tax rate continued to increase the following year

in 1988 by an additional 10% margin. However, the largest percentage increases in tax rates occurred in 1991 by 30% and again in 1999 by 48% when the District’s Board voted to increase the tax rate above the roll back rate. The graphs below show the tax rate per \$100 of property valuation and the percent of annual change from 1982 to present.



Since 1996, the District’s average tax rate has been 2.3 cents per \$100 of assessed valuation. However, oil and gas devaluation in the area drove assessed values down by 24 percent increasing the tax rate to 3.4 cents per \$100 of assessed value in 2016. To reach the 5-cent maximum rate, the tax rate would need to increase by 46% from the 2016 rate. It was reported that the rate can increase because property values continue to decline to maintain the same levy or the Board determines to increase taxes to cover increased operating costs, or a combination of these events. The General Manager stated, in his opinion, a 5-cent effective tax rate should not be reached within the next few years based on the tax valuation history from 1996 to present, and a review of the tax rates from 1982 to present. However, at some point in the future, operating costs may escalate past the current limit, or the District could miss an opportunity to participate in a project that could directly enhance aquifer supplies in the area because it cannot afford the maintenance and operating costs because of the 5-cent rate. The General Manager further stated that he believed the District should have the financial latitude to manage its operations and financing as the voters in 1955 originally intended and should have the same financial latitude that the Texas Water Code provides for other groundwater conservation districts in the State. The District’s tax valuation and corresponding tax rates from 1996 to present are shown in the table below, which was included in the General Manager’s report.

Year	Property Valuation	Property Valuation % Change	Tax Rate on \$100 Valuation	Tax Rate % Change	Original Levy
1996	2,831,751,073		0.018930	7.01%	534,754
1997	3,154,211,203	11.39%	0.017700	- 6.50%	558,289
1998	3,247,275,975	2.95%	0.017230	- 2.66%	559,403
1999	3,007,635,826	- 7.38%	0.025540	48.23%	768,150
2000	3,138,324,410	4.35%	0.026070	2.08%	818,164
2001	3,842,969,353	22.45%	0.022080	- 15.30%	841,064
2002	3,904,989,620	1.61%	0.022610	2.40%	880,408
2003	3,688,492,280	- 5.54%	0.024310	7.52%	896,669
2004	4,198,548,558	13.83%	0.022660	- 6.79%	951,282
2005	4,744,802,928	13.01%	0.020920	- 7.68%	992,792
2006	5,564,667,317	17.28%	0.019560	- 6.50%	1,080,187
2007	5,992,493,243	7.69%	0.020600	5.32%	1,189,241
2008	6,865,210,511	14.56%	0.019209	- 6.75%	1,318,735
2009	7,532,030,558	9.71%	0.019783	2.99%	1,490,164
2010	7,201,950,223	- 4.38%	0.023513	18.85%	1,626,739
2011	7,332,381,108	1.81%	0.025810	9.77%	1,809,511
2012	8,055,179,536	9.86%	0.026016	0.80%	1,994,316
2013	8,290,081,864	2.92%	0.025652	- 1.40%	2,048,545
2014	8,708,201,904	5.04%	0.025324	- 1.28%	2,095,517
2015	8,676,394,427	- 0.37%	0.026829	5.94%	2,189,942
2016	6,533,565,497	- 24.70%	0.034146	27.27%	2,231,815
Average	5,548,150,353	4.80%	0.023071	3.97%	1,279,795
Minimum	2,831,751,073	- 24.70%	0.017230	- 15.30%	534,754
Maximum	8,708,201,904	22.45%	0.034146	48.23%	2,231,815

It was reported that the General Manager and Tom Forbes had met with Representative Price’s and Senator Seliger’s staff regarding amending the District’s Enabling Act. Before the District Board can seek to amend its Enabling Act, the District must publish a 30-day notice of its intent in a newspaper of general circulation in each county of the District and provide proof of the publication when filing the proposed Legislation in the House, or introducing the Legislation in the Senate. Because of the notice requirements, and the time to process Bills through the Legislature, the District’s Board had to propose any amendment at the February Board meeting if it chose to move forward. The proposed amendment to the District’s Enabling Act, the notice and a proposed Board Resolution t was presented to the Board.

Gene Born moved to adopt the following resolution to propose to amend the District’s Enabling Legislation:

**RESOLUTION # 2017-0001**

**A RESOLUTION TO PROPOSE AN AMENDMENT OF THE  
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT  
ENABLING LEGISLATION**

**KNOW ALL PEOPLE BY THESE PRESENTS:**

The North Plains Groundwater Conservation District ("District") was created by the adoption of an Enabling Act ("Act") by the 54th Texas Legislature in 1955;

The Act authorized the District to levy and collect ad valorem taxes on taxable property within the District not to exceed Fifty Cents on the One Hundred Dollar assessed valuation on property within the District subject to taxation;

The Fifty Cent per One Hundred Dollars of valuation ad valorem tax limitation was reduced to Five Cents per One Hundred Dollars of valuation by action of the 76th Texas Legislature in 1999; and,

After due consideration and analysis, the Board of Directors has determined that it is in the best interest of the District to request the 85th Texas Legislature to amend the Act by deleting therefrom, the ad valorem tax limitation of Five Cents per One Hundred Dollars of valuation.

