

**MINUTES OF THE OCTOBER 11, 2016
BOARD OF DIRECTORS MEETING OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session October 11, 2016, at 9:00 a.m. in the Conference Room of the North Plains Water Conservation Center, 6045 County Road E., Etter, Texas. The following persons were present:

Members Present at 9:06 a.m.:

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

Staff Present during part or all of the meeting:

Steve Walthour, General Manager;
Dale Hallmark, Assistant General Manager – Hydrologist/Producer Services;
Kirk Welch, Assistant General Manager/Outreach;
Kristen Lane, Executive Assistant;
Laura West, Production Monitoring Coordinator;
Casey Tice, Compliance Coordinator;
~~Laura West, Production Monitoring Coordinator;~~
Odell Ward, GIS Lead Technician/Natural Resource Specialist; and,
Alyssa Holguin, Conservation Outreach Assistant.

Others present during part or all of the meeting:

C. C. Sysombath;
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.

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 September 13, 2016 Board Meeting; the review and approval of un-audited District expenditures for September 1, 2016 through September 30, 2016, including the General Manager's expense and activity report; and the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses from September 1, 2016 through September 30, 2016, in the amount of \$13,058.69. Gene Born moved to approve the Consent Agenda. Justin Crownover seconded the motion and it was unanimously approved by the Board.

Action Agenda 3a - *Consider action regarding Mr. Franz Schmitt, owner of FJ Farms, request for a sixty (60)-day extension*

for the following Well Permits for proposed Wells to be located in Dallam County, Texas:

DA-9481 9/23/16, DA-9482 9/18/16, DA-9483 9/23/16, DA-9489 9/18/19, DA-9490 9/23/16, DA-9491 9/19/16, DA-9492 9/19/16 and DA-9493 9/23/16.

The Board postponed action on this item in September until October, so the full Board could consider the request which provided Franz Schmitt an additional 30 days to complete well construction.

On August 22, 2016, Mr. Franz Schmitt of FJ Farms requested an exception to District Rule 2.3.1 which states:

Duration of a Well Permit:

1. A Well Permit is valid for one hundred-fifty (150) calendar days after the date the permit application is approved by the General Manager. The Board, for good cause, may extend the duration of the Well Permit. To be considered by the Board, an application for an extension must be filed with the District before the expiration of the Well Permit.

Mr. Schmitt submitted his request prior to the expiration of the Well Permits as required by District Rule 2.3.1. Mr. Schmitt is requesting a sixty (60)-day extension to the following well permits as noted by his request presented to the Board:

DA-9481	Section 19, 6, CSS	809 yds South 658 yds West	expiring 9/23/16
DA-9482	Section 22, 6, CSS	796 yds South 193 yds East	expiring 9/18/16
DA-9483	Section 22, 6, CSS	314 yds North 844 yds West	expiring 9/23/16
DA-9489	Section 1, 7, CSS	444 yds North 478 yds East	expiring 9/18/16
DA-9490	Section 1, 7, CSS	202 yds South 592 yds East	expiring 9/23/16
DA-9491	Section 2, 7, CSS	189 yds South 135 yds East	expiring 9/19/16
DA-9492	Section 43, 6, CSS	498 yds North 428 yds West	expiring 9/19/16
DA-9493	Section 41, 6, CSS	441 yds North 689 yds East	expiring 9/23/16

On August 31, 2016, pursuant to District Rule 11.2.3 D(1) and (2), the District via United States Postal Service, notified the applicant and known interested persons whose rights may be affected, including adjacent landowners, of the exception requested. Written comments were required to be received no later than 5:00 p.m. on September 12, 2016.

Copies of the permits and corresponding maps showing the locations of the wells and the surrounding known interested persons were presented to the Board. No comments were received by the District from any known interested persons whose rights might be affected by Mr. Schmitt's request.

The General Manager recommended that the Board consider the effect of the extension of the Well Permits on adjacent Well owners or land owners that may wish to select a location that would compete with Mr. Schmitt's currently permitted well locations. A measure of the effect on adjacent property owners is whether or not the other owners objected to the extension. The General Manager requested that the permit extensions, if granted, apply only to the construction period and not be applicable to the time period for equipping the rest of the wells within the GPU. Further, the General Manager requested that the District's costs for the administration of the exception, if granted, be charged to the requestor.

Bob Zimmer moved to deny the request of Mr. Franz Schmitt of FJ Farms for an extension for any additional time to complete well construction covered by the Well

Permits identified above. Gene Born seconded the motion and the motion passed by a majority vote of the Board with Zac Yoder opposing the motion.

Action Agenda 3b - Consider final compliance approval of Water Well Permits as active and complete wells.

