

GCGCD MINUTES

MEETING OF THE

GUADALUPE COUNTY GROUNDWATER CONSERVATION DISTRICT

Thursday, November 9, 2023 @ 4:30 PM

200 N. Austin St. Ste. # 301

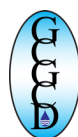
Seguin, TX 78155

CALL TO ORDER – President Mr. Starcke called the meeting to order at 4:30 PM.

DETERMINE A QUORUM – Verified. Board members present: Hil Starcke, Bill Jones, Mark Gustafson, Matt Miranda, and Jeff Schuehle.

Others in attendance: Kelley Cochran, Caroline Hrcir, Bill Klemt, Humberto Ramos, Mike Gershon, Madison Huerta, Christina Criss, Adam Telfer, and Ben Glynn.

1. **Invitation of citizens or Directors to speak in advance of District’s regular business. (limited to 3 minutes each – agenda items/non-agenda items).** None.
2. **Approve Minutes of regular meeting held on October 12, 2023.** Motion to approve the minutes of the Oct. 12, 2023 meeting by Matt Miranda. Second by Bill Jones. Motion approved.
3. **Review Palmer Drought Index, TWDB Drought Report and Rain Fall in GCGCD area.** Reviewed. Caroline displayed a new monthly rainfall calendar charting days of rain in October for the Seguin area, as well as the regular GCGCD rainfall totals from TexMesonet stations.
4. **Review Production data October 2023.** Reviewed.
5. **Discussion and possible action to approve Financial Reports for October 2023.** Motion to approve the financial reports for October 2023 by Bill Jones. Second by Jeff Schuehle. Motion approved.
6. **Discussion and possible action to adopt 2024 board meeting schedule.** Motion to adopt the 2024 board meeting schedule by Matt Miranda. Second by Jeff Schuehle. Motion approved.
7. **Discussion and possible action to adopt 2024 holiday schedule.** Motion to adopt the 2024 holiday schedule by Bill Jones. Second by Jeff Schuehle. Motion approved.
8. **Public hearing on District’s proposed rules.** Mr. Starcke paused the regular meeting to open the public hearing on District’s proposed rules at 4:36 PM.
 - A. **Call to order.** Mr. Starcke called the hearing to order at 4:36 PM.
 - B. **Receive public input on proposed amendments to implement statutory changes enacted during the most recent Texas Legislative Session related to the District’s procedure for the Board’s decision-making in a contested case hearing on a permit application; the list of wells exempt from permitting requirements; the District’s rulemaking process; and the maximum export fee that may be assessed by the District. The Board will also consider proposed amendments related to the District’s requirements for well location, spacing, setbacks, and annual reporting; drilling and production permits; the registration of an unregulated well for remediation; and well logs shared with the District.**



Kelley read the public comment received from Mr. Jim Harris on November 2, 2023 via email: “Rule 7.8 e 2 (iv), “*an allegation of injury or inequity that could result from the failure to adopt a proposed rule,*”; I think this should be deleted entirely or at a minimum the qualifying phrase, “if applicable” could be added to the end. There is nothing in Section 36.1025 that requires a petition to be based on preventing an injury or inequity. A proposed rule change could be driven by any number of reasons other than “injury or inequity”. These include efficiency, clarity, correction of errors, compliance with laws or regulations, and incorporation of new technologies (email vs. fax) just to name a few. And if there is alleged harm resulting from failure to adopt the proposed change that could be included in the explanation required by 7.8 e 2 (ii).”

Madison Huerta addressed the Board to relay the language referenced in Mr. Harris’ comment was taken from Title 30 of the Texas Administrative Code, Section 20.15, which governs the TCEQ’s petition for rulemaking process. HB 2443 gave the District broad authority to adopt the petition for rulemaking procedure in compliance with the law. Because TCEQ’s rules have been vetted and adopted without issue, we believe the rule provides petitioner with due process and an opportunity to be heard and has the necessary information to make an informed decision.

