

PANHANDLE GROUNDWATER CONSERVATION DISTRICT

BOARD OF DIRECTORS SPECIAL MEETING

DISTRICT OFFICE - Windmill Room

201 W. Third Street, White Deer, Texas

April 5, 2019 - 9:00 a.m.

Those present were:

Danny Hardcastle	President
Phillip Smith	Vice President
Charles Bowers	Director
Butch Collard	Director
Joy Shadid	Director
John R. Spearman	Director
Jim Thompson	Director
Bill Breeding	Director
C.E. Williams	General Manager
Peter Winegeart	Assistant General Manager
Jennifer Puryear	Meteorologist
Julie Bennett	Permitting Clerk
Britney Britten	PR/Education
Steve Shumate	Hydrogeologist
Kelly Lane	Field Tech

Guests Present: Marvin Urbanczyk, Barry Fields, Troy Ritter, Jeff Ammons, Dennis Babcock, Scott McLaughlin, Jason Sides, Paul Arganbright, Just Dauer, Kent Satterwhite, Leland Gable, James Shaw, Destan Hodges, David Hodges, Austin Bamert, Kelvin Ollinger, Lewis Davis, Chad Pernell and Brett Britten

1. CALL TO ORDER

President Hardcastle called the meeting to order at 9:04 a.m.

2. PUBLIC COMMENT – Please limit comments to 3 minutes.

Marvin Urbanczyk addressed Agenda Item 5. He stated he was violently against raising the production allowable from 1-acre foot. He commented the Board has worked hard establishing fair rules, and he reiterated raising the allowable would be a mistake.

Kent Satterwhite, General Manager with the Canadian River Municipal Water Authority read the following comment:

“I have told Legislators and water leaders all over the State that this is the best groundwater district in the State. The best Board, the best General Manager, and the best staff. This District was one of the main drivers for the 50/50 rule for Groundwater Management Area 1 and an honorable place to start.

A few of you may remember that when we were originally developing our project, the District and CRMWA had a major disagreement over how much we could pump. We started off with around 42,500 acres of water rights and we asked for 1.5 acre-feet/acre but you wouldn't allow it. We ended up with a permit for **less than 1** acre-foot/acre (40,000 acre-feet/year), with an emergency provision that would allow up to 1.18 acre-foot/acre (50,000 acre-feet/year) in emergency situations such as drought.

When that initial project started up, the drawdown was so much that we immediately went into a Study Area and then a Conservation Area as soon as your rules allowed. Turns out, you were ABSOLUTLY RIGHT. That wellfield wouldn't have lasted even at that reduced rate (and I don't think we ever pumped 40k) and this is some of the best water in your District.

We heard you on your 50/50 goal and 1 acre-foot/acre rule and stepped up to the plate and spent over \$200 million dollars buying water rights to comply with District rules. This huge expense has put a financial strain on many of our Member Cities, but they agreed because it seemed like the right thing to do. If we had known that you would completely change the rules to the point that you do not need to regulate, I suspect we would have saved \$100 million or so. I should add that in hind sight, that wouldn't have been wise and it was probably good for us to be driven to spend that money by your rules (although not all of our cities would agree based on the financial burden it placed on them).

Last week at your meeting I heard a groundwater producer say they knew all along what the rule was but they didn't need to worry about it because you wouldn't enforce it. My recollection is that every year for the last several years staff has shown you areas that should be in a Conservation Area but the decision was never made to enforce your rules on anyone except CRMWA. This is not a level playing field.

I heard another landowner ask the question, what you guys are here for is to do what's best for us, right? I strongly disagree with his statement/question that was answered by some on the Board in the affirmative. I thought you are here to do as your slogan says, **conserve water for future generations**. I believe you are here to do the right thing like you did with us. Tough decisions but you knew they were the right decisions while you spent the past 18 months developing them.

Your 50/50 rule doesn't work with 1.5' of water per year. It doesn't work with 1' but it is much closer. In the Ogallala, 1.5' of water on the ground is about 10' of drawdown in the aquifer. If you have 300' of water (which is likely generous for most areas), that would last less than 30 years (disregarding the water that moves in from the neighbors' land). 0% left in 30 years (0/30 goal) would be more appropriate with this contemplated change. I always assumed it would go the other way over time while following the 1¼% decline rule.

Since 2004, when the Board adopted the core principles that are in your rules, the Canadian River Municipal Water Authority has done everything and made every investment that included the financial impacts on all of our Member Cities that was necessary to comply with District rules. As a result of those rules, we have made huge investments in water rights and it cost our rate payers over \$200 million dollars. We have complied at every step even though you have never been willing to enforce against anyone except CRMWA.

As you have been developing these rules, we have been supportive of the concept of these new rules. We think they are fair and have been willing to support them even though we would be giving up a 30-year permit for a 5-year permit. These are rules that we feel would be fair to all water rights owners as a whole in your District.

