

**MINUTES OF THE OCTOBER 10, 2023  
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 October 10, 2023, at 9:00 a.m. in the Conference Room in the Richard S. Bowers Water Conservation Learning Center Building at the North Plains Water Conservation Center, 6045 West County Road E., Dumas, Texas 79029-7201. The following persons were present:

**Members Present at 9:03 a.m.:**

Mark Howard, President  
Daniel L. Krienke, Vice President  
Bob B. Zimmer, Secretary;  
Gene Born, Director;  
Harold Grall, Director; and,  
Allan Frerich, Director.

**Staff present during part or all the meeting:**

Janet Guthrie, General Manager;  
Steve Walthour, S.P.A.M. via Zoom;  
Kirk Welch, Assistant Manager;  
Kristen Blackwell, Administration Manager;  
Baylee Barnes, Conservation Outreach Specialist;  
Curtis Schwertner, Natural Resource Specialist; and,  
Krystal Donley, Administrative Assistant.

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

Dale Hallmark;  
Stan Spain;  
Brantley Jones, Esq;  
Marvin Jones, Esq;  
Deborah Trejo, Esq via Zoom;  
Tom Riney, Esq via Zoom;  
F. Keith Good, Esq.; and,  
Ellen Orr, Paralegal via Zoom.

President Howard declared a quorum present and called the meeting to order at 9:03 a.m.

Bob Zimmer gave the invocation and led the pledge.

**1. - Public Comment**

Marvin Jones requested to speak to the Board in reference to Item 3i – Receive report and consider action regarding compliance and contested matters including but not limited to BLF Land LLC, Wade Burgess, and Jake Friesen before the District. Mr. Jones read the board two emails between Tiffany Aiken (BLF employee) and Lou Orthman (District employee) that he wished the Board to consider in their response to Item 3i.

**2. - Consent Agenda**

The Consent Agenda was discussed by the Board and consisted of: (a) the review and approval of the Minutes of the regular Board of Directors Meeting held on

September 12, 2023 and the District Retirement Party held September 12, 2023; (b) the review and approval of un-audited District expenditures for September 1, 2023 through September 30, 2023, including the General Manager's expense and activity reports; (c) the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses incurred from September 1, 2023 through September 30, 2023 in the amount of \$28,498.07; and, (d) the review and approval of the Dallam County Appraisal District tax assessment and collection agreement for 2024-2026.

Daniel Krienke moved to approve the Consent Agenda. Harold Grall seconded the motion, and it was unanimously approved by the Board.

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

The General Manager reported that the District staff had processed 30 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.

It was noted that 246 non-exempt Well Permits had been issued by the District since January 1, 2023; that 82 Exempt Wells had been Registered since January 1, 2023; and that 268 non-exempt Well Permits had been approved by the Board since January 1, 2023.

Number	Class	Qtr	Section	Block	Survey	N S	E W
DA-12870	C	NW	1	1	CSS	1 N	100 W
DA-12897	B	NW	27	2	CSS	711 N	119 W
DA-12904	D	SE/4	54	2	CSS	441 S	440 E
HN-12463	C	SW	229	2	GH&H	262 S	110 W
HN-12682	C	NW	144	4-T	T&NO	782 N	108 W
HN-12723	C	SW	272	2	GH&H	139 S	304 W
HN-12777	D	NW	122	45	H&TC	162 N	31 W
HN-12778	C	SW	61	4-T	T&NO	104 S	105 W
HN-12783	D	SW	119	2	GH&H	8 S	182 W
HN-12784	C	SW	119	2	GH&H	107 S	730 W
HN-12798	D	NE	19	1	WCRR	297 N	35 E
HN-12799	D	SW	38	45	H&TC	406 S	38 W
HN-12806	B	NW	13	3	SA&MG	575 N	471 W
HN-12807	B	SW	13	3	SA&MG	500 S	468 W
HN-12833	D	NW	103	4-T	T&NO	405 N	627 W
HN-12857	C	NE	182	2	GH&H	673 N	782 E
HN-12860	C	SW	303	2	GH&H	865 S	547 W
HN-12868	C	NW	132	2	GH&H	104 N	118 W
HU-12648	C	NW	36	5-T	T&NO	51 N	49 W
HU-12707	D	SE	34	5-T	T&NO	121 S	427 E
HU-12709	C	SE	34	5-T	T&NO	121 S	859 E
HU-12773	C	SE	135	5-T	T&NO	780 S	158 E
MO-11803	C	NE	249	3-T	H&B	646 N	270 E
OC-12737	C	NW	16	13	T&NO	388 N	756 W
OC-12810	D	SW	21	4-T	T&NO	143 S	39 W
OC-12845	D	SW	53	4	GH&H	103 S	535 W
OC-12846	C	SW	53	4	GH&H		

