

**MINUTES OF THE MARCH 18, 2013  
BOARD OF DIRECTORS MEETING OF  
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session March 18, 2013, at 9:00 a.m. in the Conference Room of the Hampton Inn, 2010 South Dumas Avenue, Dumas, Texas 79029. The following persons were present:

**Members Present:**

Gene Born; President  
Daniel L. Krienke, Director;  
Bob Zimmer, Secretary;  
Phil Haaland, Director;  
Harold Grall, Director; and  
Brian Bezner, Vice President.

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

Steve Walthour, General Manager;  
Dale Hallmark, Assistant General Manager and Hydrologist;  
Kirk Welch, Assistant General Manager/District Outreach;  
Kristen Alwan, Executive Assistant; and,  
Pauletta Rhoades, Finance and Administration Coordinator.

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

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Scott Strawn;  
Mark Howard;  
Scott Clawson;  
Tom Moore;  
Marty Jones, Esq.;  
C. C. Sysmopath;  
Emmett Autrey, Esq.;  
Brad Easterling;  
Greg Howard;  
Amy Haschke;

\_\_\_\_\_  
Casey Kimbrell;  
Justin Crownover;  
F. Keith Good, District General Counsel; and,  
Ellen Orr, Paralegal.

President Born declared a quorum present and called the meeting to order at 9:05 a.m.

Director Bob Zimmer gave the invocation and President Born led the pledge.

President Born asked if there were persons present who desired to make public comment. Tom Moore publicly thanked Wesley Spurlock for his service as a Director for Sherman County, Texas. Mr. Moore addressed Rule 3.5 E which the Board passed in January, 2013. Mr. Moore stated that the passage of Rule 3.5 E cost him personally \$20,000.00 without saving one drop of water.

Marty Jones, Esq., addressed the Board and stated that he had comments to make on the development of the District's proposed rules. President Born stated that the Board would

take comments on the revisions to the District's rules later in the meeting on that specific agenda item.

Harold Grall moved to approve the Consent Agenda consisting of the approval of the Minutes of the Board Meeting of February 14, 2013; the un-audited District expenses presented to the Board from February 1, 2013 through February 28, 2013, including the General Manager's Expense and Activity Report; the approval of payment of professional services and out-of-pocket expenses to Lemon, Shearer, Phillips & Good, P.C. in the amount of \$4,806.62 for February 1, 2013, through February 28, 2013; and adopting a resolution not to collect personal property tax on personal boats, personal vehicles, airplanes, motor homes and trailers for 2013 in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore and Hutchinson Counties, Texas. Phil Haaland seconded the motion and it was unanimously approved by the Board.

Scott Strawn, Brad Easterling and Kristy Synatschk reported to the Board on the EPIC Demonstrations funded by the District.

Phil Haaland moved to approve District funding of the EPIC Demonstrations for 2013. Brian Bezner seconded the motion and it was unanimously approved by the Board.

In February, the General Manager reviewed prospective draft rules with the board. The General Manager presented the Board with a draft involving the following chapters of the rules:

**Chapter 1 - General provisions, District jurisdiction, definitions**

This chapter deals with the District's general jurisdiction, business office address, purpose of the rules, construction of the rules, general application requirements for all matters, authority to enforce rules, authority to enter land, the effect of filing fraudulent information with the District and definitions. The definitions have been amended to reflect what is in the rules.

**Chapter 2 -Applications, permits and registrations**

This chapter deals with the process for registering and permitting a well, well exemptions. Primary concepts in this chapter removes the requirement that adjacent land owners must stay at least 400 yards away from a property line will a test hole permit is in effect, removes the concept of "unused well", changes the General Manager's action on an expedited permit from as soon as possible to as soon as practicable.

**Chapter 3 - Well classification, spacing and density**

This chapter creates an "S" well classification for wells less than 25 gallons per minute, offers options to property line spacing, removes the calculation of drilling a smaller well away from a larger well, requires all wells to be spaced from a domestic well as they would from any other well and provides a spacing easement between a domestic well and a larger well, provides for new requirements for replacement wells, well spacing from natural springs, the requirement that capped wells count toward well density, and ties well density to sections.

