

# PANHANDLE GROUNDWATER CONSERVATION DISTRICT

## BOARD OF DIRECTORS MEETING

DISTRICT OFFICE - Windmill Room  
201 W. Third Street, White Deer, Texas

March 29, 2019 • 9:00 a.m.

Those present were:

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

Guests Present: Brett Friemel, Ryan Berry, Zach Berry, Scott McLaughlin, Dennis Babcock, Dustin Babcock, Brett Britten, Lewis Davis, Floyd Hartman, Pat McDowll, Mike Friemel, Dave Davis, Austin Bamert, Chance Bowers, Chandler Bowers, Chad Pernell, Geral Berry, Harold Sides, Jeff Ammons and Kent Satterwhite

### 1. CALL TO ORDER

President Hardcastle called the meeting to order at 9:12 a.m.

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

President Hardcastle opened the floor for public comment.

Dennis Babcock spoke concerning Agenda Item 5. He commented on the 12-inch rule being too restrictive for farmers in our area. He also commented on the leasing of dryland water rights, and noted it was an unfair loophole and only helped people who were not already landlocked. He said he would like to see leniency on the total allowable production and to do away with the contiguous acreage portion of the rules.

Mike Friemel also spoke concerning Agenda Items 5 and 6. He also noted the 12-inch rule is too restrictive for our area. He asked the Board to consider amending the total allowable production to 18-inches or 1.5 acre-foot. He commented on the 3-year rolling average, noting a 5-year rolling average would be more efficient. He asked the Board to consider letting producers bank water if the total allowable was not used in one year. He also inquired about the use of Pivotrak or remote monitoring control systems as a means of measuring water instead of limiting the only method to a traditional flow meter.

Pat McDowell spoke concerning Agenda Item 5. He noted he is worried landowners may be taken advantage of in water rights leases and not realize the value of their water. He also inquired as to whether the value of land might plummet due to these leases as well. He asked whether the Board and District needed to become involved in water rights leases.

Brett Friemel stated he agreed with Mike Friemel and Dennis Babcock on the 12-inch rule being too restrictive for our area. He also agreed with the use of Pivotrak as an alternate method as opposed to traditional flow meters.

3. CONSIDERATION AND POSSIBLE ACTION ON MINUTES

a. Board Meeting 2/27/19

*Phillip Smith made the motion to approve the 2/27/19 Board Meeting minutes as written, seconded by Charles Bowers. Motion passed unanimously.*

A copy is attached to these minutes.

4. CONSIDERATION AND POSSIBLE ACTION TO RATIFY FEBRUARY 2019 EXPENDITURES

*Jim Thompson made the motion to approve the February 2019 expenditures, seconded by Butch Collard. Motion passed unanimously.*

A complete copy of the financial statements is attached to these minutes.

**At 9:51 a.m. President Hardcastle called the Board into Executive Session citing Legal Matters. The Board resumed the regular meeting at 10:40 a.m.**

Upon returning from Executive Session, Chairman Hardcastle announced an error discovered in the Board of Directors voting process when the Rules were adopted December 20, 2018. The Board has always operated on majority vote, but recently noticed majority vote means a majority of the entire membership of the Board in Chapter 36.053 of the Texas Water Code. Meaning all votes must have at least five votes in favor or not in favor. It was also discovered that if a vote does not pass with a majority, it must be corrected within a three-year timeframe. Staff searched all previous Board minutes from the past three years, and the only vote affected was the vote to adopt proposed rules in December 2018.

General Manager, CE Williams suggested the ratification of the vote taken December 20, 2018 so we can move forward and discuss possible amendments to the rules.

Director Chancy Cruse asked attendees their thoughts on the new rules. Mike Friemel said he was generally in favor of the new rules, but there were a few amendments that need to be adopted. He proposed we amend the total allowable production to 18 inches instead of 12 inches, he would like to see us allow producers to bank water during the years they do not reach their allowable, the 3-year rolling average be changed to a 5-year rolling average and also allowing producers to use remote monitoring control systems, like Pivotrac to be used instead of a traditional flow meter. Williams addressed the alternative metering methods and noted District Meter Standards had proposed amendments to allow remote monitoring control systems and TCEQ reporting for cities as alternate methods.

