

**MINUTES OF THE FEBRUARY 10, 2015
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 10, 2015, 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:

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

Staff Present during part or all of the meeting:

Steve Walthour, General Manager;
Kristen Lane, Executive Assistant; and,
Kirk Welch, Assistant General Manager/Outreach.

Others present during part or all of the meeting:

Erasmus Steyl;
Scott Clawson;
CC Sysombath;
Ashley Handy;
Emmett Autrey;
Greg Howard;
Sabrina Leven;
Alicia Hedrick;
F. Keith Good, Attorney;
Haley Rader, Attorney; and,
Ellen Orr, Paralegal.

President Zimmer declared a quorum present and called the meeting to order at 9:09 a.m.

President Zimmer gave the invocation and led the pledge.

President Zimmer recessed the regular Board meeting at 9:10 a.m.

President Zimmer began the public Rulemaking hearing at 9:11 a.m. The formal Rulemaking hearing was closed at 10:00 a.m.

President Zimmer reconvened the regular meeting of the Board at 10:01 a.m.

President Zimmer asked if there were persons present who desired to make public comment. Emmett Autrey of the City of Amarillo addressed the Board regarding Pooling in the District's draft Rules. Mr. Autrey stated that the "Super" pool in the draft would mean that for a large production unit, it would be

necessary to spread out the Wells and use a lot more contiguous acreage during peak season. Mr. Autrey stated that 200 acre-feet per Well is not much Groundwater production from the City's perspective. Mr. Autrey stated that the City would need many sections of land. Mr. Autrey asked the Board "why can't we just live with 1.5 acre-feet per acre.

Harold Grall moved to remove the review and approval of the Minutes of the January 20, 2015 Board Meeting and consideration of Homestead Exemptions for 2015 from the Consent Agenda. Danny Krienke seconded the motion and it was unanimously approved by the Board.

Danny Krienke stated that the second sentence in the draft of the Minutes of the January 12, 2015 Board Minutes was incorrect and should be struck from the draft of the Minutes. The draft Minutes of the January 12, 2015 Board Meeting were revised as follows:

Danny Krienke stated that to the best of his knowledge, the EPA was inconclusive about the contamination of a Wellbore in Ochiltree County. It was Mr. Krienke's understanding that the EPA could not determine what caused the Well contamination.

Harold Grall moved to approve the Minutes of the January 12, 2015 Board of Directors Meeting as amended and items b, c, and d of the Consent Agenda, which include: the review and approval of un-audited District expenditures for January 1, 2015 through January 31, 2015, 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 \$15,232.91 for January 1, 2015, through January 31, 2015; and adopting a Resolution to exempt personal boats, personal vehicles, airplanes, motor homes and trailers from ad valorem taxation in calendar year 2015 in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore and Hutchinson Counties, Texas. Danny Krienke seconded the motion and it was unanimously approved by the Board.

Historically, the District has adopted the following exemptions from ad valorem taxation for a homestead:

5 % or \$5,000 - Homestead

\$50,000 - Over 65

\$50,000 - Disability SS

The maximum percentage for Disabled Veterans.

The General Manager recommended that the Board approve these exemptions for 2015 for all counties located within the boundaries of the District. Bob Zimmer stated that he had discussed the above exemptions with the County Judge of Hansford County, Texas and that Hansford County's exemptions from ad valorem taxation were different than the District's exemptions. Mr. Zimmer stated that that he believed that it would be better for all concerned if the District would adopt the same exemptions that each County adopted in 2015.

Danny Krienke moved to adopt the ad valorem tax exemptions for a homestead that the County Commissioners Court of each respective County within the boundaries of the District adopted for 2015. Harold Grall seconded the motion and it was unanimously approved by the Board.

The Board set a rulemaking hearing at 9:00 a.m., February 10, 2015 in Dumas, Texas for consideration of a Production Fee Rule.

The District has completed the following:

- A. posted notice in a place readily accessible to the public in the principal office of the District on January 19, 2015;
- B. provided notice to the county clerk of each county in the District for public posting in each respective courthouse on January 19, 2015;
- C. published notice of the proposed rule and the public hearing thereon in a newspaper of general circulation in the District once a week for two (2) consecutive weeks, with the first publication being at least 20 days before the rulemaking hearing. The notice was published in the Amarillo Globe News January 17th and January 24th.
- D. provided notice by mail, facsimile, or electronic mail to any person who has requested such notice under Chapter 36;
- E. make available a copy of all proposed rules, or proposed rule revisions, at a place accessible to the public during normal business hours and post the proposed rules on the District's website;
- F. posted the notice with the Texas Secretary of State;
- G. held a public hearing on February 10, 2015; and
- H. performed the analysis required by Texas Water Code Section 36.101.

The proposed Rule is as follows:

14.4 Production Fees: Priority Groundwater Management Areas ("PGMAs"): *Production Fees for 2015 for the Dallam County PGMAs added to the District in 2012 shall be:*

1. *Agriculture production: One Dollar (\$1.00) per acre foot of non-exempt Groundwater produced for agricultural purposes for the Year 2015; and,*
2. *All other non-exempt Groundwater production: Five Dollars (\$5.00) per acre foot of Groundwater produced for the Year 2015.*
3. *After 2015, the Board of Directors may adjust Production Fees Annually under the provisions of Texas Water Code, Section 35.013(g-1).*
4. *The District shall provide reasonable notice of the Production Fees to be assessed for the Year 2015 and each Year thereafter to the PGMA Groundwater right Owners.*
5. *Production Fee billings shall be based on the actual Groundwater production reported to the District for the Year 2015 and each Year thereafter.*
6. *Beginning Year 2016 (for the Groundwater production Year 2015), and each Year thereafter, the District shall submit, on or before May 1st of each*

respective Year, a Production Fee invoice to each non-exempt Well Owner in the PGMAs which shall be due and payable on or before September 1st of each respective Year.