District Rule 2.13 provides, after the site inspection is complete and it is determined that the Well (and all Wells within the Groundwater Production Unit) are in compliance with the Rules of the District and the Well Permit application, the General Manager shall submit the Well Permit to the Board for final compliance approval.

The General Manager reported that the District staff had processed 27 Water Well Permits which are ready for Board consideration and approval. These permits, listed in the table below, represent completed Wells that have been inspected and are in compliance with District Rules. The inspections verify that the Wells were completed as required by the respective Permits, including proper Well location, Well classification, maximum yield, and proper installations of check valves and flow meters. Copies of the individual permits were presented to the Board.

Well Num	Class	Sec	Blk	Sur	NS
DA-5133	B	NW	31	2	B&B
DA-8990	C	NE/4	55	5	CSS
HA-7282	B	SW/4	3	5	CSS
HA-7283	B	SE/4	4	5	CSS
HA-9349	C	SW/4	29	12	CSS
HN-0093	A	SW/4	68	45	H&TC
HN-6908	D	NW/4	34	4-T	T&NO
HN-8640	C	SW/4	229	2	GH&H
MO-4934	C	NW	202	44	H&TC
MO-4935	C	NE	203	44	H&TC
MO-7054	B	SE/4	290	44	H&TC
MO-8286	B	NE/4	397	44	H&TC
MO-8332	D	NE/4	77	44	H&TC
MO-8801	C	NW/4	51	44	H&TC
MO-9069	C	NE/4	15	Q	H&GN
MO-9321	B	NE/4	223	3-T	T&NO
MO-9322	B	NE/4	223	3-T	T&NO
OC-7213	C	SE/4	25	4	GH&H
SH-0417	A	NW	8	3-T	T&NO
DA-5133	B	NW	31	2	B&B
DA-8990	C	NE/4	55	5	CSS
HA-7282	B	SW/4	3	5	CSS
HA-7283	B	SE/4	4	5	CSS
HA-9349	C	SW/4	29	12	CSS
HN-0093	A	SW/4	68	45	H&TC
HN-6908	D	NW/4	34	4-T	T&NO
SH-5745	C	SE	160	1-C	GH&H
SH-6127	C	NE/4	152	1-C	GH&H
SH-7677	C	SE/4	243	1-T	T&NO
SH-7943	C	SE/4	160	1-C	GH&H
SH-9039	B	W/2	25	1	PSL
SH-9317	B	NE/4	44	3-T	T&NO
SH-9318	B	NW/4	32	3-T	T&NO
SH-5745	C	SE	160	1-C	GH&H
SH-6127	C	NE/4	152	1-C	GH&H
SH-7677	C	SE/4	243	1-T	T&NO
SH-7943	C	SE/4	160	1-C	GH&H
SH-9039	B	W/2	25	1	PSL
SH-9317	B	NE/4	44	3-T	T&NO

SH-9318	B	NW/4	32	3-T	T&NO
SH-5745	C	SE	160	1-C	GH&H
Well Num	Class	Sec	Blk	Sur	NS
SH-6127	C	NE/4	152	1-C	GH&H
SH-7677	C	SE/4	243	1-T	T&NO
SH-7943	C	SE/4	160	1-C	GH&H
SH-9039	B	W/2	25	1	PSL
SH-9317	B	NE/4	44	3-T	T&NO
SH-9318	B	NW/4	32	3-T	T&NO
SH-5745	C	SE	160	1-C	GH&H
SH-6127	C	NE/4	152	1-C	GH&H

The General Manager requested that Well Permit MO-9321 and Well Permit SH-9039 be removed from the Well Permit Schedule to be considered by the Board.

Harold Grall moved to remove Well Permit MO-9321 and Well Permit SH-9039 and to approve all of the remaining Well Permits on the above schedule noting that the Wells are properly equipped and otherwise comply with District Rules. Justin Crownover seconded the motion and it was unanimously approved by the Board.

Action Agenda 3c - Receive report and discuss 2017 Texas Legislative Session and Issues.

The General Manager presented the following report to the Board:

The 85th Texas Legislature will convene in January of 2017. The 31 State Senators and 150 Representatives meet every two years for 140 days unless the Governor calls a 30-day special session to deal with an overriding issue. The Governor may call as many special sessions as he so chooses. The District is represented by Senator Kel Seliger and Representatives Four Price, John Smithee, and Ken King. During the 84th Legislature, the District sought, and Senator Seliger and Representative Price carried, successful Legislation to amend the District's Enabling Legislation to hold elections in November of even numbered years. The District is currently going through its first election cycle under the new Legislation. On October 4th at the Texas Water Conservation Association (TWCA) Legislative Committee, and on October 5th at Groundwater Management Area 1 Joint Planning Meeting, the General Manager voiced the District's intent to propose Legislation to amend Section 36.108(d) of the Texas Water Code as approved by the Board.