**Chapter 4 - Well construction and required equipment**

This chapter requires that wells be constructed to prevent pollution, changes the well location accuracy from 10 yards to 15 yards, reduces the check valve specifications, creates a requirement to seal the annular space, provides specifications for capping a well, addresses well plugging, and how the district recovers expenses for plugging wells.

**Chapter 5 - Water flow meters and alternative measuring method**

This chapter incorporates the metering manual, set a deadline for eliminating alternative metering methods, and incorporates the metering rules in the previous rule set.

### **Chapter 6 - Allowable annual production and reporting**

This chapter addresses allowable annual production and reporting, clarifies that conservation reserve stays with the property, and notices that allowable annual production may be reduced to achieve DFCs.

### **Chapter 7 - Pooled groundwater units**

This chapter provides for how to pool groundwater units, addresses boundaries between pooled units under common ownership, and provides criteria if a person wants to develop and properly file their pooled groundwater unit document without staff input.

### **Chapter 8 - Amendments to allowable annual production to achieve desired future conditions**

This chapter defines DFCs and the calculation for reducing allowable annual production to achieve DFCs.

### **Chapter 9 - Waste of groundwater**

This chapter prohibits waste and provides conditions constituting waste.

### **Chapter 10 – Deposits and fees**

This chapter covers all deposits and fees for all services to the District. The General Manager has not included a fee rule for production fees in the Dallam County PGMA area.

President Born addressed Marty Jones, Esq. and stated that the Board would receive Mr. Jones' commentary on the prospective rule revisions. Mr. Jones addressed the Board and stated:

(1) current Rule 5.1.4 should not be repealed; (2) Rule 3.5 E which the Board adopted in January will increase metering cost by 30 million dollars throughout the District's boundary and should be revisited by the Board; (3) he is opposed to Rule 4.4; (4) Chapter 8 should be revised to adjust production limits down if necessary slowly and predictably – the Annual Production Limit should not be changed annually; (5) Rule 7.5 which sets maximum acre limitations for pooling should be repealed and the District should regulate through gpm and maximum density Rules; (6) proposed Rule 3.7 should not be adopted; and, (7) he opposed proposed Rule 3.10 because capped wells are included. Mr. Jones stated that he was a proponent of Regional control of the aquifer; however, the District is doing what it should be doing.

Casey Kimbrell also addressed the Board stating his opposition to Rule 2.9 because it is not extendable and his opposition to Rule 4.4. because of the expense of the same.

The General Manager proposed that the Board discuss the draft Rules and identify the Rule drafts that do not need additional revisions before they are proposed to the public. The following provisions of the drafted proposed Rules were set for further discussion:

Chapter 1 – Definitions;

Rule 2.1;

Rule 2.4;

Rule 2.7;

Chapter 3 – Well Classification, Spacing and Density

Rule 4.4;

Rule 4.8

Rule 6.4;

Chapter 7;

Chapter 8; and

Rule 9.2.8.

At 10:55 a.m. the Board recessed and reconvened at 11:06 a.m.

Danny Krienke moved to strike proposed discussion Rule 3.7(Well Spacing from Natural Springs) from the Chapter 3 Rules which the Board will consider at a later meeting. Phil Haaland seconded the motion and the motion passed by the majority vote of the Board with Gene Born opposing the motion.

A Schedule of Well Permits was presented to the Board for its review. Brian Bezner moved to remove DA-5146 from the Schedule of Well Permits so that they could be considered separately by the Board and to approve the remainder of the Schedule of Well Permits because the Wells are properly equipped and otherwise comply with District Rules. Bob Zimmer seconded the motion and the motion passed unanimously.