I know it is emotionally harder to enforce these rules on your neighbors than it is on CRMWA. You have in the past and will continue to have to make tough decisions that will sometimes be unpopular for a few, but I think you know in your heart they are the right decisions. Please don't turn what many consider to be the best District in the State into a shell district. CRMWA fully supports and respectfully requests your adoption of these proposed rules.

Sincerely,
Kent Satterwhite. P.E.
General Manager
Canadian River Municipal Water Authority"

Floyd Hartman, Assistant City Manager with the City of Amarillo, noted the City of Amarillo spent well over \$150,000,000 of city funds to comply with District Rules and also the State Water Plan. Hartman expressed the City supports two basic concepts: 1) PGCD Board of Directors maintain the autonomy in making decisions affecting our area, rather than pushing that responsibility toward state control, and 2) private property rights.

He stated that discussions at the previous Board Meeting on 3/29/19 were not in support of property rights in his opinion. He noted that the City of Amarillo is not just Municipal use, but they also represent Industrial use that takes part in using water from their current permit, which supports the Agriculture industry and organizations throughout the state. He stated the City has approximately 30 years left on their permit, which they are giving up

to be evaluated every 5 years (if the 2018 Rules become effective) because they want to meet and accomplish the water conservation goals defined by PGCD.

He stated the 2018 Rules, as proposed in December, are much more equitable to water-users throughout. They respect Agriculture, Industry and Municipal users more than any set of rules he has ever seen. He noted if the Board decided to revert to the 2016 Rules, there would be a major issue of enforcement and what that looks like equitably for water-users across the board. He stated the City of Amarillo is conscientious of water conservation, and they are in full support of the Board moving forward and adopting the new rules as they were presented in December of last year. He also noted there is still work to be done, but believes the Board will come up with a fair way to address the concerns of the agriculture industry.

David Hodges, with Hodges Farm in White Deer also spoke address Agenda Item 5. Hodges spoke about his time working for PGCD in the 1980s, where it was his responsibility to measure approximately 300 wells during the winter months. He said this experience gave him an insight to what is happening to our water table below us. He also commented on recent conversations he has had with family and friends in both the High Plains and North Plains Water Districts. He stated these conversations have a common theme: these areas wish they had their water back, and they wish they had someone to help them regulate it. He commented on the recent discussions on the 12-inch rule (1-acre foot allowable volume), he noted his operation has been raising crops on 12 inches or less for more than 20 years. He stated it is important for farmers in our area to try and make that allowable volume work before we end up like our neighbors to the north and south.

Dennis Babcock, farmer within the District also addressed Agenda Item 5. He stated the rules as written and rejected at last week's meeting are in no way fair and equitable to farmers. He noted he and his family have 5 ½ sections of land that are currently landlocked, and if the new rules are voted through his production will be cut by at least 1/3. For agriculture purposes, he believes it would be fair to regulate production based on wet acres instead of letting operators count leased land or water rights from their neighbor.

Leland Gable, producer in Carson County said he hopes there will be discussion and adaptation as we move forward. He noted there are many producers within the District who have spent lots of money obtaining water rights, as well as produce them.

3. CONSIDERATION AND POSSIBLE ACTION ON MINUTES
a. Board Meeting 3/29/19

John R. Spearman Jr. made the motion to approve the minutes as written, seconded by Jim Thompson. Motion passed unanimously.

A copy is attached to these minutes.

4. CONSIDERATION AND POSSIBLE ACTION ON INTERLOCAL AGREEMENT WITH THE CITY OF HOWARDWICK ON ABANDONED PROPERTIES

John R. Spearman, Jr. made the motion to remove the item from the table, seconded by Phillip Smith. Motion passed unanimously.

General Manager CE Williams reported there are currently 174 abandoned properties that will be affected under this agreement, and all other entities have approved the agreement.

Charles Bowers made the approve the interlocal agreement with the City of Howardwick, seconded by Butch Collard. Motion passed unanimously.

A copy of the agreement is attached to these minutes.

5. WORKSHOP, DISCUSSION AND BOARD ACTION REGARDING THE DISTRICT RULES LAST AMENDED ON APRIL 21, 2016 AND THE PROPOSED DISTRICT RULES THAT HAD A PUBLIC HEARING ON DECEMBER 20, 2018 AND RELATED INSTRUCTIONS TO DISTRICT STAFF

Chairman Hardcastle noted this special meeting was requested by staff members to receive guidance after recent events regarding rule changes and the failed motion to ratify the 2018 Rules at the last meeting on March 29, 2019.