Between legislative sessions the Speaker of the House and the Lieutenant Governor issued their interim charges for study by legislative committees. Copies of their 84th interim charges can be found on the web at http://www.house.state.tx.us/_media/pdf/interim-charges-84th.pdf and at https://www.ltgov.state.tx.us/wpcontent/uploads/docs/Senate_Interim_Charges_84_pt1.pdf.

In May, the General Manager provided testimony regarding conservation programs to the Senate Committee on Agriculture, Water & Rural Affairs, currently chaired by Senator Charles Perry from Lubbock, during a series of interim hearings. Legislation that passes through this committee can most affect groundwater conservation districts in the State.

On October 4th, Senator Perry requested that the TWCA legislative committee consider the following:

1. In addition to those already applied by the Texas Supreme Court in Day and Coyote, what oil and gas law principles, precedents, and rules, if any, would improve the management of groundwater in Texas?
2. How can Texas law improve the method in which groundwater conservation districts permit the production of groundwater? Should Texas

law allow groundwater conservation districts to adopt so-called user-based rules for the permitting of groundwater production?

3. How can Texas law be changed to more accurately estimate how much groundwater is available for production? To the extent groundwater conservation districts are reverse-engineering their desired future conditions, how can Texas law be changed to stop, or prevent, this from happening?
4. Generally, how can Texas law be changed to better protect judicially and statutorily recognized private property rights in groundwater?

A copy of Senator Perry's letter was presented to the Board. The Board requested that the District's general counsel prepare a white paper to address the question presented by Senator Perry and present the same to the Board at a later time.

In September, the Texas House Subcommittee on Special Water Districts held a hearing in Fort Stockton regarding property rights and groundwater management. The *Fort Stockton Pioneer* reported that Subcommittee chairman, Lyle Larson, from San Antonio repeated his assertions that groundwater conservation districts are "impeding and blocking" the ability of growing Texas cities to access water from rural areas. Larsen said that GCDs should no longer be considered "the state's preferred method of management in order to protect property rights, balance the conservation and management in order to protect the needs of this State, and use the best available science in the conservation and development of groundwater" as stated in the Texas Water Code. His comments were confirmed by groundwater conservation district representatives in attendance at the hearing. On September 29th, the General Manager, general counsel, and Gene Born listened to Representative Larson where he voiced that ninety percent of the groundwater conservation districts in the State are functioning properly. He then went on to essentially state the same opinion as reported in the *Fort Stockton Pioneer*.

Agenda 3d - Receive 2015 North Plains Groundwater Conservation District Annual Report.

Kirk Welch presented a draft of the North Plains Groundwater Conservation District 2015 Annual Report to the Board.

Agenda 3e - Receive report regarding Groundwater Management Area 1 Joint Planning Process.

The General Manager stated that on October 5, the Groundwater Management Area 1 Joint Planning Committee met and considered adoption of Desired Future Conditions. The committee heard summaries from each of the districts and the changes and suggestions of the General Manager and Chairman Zimmer from the District. Hemphill County provided additional documentation regarding land prices and read into the record, their concept of balancing the DFCs between the highest practicable groundwater production and conservation. The committee determined that it wanted to adopt one resolution for both the Ogallala and Dockum DFCs. The committee drafted the resolution for consideration and provided additions and concepts to be added to the explanatory report at their November 2nd meeting.

Agenda 3f - Receive report regarding the District's agriculture conservation programs.

Assistant General Manager, Kirk Welch, presented the following report to the Board regarding the District's agriculture conservation programs.

Mr. Welch reported as follows:

Master Irrigator Program

The Project Advisory Committee met on August 2nd to review and begin planning the next Master Irrigator sessions. The proposed dates for the upcoming Master Irrigator Sessions are:

2017 Session Dates:

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

2017 Speakers:

District staff booked all speakers for the upcoming Master Irrigator Program. The speakers are:

- Dr. Stephen H. Amosson, Regents Professor and Extension Service Economist-Management, Texas A&M AgriLife;
- Dr. Jourdan Bell, Assistant Professor and Agronomist, Texas A&M AgriLife Extension Service;
- Mike Caldwell, Natural Resources Manager, USDA-NRCS;
- Jeff Childs, Sales Engineer, Yaskawa America Inc.;
- Jerry Funck, Owner, Professional Water Management Associates;
- Karllyle Haaland, CEO, PivoTrac Monitoring, LLC;
- Farris Hightower, Regional Sales Manager, Lindsay Corporation;
- Dr. Charles Hillyer, Assistant Professor and Irrigation Engineering Specialist, Texas A&M AgriLife Extension Service;
- John Gibson, Precision Ag Specialist, Crop Quest;
- Leon New, Agricultural Engineer;
- David Reinart, Co-Owner, Better Harvest, Inc.;
- Keith Sides, State Irrigation Engineer, USDA-NRCS;
- Dr. David Sloane, Principal Agronomist, AquaSpy;
- Fred Vocasek, Senior Laboratory Agronomist, Servi-Tech; and,
- Steve Walthour, General Manager, North Plains Groundwater Conservation District.

Master Irrigator Project Advisory Committee

The committee is composed of: 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.

3-4-5 Demonstration Project

As of October 4th, only one field has been harvested, Danny Krienke's 3 GPM Early Corn. Harvest could start in the next couple of weeks on the other fields. Leon New and Curtis Schwertner will continue to monitor the 3-4-5 fields.

Water Conservation Center

Mr. Welch reported that the WCC received two groups of visitors over the last month. On September 13th, Farris Hightower brought a group of farmers from Australia to discuss the subsurface drip system. On September 21st, David Reinart, Jourdan Bell, Robert Schwartz and two students from Western Africa and Ukraine visited the WCC to discuss the District operation on the farm. Stan Spain finished irrigating the corn and is expecting to harvest during the week of October 17th.

Agenda 3g - Consider Action to Correct 2016-2017 Budget Total.

In August, the Board approved the budget presented in error by the General Manager for 2016- 2017 fiscal year as follows:

Budget Item	Amount
Director's Expense	70,000.00
Personnel	1,200,788.4
Administrative	119,500.00
Contracted Services	89,172.65
Professional Fees	217,500.00
Tech., Communication & Utilities	123,000.00
Vehicle; Bldg.; Field; Supplies	85,000.00
Capital Outlay	120,000.00
Aquifer Science	55,000.00
Conservation Outreach	430,000.00
Conservation Demo Project	245,000.00
Water Conservation Center	104,614.00
Elections	25,000.00
Total	2,859,575.07

However, the General Manager reported that he had erred in calculating the total expense budget. The correct total expense budget should be \$2,884,575.07. The error occurred because of a failure to re-calculate the expenses after election expenses were added to the budget.

The General Manager requested that the Board amend the total budget to \$2,884,575.07 to reflect the addition of the elections' budget. The budget amendment will increase the current year's total expense budget by \$25,000.

Gene Born moved to amend the total budget to \$2,884,575.07. Harold Grall seconded the motion and it was unanimously approved by the Board.

Agenda 3h - Receive report and consider action regarding compliance matters before the District.

Executive Session - Section 551.071 of the Texas Government Code.

At 10:10 a.m., Zac Yoder 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. Mark Howard seconded the motion and it was unanimously approved by the Board.

Executive Session: At 10:21 a.m., the Board went into Executive Session. At 10:33 a.m., Director Gene Born moved that the Board reconvene into regular session. Zac Yoder seconded the motion and it was unanimously approved by the Board.

The Board reconvened into regular session at 10:33 a.m.

The General Manager reported to the Board that Robert Spielman had tendered a counter-offer of settlement to the District regarding Show Cause Order No. 016-001 in the amount of Five Thousand and No/100ths Dollars (\$5,000.00) to fully compromise and settle the compliance matter. At the September 13, 2016 Show Cause Hearing, the District assessed a civil penalty against Mr. Spielman in the amount of \$10,000.00. Further, in enforcing the District's Rules in this matter and processing the Show Cause hearing, the District incurred attorney's fees in the amount of \$2,500.00, and costs in the amount of \$113.75. Demand has been made upon Robert Spielman by the District for a cash payment of \$12,613.75 which must be paid to the District on or before 5:00 p.m. on October 26, 2016. Justin Crownover moved to reject the counter-offer of settlement tendered by Robert Spielman to fully settle his compliance matter and to require him to pay \$12,613.75 to the District on or before 5:00 p.m. on October 26, 2016. Gene Born seconded the motion and the motion passed by a majority vote of the Board with Harold Grall, Zac Yoder and Mark Howard opposing the motion.

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. Mr. Walthour also reported that the District Christmas Party has been scheduled on December 9, 2016.

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 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 November 8, 2016.

Agenda 6 - Adjournment.

There being no further business to come before the meeting, President Zimmer declared the meeting adjourned at 11:07 a.m.


Bob B. Zimmer, President


Daniel L. Krienke, Secretary