Danny Krienke moved to adopt the proposed Production Fee Rule set forth above. Justin Crownover seconded the motion.

Zac Yoder stated that the only thing that he has heard since the stakeholders' meetings was that people think that the Production Fees are too high. Mr. Yoder asked that if the proposed Rule was adopted, if the Fees would remain at the level they are now or are they going to escalate? The General Manager stated that he did not anticipate that the Production Fees would be changing in the near future, and that they would most likely remain where they are for a while.

The motion passed by the unanimous vote of the Board.

In January, the Board completed review of the draft Rules that were presented to the public in a series of stakeholder meetings earlier in 2014. General Counsel and the General Manager have revised the draft of the Rules and presented the proposed amendments to the Board. The District's General Counsel discussed the substantive revisions with the Board.

Draft Rule 3.3 (Auxiliary Well) was discussed with the Board.

Bob Zimmer stated that he does not like the draft Rule and that he believes that the District already has a Rule which addresses this matter. Gene Born agreed with Bob. Emmett Autrey from the City of Amarillo stated that his boss wanted the District to give a definition of a replacement Well in its Rules. Mr. Autrey asked whether you could change the classification of a Well from a Replacement Well to an Auxiliary Well?

Bob Zimmer stated that the District's Rules work good today and that he is concerned that the District is chasing something which will only apply in one or two instances throughout the District.

Gene Born moved to strike draft Rule 3.3 (Auxiliary Well) from the draft of the proposed Rules. Danny Krienke seconded the motion. The motion failed with Justin Crownover, Mark Howard, Zac Yoder and Harold Grall opposing the motion and Danny Krienke, Gene Born and Bob Zimmer voting in favor of the motion.

Draft Rule 3.4 (Replacement Well Spacing) was discussed. Emmett Autrey stated this Rule might work for the City, but that he would need to visit with a hydrologist.

Draft Rules 3.7 and 3.8 were discussed by the Board. Mark Howard moved that draft Rule 3.7 be modified from 80 acres to 64 acres and that draft Rule 3.8 (Increased Density for Small Wells) be deleted from the draft Rules. Bob Zimmer seconded the motion. Gene Born stated that by permitting more straws in the aquifer the District is not promoting conservation and he is concerned about people having drinking water. Steve Walthour stated that increasing the number of Wells within the District could require a decrease in the Allowable Annual Production Limit in the future. Bob Zimmer stated that he appreciated the

change in posture of Director Howard and the change appears to treat all Groundwater owners within the District equally.

Following extensive discussion, President Zimmer called for a vote on the motion and the motion passed by the majority vote of the Board with Mark Howard, Zac Yoder, Harold Grall, and Bob Zimmer voting in favor of the motion and Danny Krienke, Gene Born and Justin Crownover voting against the motion.

Draft Rule 4.4 (Well Construction) was modified to read: "Further, no Well shall be constructed within the District with casing perforations above the static Groundwater level."

Justin Crownover moved to include the foregoing language in draft Rule 4.4. Harold Grall seconded the motion and it was unanimously approved by the Board.

Draft Rule 4.5.2 was discussed regarding a Well which is not connected to a Water piping system, a domestic Well, or a Public Water Supply Well is exempt from the check valve equipment requirements of proposed Rule 4.5.1. Justin Crownover moved to include Rule 4.5.2 drafted as written in the draft Rules. Danny Krienke seconded the motion and it was unanimously approved by the Board.

Draft Rule 5.4.2D was discussed regarding the location of an electric meter so that it is apparent which GPU the Meter serves. Danny Krienke moved to include Rule 5.4.2D drafted as written in the draft Rules. Mark Howard seconded the motion and it was unanimously approved by the Board.

Draft Rule 6.3 was discussed regarding Groundwater Conservation Reserve. Danny Krienke moved to include Rule 6.3 as written in the draft Rules. Harold Grall seconded the motion and it was unanimously approved by the Board.

The Board recessed at 11:23 a.m. and reconvened at 11:40 a.m.

Draft Rule 7.5.1 (Pooled GPUs 1600 Acres or Less) was discussed and, specifically, changing the distance from 15,000 feet from diagonal corner-to-corner to 25,000 feet from diagonal corner-to-corner. Justin Crownover moved to include draft Rule 7.5.1 as written with a 1600 acre limitation and diagonal corners not to exceed 25,000 feet apart in the draft Rules. Harold Grall seconded the motion. The motion passed by the majority vote of the Board with all Board members voting for the motion except Danny Krienke who voted against the motion.

Draft Rule 7.5.2 (Pooled GPUs Greater than 1600 Acres) was discussed. Danny Krienke moved to strike draft Rule 7.5.2 from the draft Rules. Gene Born seconded the motion and it was unanimously approved by the Board.

Mark Howard moved to reconsider draft Rule 7.5.2 with no acreage limitation and an Allowable Annual Production limitation of 2.5 acre-feet per Section on the Property. The motion failed for lack of a second.

Draft Rule 10.9 (Amendments to Deposits and Fees) was discussed and clarified that after the PGMA Production Fees were established by Rule, upon public notice the Board may change the amount of any deposit or fee, including