SH-12725	B	NW	215	1-C	GH&H	215 N	45 W
SH-12734	D	NE	235	1-T	T&NO	20 N	846 E
SH-12769	C	SE	104	1-C	GH&H	773 S	884 E

Daniel Krienke moved to approve all the Well Permits on the Well Permit Schedule, noting that the Wells are properly equipped and otherwise comply with District Rules. Bob Zimmer seconded the motion, and it was unanimously approved by the Board.

**Action Agenda 3.b. - Receive report and consider action as needed regarding agriculture water conservation demonstration programs and the North Plains Water Conservation Center.**

Assistant General Manager Kirk Welch provided an update to the Board regarding the Water Conservation Center as follows:

SUMMARY:

**Rain Report**

2 inches 9/30 – 10/1  
20 inches from 1/1 – 10/1

**Cotton Update – Stan Spain 10/2/23**

Seeing a few more cracked boles. Harvest will be delayed until November unless we have an early freeze. Expecting yields close to 750 pounds.

**Corn Crop Report – Adam Ford 9/26/23**

**Water District – East Pivot**

**Growth Stage** 1/4 starch line

**Crop Observations**

Stand Count=28545 per acre

**Field Conditions**

Soil Moisture=Adequate; Irrigation Status=Off; Irrigation System Movement=Reverse;  
Irrigation System Location=4:30

**Comments:**

Mostly to 1/4 starch line, but there are some ears a little later. Might resume watering this week sometime. No stress noticeable other than the edge rows. Full profile.

**Water District - N Drip**

**Growth Stage** 1/4 starch line

**Crop Observations**

Stand Count=28315 per acre

**Field Conditions**

Soil Moisture=Adequate; Irrigation Status=On

**Comments:**

Slightly more late N deficiency symptoms here compared to the east circle. Likely a function of the difference in root growth and surface area. May be shallower here, but



hard to say. Probes should show. All of your corn is probably 2 1/2 - 3 weeks from black layer at this point.  
If any are going for silage, then ok to park sprinkler anytime.

### **MyLand Update**

Eric Burton – October 1, 2023

The Hasta and Reinart sites are shut off for the season and will be winterized soon. The two Lonestar sites are still injecting algae until irrigation is finished.

### **Dryland Conversion RCPP Application**

Kirk attended the NRCS STAC Committee meeting in Temple with Danny Krienke. Kirk was able to speak with the new director of NRCS programs for Texas, Stacy Riley. Riley reported that the District's Regional Conservation Partnership Program (RCPP) application is still under review and that notifications on the status of applications may come as soon as mid-October. The proposal is for funding that would pay irrigators for converting to dryland. The program is based on NRCS Practice 328 Crop Rotation.

### **Master Irrigator**

#### **Dates for the 2024 Master Irrigator are set:**

February 15 – Session 1  
February 21 – Session 2  
February 28 – Session 3  
March 6 – Session 4

#### ***Action Agenda 3.c. - Review and consider General Manager's amendment to the Districts 2022-2023 budget based on consultation with Auditor.***

During the pre-audit the last week in September, the General Manager (Walthour) was advised by the District Auditor that expenses incurred in the 7050 – Tech., Comm., & Utilities budget needed to be moved to 7200 – Capital Outlay. The expenses were for upgrades to the Districts Respec Database, which had in previous fiscal years been accounted for in the 7050 budget. During discussions with the Auditor, the Auditor understanding of what the District's Respec Database became clearer, so even though previous upgrades had been accounted for in the 7050 budget, moving forward, those upgrades over \$5,000.00 must be accounted for in the 7200 budget.