Humberto Ramos, on behalf of County Line SUD, addressed the Board to comment that he had the proposed rule edits reviewed, and CLSUD has no objections.

C. Adjourn. Mr. Starcke adjourned the public hearing to re-open the regular meeting at 4:40 PM.

9. Discussion and action on proposed rules and related statutorily required petition to adopt or modify rules form. Matt Miranda made the motion to adopt the proposed rules as presented. Bill Jones seconded the motion. Motion approved.

10. REPORTS

- A. Kelley Cochran: General Manager Report** – Proposition 6 passed – related to funding for water projects in Texas; GCGCD Permits: Drilling permit issued under GCGCD Rule 5.3(a)(3) to Barry Jaroszewski on Nov. 2nd to drill an irrigation/stock dual purpose well (75.25 AF) in Kingsbury; Ranchy McRanchface commercial irrigation well for golf course has been completed. Permit conditions have been field verified and will be converted to production permit. Drilling permit issued under GCGCD Rule 5.3(a)(3) to Ranchy McRanchface to drill a commercial well for a maintenance shed and fire protection storage tank (35 AF/YR of Wilcox) authorized on Nov. 7th.
- **Association updates** – TGWA registration is open for the annual convention (San Marcos Jan. 23-26), offer extended to board to attend. GWS Division has set the date for next Geoscience Seminar to be held in Fredericksburg April 12, 2024; BEG – Justin Thompson finalized a Roundtable Recap of the Oct. 25th event discussing the Well Performance Model (WPM). The WPM methods have been peer-reviewed and will appear in upcoming Texas Water Journal; TAGD – yesterday Leah Martinsson announced her resignation as Executive Director of TAGD, effective January 19, 2024.



- **Other District business** – District Fall Newsletter published on Oct. 31st; Nov. 1st. I was a guest speaker at Dr. Mace’s groundwater resources class at Texas State University discussing background of GCGCD and our approach to water rights allocation and conservation of the aquifers; Todd Votteler, President of Collaborative Water Resolution & editor in chief of Texas Water Journal, has asked me to join his pod cast Talk+Water to discuss the District’s approach to correlative rights; update on research re: potential District vehicle – I will test drive a few options over the holiday but want to wait until after January water level collections using contractor’s truck before making a recommendation to the board; I will begin conducting interviews for the posted Administrative Assistant position after the Thanksgiving holiday.
- B. **Caroline Hrcir – Region L update** – The Region L meeting took place one week ago at 9:30 AM. No regional planning items were discussed that affected or related to GCDs. The main focus was on feasibility modeling pitched and explained by Black and Veach. Discussions and progress regarding water management strategies (WMS), municipal demand projections, more details about feasibility of demands and strategies were held, and lots of time was spent on population increases and demands. An evaluation process flowchart was created to help identify infeasible water management strategies. The flowchart was approved by the Board. All agenda items were approved.
- C. **William B. Klemt, PG - Consulting Hydrogeologist** – Mr. Klemt reviewed the 24-hour pump test data submitted by AGS on behalf of Ranchy McRanchface (Luling Sport Golf course) per special permit condition. Mr. Klemt commented that AGS provided the District with all the data requested. AGS used the Cooper-Jacob method for analyzing the data and calculated the transmissivity of just under 13,000 gpd/ft. Mr. Klemt commented that this is very good for the Wilcox. AGS also calculated the specific capacity of the well to be 9.77 (710 gpm). The scenario for drawdown estimates at the well were updated using $T=12,000$ gpd/ft for a total production of 145 AF/YR; scenario 700 gpm for 47 days estimated drawdown 161 ft at well and 22 feet at one mile; scenario 90 gpm for 365 days estimated 28 ft at well and 5 feet at one mile.
- D. **CRWA** – Adam Telfer had no report.
- E. **SSLGC** – Andrew McBride was unable to attend but emailed an update “Construction continues into early next year and we are still gathering information to determine the best course of action for the Guadalupe wellfield (to drill 2, 1, or zero wells)”.
- F. **SHWSC** – Christina Criss introduced herself as the SHWSC New Accounts Representative. Mr. Pepin had asked that she regularly attend GCGCD board meetings moving forward to update the Board on SHWSC projects. Ms. Criss stated that SHWSC will be submitting an application to amend permit to add 22.202 AF/YR. Asking to be on the District’s January 2024 agenda.
- G. **CCSUD** – Regina Franke sent a message to Kelley that CCSUD has no projects in GCGCD at this time, nothing new to report.
- H. **CSWR** – Ben Glynn opted to not give a report.
- I. **CLSUD** – Per Mr. Starcke’s request, Humberto Ramos gave a very thorough definition of Region L, both purpose and importance. Then Mr. Ramos discussed the demands of his region and increased water supplies needed to meet both