COUNTY	OWNER	WELL	METER LOCATION	CL	MAX	QTR	SEC	BLK	SUR	YARDS	
										NS	EW
DALLAM	L&R BEZNER LTD	DA-3958	WELL	D	1800	NE	55	5	CSS	720N	727E
DALLAM	ADOLPH HILL ESTATE TRUST	DA-5115	WELL	D	1800	SW	37	19	CSS	858S	843E
DALLAM	L&R BEZNER LTD	DA-5136	WELL	C	800	SW	75	5	CSS	857S	38W
DALLAM	DAVID PENNER	DA-5173	WELL	C	800	NW	3	5	FDW	152N	101W
DALLAM	BEZNER CATTLE & GRAIN CO	DA-5290	WELL	C	800	NW	35	4	CSS	21N	168W
DALLAM	BEZNER CATTLE & GRAIN CO	DA-5291	WELL	C	800	NE	26	4	CSS	13N	391E
DALLAM	BEZNER CATTLE & GRAIN CO	DA-5292	WELL	C	800	SE	26	4	CSS	497S	172E
HARTLEY	DON OPPLIGER FARMS	HA-4369	WELL	C	800	NE	21	12	CSS	777N	34E
HARTLEY	WILLIAM GRAFF	HA-4886	WELL	C	800	NW	105	48	H&TC	191N	861W
HARTLEY	ELZA POLLARD	HA-4981	WELL	C	800	NE	137	48	H&TC	365N	109E
HARTLEY	KASPER LAND & CATTLE	HA-5092	WELL	C	800	SE	418	44	H&TC	41S	589
HARTLEY	KASPER LAND & CATTLE	HA-5093	WELL	C	800	NW	377	44	H&TC	869N	861W
HARTLEY	KASPER LAND & CATTLE	HA-5094	WELL	C	800	NE	339	44	H&TC	882N	849E
HUTCHINSON	TONY HARPER	HU-5052	WELL	D	1800	SW	0	0	WM NEIL	115S	114W
HUTCHINSON	TONY HARPER	HU-5053	WELL	D	1800	SW	0	0	WM NEIL	102S	370W
HUTCHINSON	TONY HARPER	HU-5186	WELL	C	800	SW	0	0	WM NEIL	164S	819W
MOORE	WAYLAND BAPTIST UNIVERSITY	MO-4957	WELL	C	800	SW	25	2-T	T&NO	317S	105W
MOORE	W D CATTLE CO A PARTNERSHIP	MO-5128	WELL	B	400	NE	9	1	J POINTEVENT	767N	154E
SHERMAN	MARCUS LAVAKE	SH-5198	WELL	C	800	SW	340	1-T	T&NO	458S	441W
SHERMAN	MARCUS LAVAKE	SH-5199	WELL	C	800	SE	340	1-T	T&NO	859S	642E
SHERMAN	W&C LAND AND CATTLE LTD	SH-5241	WELL	B	400	SW	10	1-T	T&NO	867S	835W

SHERMAN	MARCUS LAVAKE	SH-5253	WELL	B	400	SE	340	1-T	T&NO	638S	879E
SHERMAN	KENQUINT LLC	SH-5307	WELL	C	800	NW	183	1-C	GH&H	7N	481W
SHERMAN	KENQUINT LLC	SH-5310	WELL	C	800	SE	184	1-C	GH&H	843S	865E
SHERMAN	KENQUINT LLC	SH-5311	WELL	C	800	NW	184	1-C	GH&H	306N	104
SHERMAN	KENQUINT LLC	SH-5312	WELL	C	800	NW	184	1-C	GH&H	307N	505W
SHERMAN	KENQUINT LLC	SH-5313	WELL	C	800	NE	184	1-C	GH&H	514N	102E
SHERMAN	KENQUINT LLC	SH-5314	WELL	C	800	NE	184	1-C	GH&H	108N	104E
SHERMAN	KENQUINT LLC	SH-5315	WELL	C	800	NE	184	1-C	GH&H	376N	513E
SHERMAN	KENQUINT LLC	SH-5316	WELL	C	800	SE	184	1-C	GH&H	386S	440E
SHERMAN	REUBEN KOEHN	SH-5395	PIVOT	D	1800	NE	33	3-B	GH&H	269N	391E

Bob Zimmer moved to approve Well Permit DA-5146 as an active and complete Well because the Well is properly equipped and otherwise complies with District Rules. Phil Haaland seconded the motion and it passed by the majority vote of the Board with Brian Bezner abstaining from the vote.

