

**MINUTES OF THE SEPTEMBER 8, 2020
BOARD OF DIRECTORS MEETING OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session on September 8, 2020 at 9:30 a.m. at the North Plains Conservation Center Barn, 6045 County Road E., Dumas, Texas 79029. The following persons participated in the Meeting:

Members Present at 9:30 a.m.:

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

Staff present during part or all of the meeting:

Steve Walthour, General Manager;
Kirk Welch, Assistant General Manager — Outreach;
Dale Hallmark, — Hydrologist;
Kristen Blackwell, Executive Assistant;
Lewis Orthman, Natural Resource Specialist;
Curtis Schwertner, Natural Resource Specialist;
Shari Stanford, Natural Resource Specialist;
Paige Glazner, Conservation Outreach Assistant; and
Dusty Holt, Permitting Specialist.

Others present during part or all of the meeting:

Nich Kenny;
Guy Burkett;
Blake Stringer;
Kelly Stringer;
Scott Skalsky;
Mandi Boychuk, Natural Prairie & Northside Farmland;
F. Keith Good, General Counsel for the District; and
Ellen Orr, Paralegal.

President, Daniel L. Krienke declared a quorum present and called the meeting to order at 9:30 a.m. Director, Harold Grall, gave the invocation and President Krienke led the pledge.

President Krienke recessed the regular Board meeting and called the following matters for hearing:

NPGCD Show Cause Hearing No. 020-001, regarding Guy Burkett, doing business as Burkett Drilling in apparent violation of District Rules 2.14 and 2.18.; and

NPGCD 020-002, regarding Blake Stringer for apparent violation of District Rules 5.1.1; 5.1.4.A and 5.1.5.

At 1:01 p.m., President Krienke closed the Show Cause hearings.

Executive Session - Section 551.071 of the Texas Government Code.

At 1:02 p.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 on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551. Bob B. Zimmer seconded the motion and it was unanimously approved by the Board.

Executive Session: At 1:12 p.m., the Board went into Executive Session. At 2:25 p.m., Gene Born moved that the Board reconvene into regular session. Bob B. Zimmer seconded the motion and it was unanimously approved by the Board.

The Board reconvened into regular session at 2:30 p.m.

1 – Public Comment

No Public Comment was made to the Board.

2 – Consent Agenda

The Consent Agenda was discussed by the Board and consisted of: the review and approval of the Minutes of the regularly scheduled Board of Directors Meeting on August 14, 2020; the review and approval of un-audited District expenditures for August 1, 2020 through August 31, 2020, 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 incurred from August 1, 2020 through August 31, 2020, in the amount of \$31,050.58.

Gene Born moved to approve the Consent Agenda. Harold Grall seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.a. - Consider action regarding Show Cause Hearings.

Gene Born moved to adopt the following Board Order regarding Show Cause Hearing No. 020-001 in re Guy Burkett, doing business as Burkett Drilling:

NPGCD BOARD ORDER NO. 020-001

On September 8, 2020, at 9:30 a.m., the North Plains Groundwater Conservation District (District) Board of Directors, under Presiding Officer, Daniel L. Krienke, convened a Show Cause Hearing (Hearing) under District Rule 11.5. The Hearing was convened to permit Guy Burkett, doing business as Burkett Drilling, a sole proprietorship, P.O. Box 630, Sunray, Texas 79086 (Burkett) to come before the Board and show cause as to why Burkett should not be assessed a civil penalty, for violation of District Rules 2.14 and 2.18. The Hearing was duly recorded by Court Reporter, Shelly Burnett.

After hearing the evidence submitted by General Manager, Steve Walthour, Guy Burkett and comments by the District's General Counsel, Keith Good, the District's Board of Directors finds:

FINDINGS

The North Plains Groundwater Conservation District (District) was established by the Texas Legislature under enabling legislation ratified on January 27, 1955. The District is authorized under Texas Water Code, Section 36.101, to make and enforce Rules to govern the conservation, preservation, protection, recharging, and prevention of waste

of groundwater within the District. Further, under Sections 36.114, 36.115 and 36.117(h) of the Texas Water Code, the District is authorized to require the permitting and registration of water Wells;

District Rule 2.14 (Permit Available during Drilling or Equipping a Well) requires that a copy of a Well Registration, Test Hole Permit, or Well Permit approved by the General Manager shall be available (which may be through electronic means) at the drilling rig at all times during which the rig is drilling a Well and when the Well is being completed or equipped;

District Rule 2.18 (Well Registration Required) also requires that monitor wells, domestic wells, livestock wells, and a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas (RRC) shall be registered with the District;