Daniel Krienke moved the Board amend the District's 2022-2023 budget as follows:

- Increase Capital Outlay budget from \$155,000 by \$53,738 to \$208,738, and
- Decrease Tech., Comm., & Utilities budget from \$255,000 by \$53,738.00 to \$201,262.

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

#### ***Action Agenda 3.d. - Consider adopting policy for GASB 96 subscription-based information technology arrangements (SBITA) and for GASB 87 lease contracts for nonfinancial assets for North Plains Groundwater Conservation District.***

During the District's pre-audit completed the last week in September, the auditor recommended the District adopt a policy for GASB 96, covering Subscription-Based Information Technology Arrangements (SBITAs), which was released by the Governmental Accounting Standards Board (GASB). GASB requires governmental entities

to recognize a right-to-use subscription asset and corresponding subscription liability for such contracts with a specified term.

A SBITA is defined as a contract that conveys control of the right of use of IT software (belonging to SBITA vendors) for a term and consideration as specified in the contract.

The GASB 96 effective date applies to fiscal years beginning after June 15, 2022, and all reporting years thereafter. The principle is applicable to every state and government entity that enters into an SBITA.

The auditor explained the District's materiality is determined by a complicated mathematical equation that sets the amount both for GASB 96 and GASB 87 currently above \$30,000.00. The policy recommended by the District's auditor lists the threshold at \$25,000.00 so that there is no concern for the materiality to be exceeded.

Currently the District has one contract that is considered a SBITA contract. UCI – Square 9 which the District entered into a contract with July 2023. Square 9 is an AI powered intelligent document processing platform that replaces our current PaperVision document storage system, but once fully operational will allow District processes to become more streamlined and paper free. The life of the contract for Square 9 exceeds \$25,000.00.

GASB 87 covering Lease Contracts for Nonfinancial Assets effective date applies to fiscal years beginning after June 15, 2021 and all reporting years thereafter. The principle is applicable to every state and governmental entity. GASB 87 was created to better meet the information needs of GASB financial statement users by improving accounting and financial reporting for leases by governments.

Under the standard, state and local government organizations are required to capitalize most leases on the balance sheet — reporting them as right-of-use assets and lease liabilities. The standard establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset.

Currently the District has two leases that qualify under GASB 87. Ricoh USA and UCI - Copier. Both leases are for copiers the District uses in the offices at 603 E. 1<sup>st</sup> Street in Dumas. Both copiers over the lifespan of the leases exceed \$25,000.00.

Daniel Krienke moved the Board approve the policy for GASB 96 Subscription-Based Information Technology Arrangements (SBITA) and GASB 87 Lease Contracts for Nonfinancial Assets for North Plains Groundwater Conservation District. Gene Born seconded the motion, and it was unanimously approved by the Board.

***Action Agenda 3.e. - Receive report related to the Ogallala Project.***

On September 15<sup>th</sup>, Senator Perry and his staff member, Katherine Thigpin, called the General Manager (Walthour) regarding the District's Ogallala Project and its eligibility to possible funding through Senate Bill 28 and Sente Joint Resolution 75. SB 28/SJR 75 creates the Texas Water Fund and the Legislature appropriated \$1 billion for the fund, subject to voter approval. This umbrella fund will allow the Texas Water Development Board (TWDB) to disburse funds to other water funds and programs it administers. The bill also creates the New Water Supply Fund, which aims to fund projects (including desalination, aquifer storage and recovery, and use of produced water) that will generate 7 million acre-feet of new water supplies by 2033. Senator Perry wishes to work together with the District combining a coordinated effort to develop water supplies. Perry asked to meet again later in October. I told him that we can meet pretty much anywhere, any time. Tom Forbes will contact Katherine Thigpin on Perry's staff to assist in coordinating a planning meeting.



On September 21<sup>st</sup>, the General Manager (Walthour) presented the Ogallala Project to the Local official's breakout session of the Panhandle Regional Emergency Preparedness Conference. The presentation was well received by about 25 attendees.