current and anticipated future demands of subdivisions growing around industrial areas. CLSUD is working with Freese and Nicols to evaluate water planning strategies for inclusion in the Region L plan and State Water Plan. Mr. Ramos will be working with the GCDs and the GMAs as CLSUD develops projects.

11. Show cause hearing on alleged violations of District’s rules by CSWR Texas Utility Operating Company, LLC. Mr. Starcke paused the regular meeting to open the show cause hearing at 5:05 PM.

A. Call to order Mr. Starcke called the hearing to order at 5:06 PM.

B. Show cause hearing.

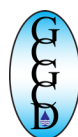
Mr. Starcke began by outlining procedural matters and confirming that notice requirements were met in accordance with the Texas Open Meetings Act. Mr. Starcke then moved to the evidentiary portion of the hearing on the merits of the alleged violations and swore in the General Manager of the District Kelley Cochran and Compliance Inspector for CSWR Ben Glynn, to give testimony.

Kelley Cochran gave a summary of the basis of the violation of CSWR. The District has reason to believe that CSWR lacks sufficient amount of water rights to support its production of groundwater under rules 5.4(e) and (k). Permit PWS-2018-CZ-03 is set to expire on November 30, 2023. CSWR is current on payments. CSWR is required to provide proof of water rights committed totaling 73.261 AF/YR. To date, GCGCD is able to verify 22.085 AF of water rights as submitted. GCGCD has initiated multiple correspondences (emails, video conferences, and phone calls) over the past two years to assist CSWR with understanding District rules and procedures, to discuss water rights, permitting, production reporting, as well as to remind CSWR of upcoming deadlines. The District has supplied CSWR with additional assistance by supplying a list of available water rights (excluding water rights already attached to a permit) from the list posted on District’s website. October 26, 2023, CSWR emailed 64 agreement letters to the District to serve as proof of water rights. Submission was not in requested format. Of the 64 agreements, the District was able to verify 31 totaling 22.085 AF. The remainder were excluded for multiple reasons: incomplete, lacking GCAD property ID, incorrect GCAD, incorrect name listed as owner, undated or post-dated, or property not located within the District.

Ben Glynn stated that he personally walked the neighborhood three times trying to obtain signatures. He stated that CSWR is still trying to get signatures, but it has not been easy and there is no recourse; CSWR can not shut off the water or charge extra money to customers that do not sign the water rights agreement letter.

Mike Gershon asked Mr. Glynn to explain how CSWR is implementing its Drought Contingency Plan and water conservation efforts during this time of drought to reduce water usage by the customers.

Mr. Glynn was not able to answer what stage of drought CSWR is currently under – but stated there is a drought plan in place - although there are no penalties to noncompliant customers. Mr. Glynn discussed that the site is compliant with TCEQ regulations after recent improvements to the system. Mr. Glynn stated that obtaining the required water rights from the customers has been a challenge.



Mr. Gershon and Mr. Glynn discussed the cost of purchasing water rights. Mr. Glynn stated he believed if CSWR could find water rights for purchase, CSWR would purchase the required amounts.