Therefore, on the date set forth below, the North Plains Groundwater Conservation District Board of Directors adopted the following resolution:

**BE IT RESOLVED, AND IT IS HEREBY RESOLVED**, on the 13th day of February 2017, that the District's General Manager is hereby authorized to submit to the appropriate Texas legislators, for their action during the 85th Texas legislative session, the proposed amendment to Section 2, Paragraph (10) of the Act which is attached to this Resolution as Exhibit "A" and is incorporated herein for all purposes.

**PASSED AND APPROVED** by the majority vote of the Board of Directors of North Plains Groundwater Conservation District in a Meeting held on the 13th day of February 2017.

**EXHIBIT "A" TO  
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT  
RESOLUTION # 2017-0001**

(10) incur all such indebtedness as may be necessary and requisite to the achievement of the purposes for which the district is created; to issue negotiable bonds and notes in the name of the district for any lawful purpose of the district and levy and collect such ad valorem taxes as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of such bonds, the issuance of such bonds and the levy and collection of taxes to be in accordance with Chapter 36, Water Code; to levy and collect the ad valorem tax authorized at the election held January 21, 1955, for the maintenance of such district, its installations and activities; to hereafter order elections for the purpose of authorizing the levy and collection of taxes for the maintenance of the district, its installations and activities, such elections to be ordered and held as is provided for elections authorizing the issuance of bonds; provided that in all bond elections and tax elections all persons may vote who are resident voters of such district; ~~provided further that the maintenance and operating taxes may never in any one year exceed Five Cents (5¢) on the One Hundred Dollar (\$100) assessed valuation on property in the district subject to taxation;~~ and provided, further, that the district may have its taxes assessed and collected by the respective county tax assessors and collectors as provided in Chapter 218, Page 348, Acts, Fifty-second Legislature, Regular Session, 1951.

Daniel L. Krienke seconded the motion and President Grall called for a roll-call vote:

Daniel L. Krienke	Yes
Mark Howard	Yes
Justin Crownover	Yes
Bob Zimmer	Yes
Harold Grall	Yes
Gene Born	Yes
Zac Yoder	No

The motion passed by the majority vote of the Board with Zac Yoder opposing the motion and the resolution was adopted by the Board.

The General Manager also reported that the Texas Water Conservation Association Groundwater Committee and its Oil and Gas Subcommittee TWCA established an Oil and

Gas Subcommittee to develop a white paper addressing Senator Perry's inquiry regarding the application of oil and gas law to groundwater.

Mr. Walthour stated that the paper analyzes correlative rights and the permissibility of user-based rules. A draft of the white paper was presented to the Board. Mr. Walthour reported that the paper should be finalized in the coming weeks.

Mr. Walthour reported to the Board that The Texas Alliance of Groundwater Districts Legislative Committee has met, but has not taken any action to support or oppose any Legislation that has been filed so far. A Legislative Tracking Report through February 12, 2017 was presented to the Board.

***Action Agenda 3e - The Board then received reports and considered compliance matters before the District.***

Civil action procedures have been taken against a producer who defaulted on a settlement agreement for late filing by legal counsel.

Based on test hole logs received by the District, a driller has drilled test holes on two (2) different properties without an approved test hole permit from the District and has defaulted on a previous settlement agreement. The General Manager has sent a demand letter to pay penalties for default on the settlement agreement and for non-compliance with District Rules.

A Well was drilled in Dallam County in 2012 on a Quarter Section, which the driller assumed to be in a non-District area at the time. Appraisal District records showed that the property owner was paying taxes to the District for this property since at least 2009. The previous producer who owned 50% of the Quarter Section at the time, reported the Well to the District in 2015 and turned in a production report in 2016. Field Staff finally located the Well this year.

Production report numbers are being reviewed by staff and General Manager. If there are any questionable meter readings or totals, staff is conducting field investigations, contacting producers and addressing these issues as needed.

Producers who have not reported their annual 2016 Production are being sent reminders the week of February 13, 2017.

***Executive Session - Section 551.071 of the Texas Government Code.***

At 11:22 a.m., Gene Born moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071, to obtain legal advice from its attorney. Daniel L. Krienke seconded the motion and it was unanimously approved by the Board.

Executive Session: At 11:22 a.m., the Board went into Executive Session. At 11:50 a.m., Daniel L. Krienke moved that the Board reconvene into regular session. Director, Gene Born, seconded the motion and it was unanimously approved by the Board.

The Board reconvened into regular session at 11:50 a.m.

***Discussion Agenda 4a - Director Reports.***

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

***Discussion Agenda 4c - General Manager's Report.***

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

***Discussion Agenda 4b - Committee Reports.***

None.

***Agenda 5 - Discuss Items for Future Board Meeting Agendas and Set Next Meeting Date and Time.***

By consensus, the Board set the next regular meeting at 9:00 a.m. on April 11, 2017.

***Agenda 6 - Adjournment.***

Director, Justin Crownover moved to adjourn the meeting. Zac Yoder seconded the motion and it was unanimously approved by the Board. President Grall declared the meeting adjourned at 12:23 p.m.



Harold Grall, President



Bob B. Zimmer, Secretary