General Manger CE Williams presented a PowerPoint presentation (a copy of the presentation is attached to these minutes), with the intent of receiving direction from the Board on how District Staff should proceed with duties. He stated the failed ratification vote at the previous meeting has been challenged by CRMWA because the vote was not specifically listed on the agenda. He urged to Board to consider taking another vote to avoid legal trouble in the future. He noted the 2016 Rules proved to be discriminatory during the Study Area process, and the 2018 Rule removed the discrimination levelling the playing field for all water-users. He also noted both sets of Rules contain the same issues raised by the public at the last meeting; they both contain the 1-acre foot allowable, leasing of water rights to individual contiguous acreage, meters and the 2,880 maximum production rate. Regarding staff direction, he said the staff was confused on how to handle permitting moving forward and also the permits which had been approved since the first of 2019. Under the 2018 rules, the Drilling Permit process changed in that owners no longer received a permit with their total allowable once drilling was complete. Instead the new Operating Permit process accomplished that. Since the first of the year, there have been 83 approved Operating Permits, 111 pending Operating Permits, 20 irrigation wells and 13 registrations that have been affected and approved under the 2018 Rules.

District Attorney, Monique Norman stated she conducted a thorough review through both sets of rules and determined while they look completely different from one another, there are very few major changes. She noted from a legal perspective it seems better to operate under one permit (Operating Permit), as opposed to having many permits like the 2016 Rules contained. She stated the 2016 Rules created winners and losers, in some areas of the District you had operators following the 1-acre foot rule and complying with meters, while other areas were not operating under those same rules. The 2018 Rules apply to everyone, enforcement is straight-forward and everyone is treated the same. She also commented on “contiguous acres” being a statutory requirement in Chapter 36.

Directors discussed their issues with contiguous acres, which included leasing of dryland, leasing of water rights and including that with irrigated acres to make up total Contiguous Acreage Tracts. Norman commented that our rules have always stated if the operator has legal control of the land, we have considered that to be contiguous no matter if it was leased land or leased water rights.

Chairman Hardcastle agreed with other Directors that these issues would need to be brought up, but the reason for today’s meeting was to decide whether to continue with the 2016 Rules or adopt the 2018 Rules. He noted any possible amendments would have to go through the normal hearing process and were unable to be discussed or acted upon today.

Director Charles Bowers stated he feels like the Board should stand behind their decision to revert to the 2016 Rules and wait until after the May election to get the input from the new board member(s).

Charles Bowers made the motion to stand behind the vote at the previous meeting and continue with the 2016 Rules, seconded by John R. Spearman, Jr.

During discussion, John R. Spearman, Jr. asked how long it would take for the District to have groundwater modeling conducted with data increasing the allowable to 1.5-acre foot. Williams, and District PG Consultant Bill Mullican confirmed it would take about three to four months. Williams noted we have an ongoing contract with Intera, and he would ask them.

Director Bill Breeding expressed his concern since he is not an irrigated farmer, and his main reason for running for the Board was to help conserve water. He noted he was unsure about which would be the best path forward.

Director Joy Shadid addressed the other Board members and the public with the following statement:

“Serving as a board member has been one of the greatest honors of my life. I am passionate about conservation and brought a female and city presence to the board, which is important so legislators don’t view us as being a board of farmers making rules for farmers and attempt to pass their own rules for us. Most importantly, I bridge the gap between agriculture and municipalities. I know the importance of agriculture to our local economy and believe it has been my greatest responsibility to balance conservation efforts with the farmers’ ability to make land payments and feed the nation.

I am truly devastated to be ½ mile out of my precinct and unable to run again. It concerns me that future board members won’t realize the importance of conservation and agriculture and that they’ll be too focused on one or another.

I wasn’t around when the last rules were made, but I was there during the HPWD rule-making process. They went through a lot of embarrassment, anger, armed guards in meetings, threats and exorbitant legal and other expenses to arrive where they are today. Why are we opening ourselves up to that?

A constituent of their district once asked me why our constituents weren’t fighting our rules. I told him it was because we believe in the future. We want our children to have a future here. We don’t want them to be stuck with a piece of worthless land and forced into a future of shipping in water.

Our board passed the rules with much thought, deliberation, input from others and many sleepless nights working out every possible scenario to ensure we were doing right by the farmers, our families and our communities.

PGCD is here to conserve water for future generations. You may disagree with the proposed rules, but at the end of the day, you need to know that my #1 goal has always been to conserve enough water to lure my son back here after college so he can farm the land that has been in our family for 4 generations.

I stand behind our proposed rules and I stand behind our staff. You all see water as a “right.” They see it as a depleting resource, a necessity. I am here to ask you for conversations. Let’s get real. How do we sustain our communities and agriculture? How do we continue to prosper in 10 years? 20 years? Will it make you feel better about your restrictions if municipalities had watering restrictions, too?