Mr. Schuehle asked for clarification of when the water rights on the current permit expired. Ms. Cochran and Mr. Gershon explained that the agreement letters attached to the current permit from the Oak Hills Ranch Water were five-year commitments that expired in May of 2023.

Mr. Glynn asked for additional assistance on the process to purchase water rights. Mr. Jones stated the District has already provided CSWR with a list of all parcels within GCGCD available for purchase and CSWR elected not to purchase water rights; instead waited to obtain agreement letters from customers only. Mr. Starcke asked for reason to leave the meeting open. Hearing none, Mr. Starcke adjourned the hearing at 5:33 PM.

C. Adjourn. Mr. Starcke adjourned the show cause hearing to re-enter the regular meeting at 5:33 PM.

12. Discussion and action on alleged violations by CSWR Texas Utility Operating Company, LLC, including but not limited to appropriate penalties and/or other enforcement remedies to be imposed and/or pursued in court. Mr. Starcke returned to the regular meeting at 5:34 PM. Mr. Starcke then summarized procedures for Board deliberation and possible action per TWC §36.102 and Section 9 of the District's rules and then opened the matter for discussion.

Mr. Jones stated that the efforts of CSWR to obtain water rights had failed and therefore a penalty should be imposed.

Mr. Schuehle asked Mr. Gershon if an executive session was appropriate. The Board did not have any legal procedural questions for Mr. Gershon; therefore, no executive session was requested.

Mr. Miranda commented that this permit is for a public water supply corporation that is required to provide water to its customers. Mr. Gershon explained the laws and rules related to the District's responsibilities for the regulation of water - defining essential uses of water, options available for placing restrictions on pumpage, economic value of the water, and the criteria to consider for assessing penalties. Mr. Gershon discussed the options assessing a one-time lump sum fine or a daily fine based on violations.

Mr. Jones restated that water rights are available for purchase and CSWR has yet to purchase any, adding that the amount of the fine should consider the cost of the District's staff time, the cost to purchase the water, and cost of attorney fees to the District.

Mr. Schuehle made a motion to impose a fine of \$15,000 which could be reduced by \$750 per day, suggesting a calculated reduction rate for each acre foot of water obtained if CSWR could provide proof of committed water rights before the permit expires on November 30th.




Due to the complexity of the motion, Mr. Gershon asked for clarity which sparked discussion related to the reduction aspect of Mr. Schuehle’s motion. Mr. Starcke ended the discussion, stating a motion has been made without a second. Mr. Miranda seconded the motion to open further discussion. Mr. Starcke restated the factors the Board considers when determining a penalty should be enough to ensure future compliance and deter future noncompliance. Mr. Starcke asked for the motion to be restated which sparked additional discussion related to how to handle the permit renewal and the calculations for the proposed step reduction in fines. Ms. Cochran stated, if CSWR came into compliance in one day, a fine of \$750 would be insufficient to cover current attorney costs related to this hearing. The cost impact to the District was discussed. Mr. Gershon stated for clarity that the water rights needed by the end of November would be attributed to the 2023 permit and that water rights are still required for the Nov. 2024 permit.

Mr. Schuehle amended his motion to fine a lump sum of \$15,000 to be due on December 11, 2023, and if not received by the deadline, authorize Mr. Gershon to move forward with enforcement in court. Mr. Miranda seconded the revised motion. Mr. Starcke called for a vote. The motion passed unanimously.

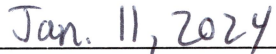
13. Possible items for discussion/consideration at next meeting. Mr. Starcke announced GCGCD will not be holding a regular board meeting in December. Discussion of holding workshop to discuss Wilcox rules in January.

14. Lloyd Gosselink law firm/Perales, Allmon & Ice, P.C. (Executive Session Recommended). No executive session.

15. ADJOURNMENT. Mr. Starcke adjourned the meeting at 6:19 PM.



Mark Gustafson, Secretary



Date