On September 19<sup>th</sup> the District received word from the Texas Water Conservation Association Federal Affairs Committee staff who asked if the District is considering a request for inclusion in the Water Resources Development Act (WRDA) 2024 because the Senate Environmental and Public Works Committee set a deadline of October 6th. Deadlines to get requests to our sponsoring Senator are earlier (Oct. 2 for Sen. Cornyn). A request needs to include descriptions of the project including background and rationale; and also include any agency technical assistance or requested language.

During Walthour's research to submit a request through Senator Cornyn's office, Mark Rude from the Southwest Kansas GMD #3 contacted the District and said that Senator Marshall (Kansas) has submitted a request to include the reauthorization of the High Plains – Ogallala Aquifer Water Resource Study that was completed in 1982. Walthour had already contacted Cornyn's staff and was putting together North Plains' request. Walthour incorporated the same request language and submitted it On September 27<sup>th</sup>. Having the same request coming from multiple sources and multiple states is very beneficial in moving this program forward. Our coalition is working with others in New Mexico and Colorado and North Dakota to pole support in this request. North Plains GCD's request is as follows:

#### **2024 Water Resources Development Act Member Request Form**

- 1) **Name/Title:** Six-State High Plains-Ogallala Aquifer Regional Resources Study.
- 2) **Request Description:** This is a reauthorization of; however, the request also adds Arizona as a participant. See language description below.
- 3) **Policy goal:** Assure an adequate food supply to the Nation and to promote the economic vitality of the High Plains Region.
- 4) **Relevant technical assistance:** The Corp of Engineers performed the original water transfer elements of the study and completed a PAS update to only one of the water transfer elements: the Kansas transfer element in 2015.  
  
[https://www.gmd3.org/wp-content/uploads/2019/09/rpt\\_aqueduct\\_study\\_update\\_0112715.pdf](https://www.gmd3.org/wp-content/uploads/2019/09/rpt_aqueduct_study_update_0112715.pdf)
- 5) **Prior authorizations and decision documents:**  
  
<https://northplainsgcd.org/conservationprograms/missouri-river-water-resource-infrastructure-project/>
- 6) **Prior/Similar water resource development legislation:** Yes, Publ. L. 94-587, 90 Stat. 2943. Copy attached.
- 7) **Working with any other congressional offices or stakeholders:** Yes, the Kansas Aqueduct Coalition and Southwest Kansas GMD 3 assisted developing the language submitted by Senator Marshall.
  - a. Southwest Kansas GMD 3 - 2009 E Spruce Street, Garden City, KS 67846, Phone: 620-275-7147
  - b. Kansas Aqueduct Coalition - 1773 N Road B, Ulysses, KS 67880 Phone 620-275-7147

**Further Description (language for act):**

(1) IN GENERAL. —The Secretary shall expedite the completion of the following feasibility studies, as modified by this section, and if the Secretary determines that a project that is the subject of the feasibility study is justified in a completed report, may proceed directly to preconstruction planning, engineering, and design of the project:

- (a) Six-State High Plains-Ogallala Aquifer Regional Resources Study, Colorado, Kansas, New Mexico, Oklahoma, Texas, Nebraska. The study for water supply and allied purposes for the those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the water resources of the Ogallala aquifer, authorized by section 193 of the Water Resources Development Act of 1976 (Publ. L. 94-587, 90 Stat. 2943), is modified to authorize the Secretary to conduct a study to assess water availability in the Missouri River Watershed necessary to maintain navigation and the feasibility of providing surplus water and conveyance or for transfer for drought resilience in areas overlying the Ogallala Aquifer and in watersheds in the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, Arizona, and Nebraska.

***Action Agenda 3.f. - Receive report on Hydrology and Groundwater Resources Report 2022-2023***

The annual Hydrology and Groundwater Resources 2022-2023 report contains information about the regional conditions of the District's groundwater resources. It includes sections on annual groundwater pumping, depth to water, declines, saturated aquifer material and contains a groundwater production - GAM comparison. It includes maps for each county of the District indicating depth to water, declines and saturated aquifer material.

Dale Hallmark, the District's contracted Hydrologist stated nothing significant had changed from the previous year.