I urge you to meet in the middle. We don’t need Austin and DC dictating what we do – let’s decide it ourselves amongst friends and neighbors.

I am going to ask all of you to approach this with something in mind – pretend it is 20 years from now and you’re having a conversation with your child, grandchild or great-grandchild and you’re explaining what is happening in this room right now. Will they be proud of your actions? Are you confident that you’ll be leaving them water if every person in this district uses 18” and a 5-year average? Will they have a future in your operation or be looking for something more reliable? Will they inherit bountiful land or useless dirt?

There is a quote in *Gone with the Wind*. “Land is the only thing in the world worth working for, worth fighting for, worth dying for, because it’s the only thing that lasts.” Let’s be honest. It’s not the land, but the water that’s worth working, fighting and dying for.

Let’s make it last.”

Staff member, Jennifer Puryear addressed the Board. She stated that ratifying the 2018 Rules does not set them in stone. When the new Rules were written, the Staff intended for there to be changes as we worked through the Operating Permit process. Since December, there have been several issues the Staff would like to talk with the Board about amending. She stated the 2018 Rules allow the Staff to move forward and continue with Operating Permits, gathering contiguous acreage and meters. She noted if the 2016 Rules is the way the Board decides to vote, then there are several goals in our Management Plan that need to be completed quickly. She also stated in the 2018 Rules, there is a Sunset Review that allows the Board to look at the 1-acre foot allowable as often as they choose and have an opportunity to amend that rule at any time.

Director Breeding asked for clarification on where the District currently stands regarding rules. Williams noted the discovery in Chapter 36.053 of the Texas Water Code that states all votes must pass with the entire membership of the Board, which means all votes passed by PGCD Board must pass or fail with 5 or more votes. In December 2018, there was a quorum present, however the vote to adopt the 2018 Rules was 4 in favor and 1 against, not meeting the 5-vote test. At the March meeting, the Board decided against ratifying the rules at that time, but a few of the Directors admitted to being confused on what exactly ratifying the rules meant. Also, since CRMWA challenged the validity of the ratification vote, it was necessary to vote again on the path to take forward.

Bowers stated there is a lot of discussion that needs to happen before we can move forward with the 2018 Rules. He would rather adopt a set of rules that have been reviewed and changed rather than bringing something forward we know is going to have to go through an amendment process.

Williams asked Norman for clarification whether the District can move forward with Operating Permits under the 2016 Rules. Norman said no, the Staff would have to follow the 2016 Rules for permitting procedures. She stated the real issue the Board has to decide on today is whether we move forward and apply our rules to all operators equally or are we going to apply them to those in Study Areas.

Breeding asked if all the points raised today were previous brought to the Board.

Bowers called point of order.

Chairman Hardcastle said the motion before the board is to let the vote at last week's meeting stand and to continue with the 2016 Rules.

In a vote of 2 for and 5 against, the motion failed.

Jim Thompson made a motion to adopt the 2018 Rules that went to hearing on December 20, 2018, seconded by Butch Collard.

During discussion, Bowers stated there are too many amendments that need to be done to the 2018 Rules, and he asked the Board to wait at least one more month.

Spearman again stated he would like to see the modeling he previously requested.

In a vote of 5 for and 2 against, the motion passed.

Williams asked for any other instructions of the Staff besides the modeling. He noted he has preliminarily talked with Neil Deeds with Intera about modeling, and he would have to check with him again on the cost and timeframe to get a model back to us. Chairman Hardcastle asked if the model could demonstrate the maximum allowable at 1-acre foot, 1.25-acre foot and 1.5-acre foot. Hardcastle also asked for a report on Operating Permits that have been affected by leases to be reported at the next meeting. Director Thompson said he believed one concession would be to go to a 5-year rolling average as opposed to the 3-year rolling average. Hardcastle noted we need to look at alternative meter methods. Staff confirmed they have put together proposed Meter Standards to be discussed during amendments.

6. CONSIDERATION AND POSSIBLE ACTION ON RAINWATER HARVESTING APPLICATION
a. Chancy Cruse

General Manager CE Williams noted the amount of the rebate would be for half of the \$17,685.59.

Charles Bowers made the motion to approve the rainwater harvesting rebate application, seconded by Jim Thompson. Motion passed unanimously.

7. STAFF UPDATES

8. **MANAGER'S REPORT**

Williams updated the Board on legislation he is tracking, bills that could negatively affect the District are permit exemptions by public utility wells, attorney fees and similar rules bills, but there are several other water bills that are not too concerning at this time.

9. **CONSIDERATION AND POSSIBLE ACTION TO SET FUTURE MEETING DATES**

The next meeting is scheduled for May 9, 2019 at 9:00 a.m.

10. **ADJOURN**

The meeting adjourned at 10:50 a.m.



Chancy Cruse, Secretary



Danny Hardcastle, President