The General Manager reported to the Board that in December 2012, the District mailed 2602 Annual Production Reports to well owners or their agents. The District has mailed additional reports as the District has recognized that wells have become complete, wells had been put back into service, or recognized that the report was originally mailed to the wrong address. This year, stakeholders filed 98.5% of all reports timely. As of Wednesday, March 12<sup>th</sup>, the District has received 98.6% percent of all reports District staff is currently notifying owners that the District does not have records of their report being filed. As of March 13<sup>th</sup> there are 20 producers with 25 outstanding reports who have failed to file. In 2011, the Board adopted the following policy for late filed reports for 2011 and for subsequent years as follows:

- Reports filed after March 1st but on or before March 10th – Owner/agent shall pay \$50 per report per day late or instead of the fee the owner may install flow meters for all production on the property by June 1 if it has not already done so;
- Reports filed after March 10th but before April 1st - Owner/agent shall pay \$500 per report or instead of the fee the owner may install flow meters for all production on the Property by June 1st if it has not already done so;
- The District will reimburse late fees to any well owner that filed the report after March 1st but before April 1st if the owner pays the fee by June 1st and files its 2013 production report by January 15th, 2014; and
- Reports filed after April 1, 2013, shall be considered in violation of District Rule 3 - Owner/agent becomes subject to an initial civil penalty of \$1,500, plus an additional civil penalty to accrue at the rate of \$50 per day for each day thereafter until the report is filed. Such well owner shall also be required to install District approved flow meters as required by the District Rules on each Property on which a 2012 Production Report is not filed on or before 5:00 p.m., April 1, 2013.

A letter will be sent to late filers who have not paid the late filing fee as outlined by the Board. The letter will be sent to all parties that owe the late filing fee after the District staff can confirm that the reporters were actually late. The letter will be mailed in April giving the late filers 30 days to comply. For those that do not pay the fee, the General Manager will bring a list of the non-payers to request the Board to order a show cause hearing.

For those persons that exceed the District's 2012 Annual Production Limit, the staff will review each circumstance. If a property owner could have Pooled Property to avoid fees set by the Board, the general manager will allow those parties to pool their property by July 1, for 2012 and sign a settlement in which the party will agree to have any future pooling completed by August 1<sup>st</sup> for a current year and pool any property acquired after August 1<sup>st</sup> within 30 days of the acquisition or December 31<sup>st</sup>, whichever is earliest.

Brian Bezner moved to table action Agenda item 3f (Review the North Plains Groundwater Conservation District Annual Group annuity contract with John Hancock Life Insurance Company) until the next Board Meeting. Bob Zimmer seconded the motion and it was unanimously approved by the Board.

The General Manager presented a report to the Board of Bills that had been filed during the 83<sup>rd</sup> Texas Legislative Session which could affect groundwater.

Bob Zimmer moved that if TCEQ was dropped unilaterally from H.B. 3535 that the District would support the Bill. Harold Grall seconded the motion and it was unanimously approved by the Board.

Danny Krienke moved to support standardization as provided for in SB 1282. Harold Grall seconded the motion and it was unanimously approved by the Board.

The General Manager reported to the Board on compliance matter. Mr. Walthour stated that in April, District personnel will begin focusing on reading meters. In addition to reading meters, District staff will be working on the survey of wells in the PGMA areas over the summer. Well owners in the PGMA areas are required to report their water use for 2013 by March 1, 2014. The General Manager also provided the Board with a listing of persons that have not filed their production reports for 2012.

Danny Krienke moved to table action Agenda item 3i (Consider action to approve drilling new C classification irrigation well and a new A classification well for water supply at the North Plains Research Field) until the next meeting of the Board. Brian Bezner seconded the motion and it was unanimously approved by the Board.

Mr. Walthour reported to the Board that the District has begun converting the board room into offices. Currently, the District is soliciting bids to turn the board room into three offices. The General Manager requests the board authorize expenditures for the construction not to exceed \$30,000.00, and to amend the budget to increase 7208 Capital Outlay by \$30,000.00 and authorize the general manager to proceed with equipping the board room for offices.


Phil Haaland move that the Board authorize expenditures for construction to convert the board room into offices, not to exceed \$30,000.00; to amend the budget to increase 7208 Capital Outlay, by \$30,000.00; and to authorize the general manager to proceed with equipping the board room for offices. Danny Krienke seconded the motion and it was unanimously approved by the Board.

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 and the General Manager's activity summary.

By consensus, the Board set its next regular Board meeting for April 8, 2013.

Phil Haaland moved to adjourn the meeting. Brian Bezner seconded the motion and it was unanimously approved by the Board. President Born declared the meeting adjourned at 1:35 p.m.

  
Gene Born, President

  
Bob Zimmer, Secretary