***Action Agenda 3.g. - Receive 2023 District Management Plan Annual Progress report.***

Assistant General Manager, Kirk Welch delivered the 2022 Management Plan Annual Progress Report which contains information that is required to be presented to the Board as stated in the District's Management Plan. The report will be made available to the public on the District's website after Board review.

With the passing of Senate Bill 1 in 1997, the 75<sup>th</sup> Texas Legislature required groundwater conservation districts to design management plans to meet specific strategic goals as outlined in the legislation. Senate Bill 1 created a statewide groundwater management and planning process, while preserving local control over the process through the districts. The districts are required to examine and revise their management plan at least every five years. This report will be presented to the Board and then made available to the public. This report will also be used to inform legislators and staff of the District's activities and accomplishments. A copy of the most current annual report will be available for public review on the District website at [www.northplainsgcd.org](http://www.northplainsgcd.org) and at the District office.



***Action Agenda 3.h. - Consider action regarding Texas Water Conservation Association Risk Management Fund coverage for loss liability.***

No action was taken.

***Action Agenda 3.i. - Receive report and consider action regarding compliance and contested matters including but not limited to BLF Land LLC, Wade Burgess, and Jake Friesen.***

Administration Manager Kristen Blackwell presented the following compliance matters before the Board.

1. Jake Friesen DA-0138 – Required flow meter no later than 6/29/23. Given til 8/7/23 to correct. Well inspected 8/11/23 and found meter replaced, but new meter not functional. Reinspected 10/2/23 and no change found.
2. Wade Burgess HN-1006 – Required flow meter no later than 8/1/23. Inspected 8/8/23 with no meter and capped low pressure drain. Issued compliance letter requiring correction by 9/10/23. Inspected 9/25/23 and found no change.
3. Wade Burgess HN-4947 – No low pressure drain installed. Issued compliance letter requiring correction by 9/10/23. Inspected 9/25/23 and found no change.

Harold Grall moved the Board authorize Legal Council to send demand letters to Jake Friesen and Wade Burgess for the compliance issues listed. Gene Born seconded the motion, and it was unanimously approved by the Board.

***Action Agenda 3.j. - Closed Session.***

**Executive Session - Section 551.071 of the Texas Government Code and Section 551.074 of the Texas Government Code**

At 9:09 a.m. Harold Grall 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 attorneys to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 and under Texas Government Code §551.074. Allan Frerich seconded the motion, and it was unanimously approved by the Board.

At 10:12 a.m., Harold Grall moved that the Board reconvene into regular session. Bob Zimmer seconded the motion, and it was unanimously approved by the Board.

The Board reconvened into regular session at 10:25 a.m.

***Action Agenda 3.k. - Consider recommendations(s) regarding matters discussed in Closed Session.***

Mark Howard moved the Board authorize Legal Counsel and staff to bring claims against BLF Land and related entities for violations of the Districts Rules. Harold Grall seconded the motion, and it was unanimously approved by the Board.



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

The General Manager (Walthour) presented his report to the Board in the Board Packet which included the upcoming meetings and conferences, the General Manager's activity summary, the District's Administrative activity summary, permits issued in August 2023, Conservation Outreach activities, Aquifer Science activities, and Well Inspections activities.

***Discussion Agenda 4.a. - Director Reports regarding meetings and/or seminars attended, weather conditions and economic development in each Director's precinct.***

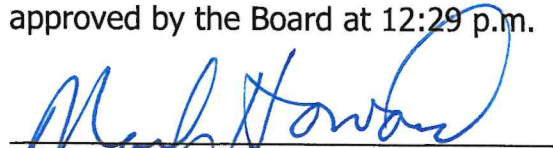
District Director reports were presented to the Board regarding meeting and/or seminars attended, weather conditions, and economic development in each Director's precinct.

***Set Next Meeting Date and Time***

The November regular meeting of the Board was scheduled for November 14, 2023, at 9:00 a.m.

***Adjournment.***

There being no further business to come before the meeting, Bob Zimmer made a motion to adjourn the meeting. Daniel Krienke seconded the motion, and it was unanimously approved by the Board at 12:29 p.m.

  
Mark Howard, President

  
Bob B. Zimmer, Secretary