As observed by District staff, on or about February 27, 2020, Burkett drilled a Well (HN-11503) on the Southwest Quarter (SW/4) of Section 28, Block P, H&GN Ry. Survey, Hansford County, Texas, Latitude 36.444853 and Longitude -101.399076 without having first registered the Well with the District, or applied to the District and received a permit, or amended permit to do so, or indicated to the District that the Well was exempt by law or by District Rules. Further, Burkett failed to make available, a copy of the Well Registration, Test Hole Permit, or Well Permit approved by the General Manager during all times in which the drilling rig was engaged in drilling operations of the Well and during the completing and equipping of the Well on the Property. Well HN-11503 was registered with the District on or about March 17, 2020;

On or about March 2, 2020, Burkett was notified by the District of the apparent violations of District Rule 2.14 and District Rule 2.18. for Well HN-11503;

During the investigation of the foregoing violations by Burkett, District staff discovered that Burkett has also violated District Rule 2.14 and District Rule 2.18 as follows:

1. On or about November 15, 2019, Burkett drilled a Domestic Well (SH-11502) on the Southeast Quarter (SE/4) of Section 59, Block 2-B, GH&H Ry. Survey, Sherman County, Texas, Latitude 36.198306 and Longitude -101.919139 without having first registered the Well with the District, or applied to the District and received a permit, or amended permit to do so, or indicated to the District that the Well was exempt by law or by District Rules. Further, Burkett failed to make available, a copy of the Well Registration, Test Hole Permit, or Well Permit approved by the General Manager during all times in which the drilling rig was engaged in drilling operations of the Well and during the completing and equipping of the Well on the Property. Well SH-11502 was registered with the District on or about March 17, 2020;
2. On or about November 16, 2019, Burkett drilled a Domestic Well (SH-11263) on the Northwest Quarter (NW/4) of Section 214, Block 1-C, GH&H Ry. Survey, Sherman County, Texas, Latitude 36.3278 and Longitude -101.9352 without having first registered the Well with the District, or applied to the District and received a permit, or amended permit to do so, or indicated to the District that the Well was exempt by law or by District Rules. Further, Burkett failed to make available, a copy of the Well Registration, Test Hole Permit, or Well Permit approved by the General Manager during all times in which the drilling rig was engaged in drilling operations of the Well and during the completing and equipping of the Well on the Property. Well SH-11263 was registered with the District on or about March 17, 2020; and

3. On or about February 26, 2020, Burkett drilled a Domestic Well (HN-11509) on the Southwest Quarter (SW/4) of Section 59, Block P, H&GN Ry. Survey, Hansford County, Texas, Latitude 36.459243 and Longitude -101.367977 without having first registered the Well with the District, or applied to the District and received a permit, or amended permit to do so, or indicated to the District that the Well was exempt by law or by District Rules. Further, Burkett failed to make available, a copy of the Well Registration, Test Hole Permit, or Well Permit approved by the General Manager during all times in which the drilling rig was engaged in drilling operations of the Well and during the completing and equipping of the Well on the Property. Well HN-11509 was registered with the District on or about March 17, 2020;

The District issued its Order for a Show Cause Hearing to Burkett on March 13, 2020 for violations of District Rules 2.14 and 2.18 for Well HN-11503;

The District's Order for a Show Cause Hearing set the location of the Hearing at the Conference Room in the Richard S. Bowers Water Conservation Learning Center Building at the North Plains Groundwater Conservation District Water Conservation Center, 6045 County Road E, Dumas, Texas 79029-7201; set the date for April 14, 2020; and set the time at 9:30 a.m.;

Burkett was submitted notice of the District's Show Cause Hearing Order by certified and regular U. S. mail delivery;

The Burkett Show Cause Hearing was continued by the District until September 8, 2020 and the location was moved to the North Plains Groundwater Conservation District Water Conservation Center Barn, 6045 County Road E, Dumas, Texas 79029-7201 at 10:30 a.m.;

After the Order for the Show Cause Hearing was submitted to Burkett, District staff discovered that Burkett violated District Rule 2.14 and District Rule 2.18 by also drilling Well SH-11502, Well SH-11263 and Well HN-11509;

Pursuant to Texas Water Code, Section 36.102 and District Rule 12.1.2, the District may assess a civil penalty against Burkett for failure to comply with the District's Rules;

The violation of District Rule 2.14. may be enforced by the District by assessing a Class 1 civil penalty against Burkett;

The violation of District Rule 2.18 may also be enforced by the District by assessing a Class 1 civil penalty against Burkett;

A Class 1 civil penalty shall not be less than \$50, nor more than \$10,000 per violation, and each day of a continuing violation shall be deemed a separate violation.

Burkett has violated both District Rule 2.14 and District Rule 2.18 on four separate occasions; and

All of Burkett's administrative remedies have been exhausted in this matter under the District's Show Cause Rule number 11.5.

ORDER

IT IS THEREFORE ORDERED that Burkett shall pay the District the sum of FORTY THOUSAND AND NO/100THS DOLLARS (\$40,000.00), of which TEN THOUSAND AND NO/100THS DOLLARS (\$10,000.00) shall be paid by check to the District on or before October 7, 2020.