In response to public comment of banking water, Directors agreed a 5-year rolling average gives you the opportunity to essentially bank your water.

Charles Bowers stated he is for the 1-acre foot allowable because he has instituted changes in his farming operations that allows him to get close to the allowable. He said he is in favor of the 5-year rolling average. He would like to see the District go forward with the 1-acre foot with a 5-year rolling average and calculate an average for every producer in the District. At that point we will be able to see how many producers are truly affected. He would like to see the District obtain data over the next 5 years to see exactly what the District-wide average is. He stated he is not for the leasing of the land and/or water rights, he said this is a loophole that does not encourage conservation.

Chairman Hardcastle stated many studies have been done on the 1-acre foot to ensure the District will meet its 50/50 management standard. With any proposed changed, the 50/50 goal must be kept in mind to ensure we can meet it.

Chairman Hardcastle noted if the rules are not ratified the District would revert to the old rules prior to December 20, 2018 and Staff would not be allowed to continue working on Operating Permits. John R. Spearman Jr. noted and made attendees aware that by going back to the old rules, once your area is put in a study area and if your study area continues to decline, your area will be put into a conservation area where cut backs will begin.

Scott McLaughlin urged the Board to take time to get the rules right the first time instead of ratifying the rules and making amendments.

Collectively, the attendees agreed they worried about the ratification of the rules, without amendments and said they were unsure whether amendments would really be considered and adopted. Several attendees mentioned the creation of a committee made up of Board Members and producers from each area of the District to come up with a more cohesive set of rules that acknowledges the unique situations occurring in each area. Chairman Hardcastle mentioned he would rather keep discussions inside an open meeting to ensure no one from any area of the District is being left out. Attendees also mentioned the unfairness of the leasing of water rights as a loophole. They noted a landowner or operator that is landlocked and has no opportunity to purchase more land or water rights is unfair.

Kent Satterwhite asked the Board if they failed to ratify the rules, would they begin enforcing the old rules. Chairman Hardcastle stated the District would in fact have to start enforcing the old rules, which still contains the 1-acre foot allowable. Director Cruse noted the reason we began rule amendments over 18 months ago was because some areas of the District qualified for a conservation area, and at that time the Board was not comfortable with enforcing the old rules. Williams noted the old rules were extremely hard to enforce and often times did not identify the high pumping areas causing decline.

After discussion, Chairman Hardcastle called for a motion to ratify the rules.

*Chancy Cruse made the motion to ratify the votes, seconded by Joy Shadid. In a vote of 3 for and 5 against, the motion failed.*

5. DISCUSSION AND POSSIBLE ACTION ON AMENDMENTS TO CURRENT DISTRICT RULES  
**No action taken.**
6. CONSIDERATION AND POSSIBLE ACTION ON AMENDMENTS TO DISTRICT METER STANDARDS  
**No action taken.**
7. CONSIDERATION AND POSSIBLE ACTION ON CALLING FOR HEARING ON DISTRICT MANAGEMENT PLAN  
**No action taken.**
8. CONSIDERATION AND POSSIBLE ACTION ON INTERLOCAL AGREEMENT WITH THE CITY OF HOWARDWICK ON ABANDONED PROPERTIES  
*Charles Bowers made the motion to table the agreement until more information is known, seconded by Phillip Smith. Motion passed unanimously.*
9. CONSIDERATION AND POSSIBLE ACTION ON POTTER COUNTY SHERIFF'S SALES
  - a. Lot 4, Block 1, Davis Sub, @ 1903 N Highland St Due: \$29,663.89 Bid: \$2,501.00
  - b. Lot 10, Block 4A, Nix & Smith Replat, @ 1401 N Marrs Due: \$48,989.42 Bid: \$3,001.00
  - a. *Charles Bowers made the motion to accept the bid as presented, seconded by Chancy Cruse. Motion passed unanimously.*
  - b. *Chancy Cruse made the motion to accept the bid as presented, seconded by Charles Bowers. Motion passed unanimously.*
10. CONSENT AGENDA – DRILLING PERMITS  
The following items are part of the Consent Agenda. All Well Permit requests have been thoroughly reviewed by staff, are administratively complete and the General Manager is recommending issuance.

**RECLASSIFY WELLS – None**

**IRRIGATION WELLS –**

1. CA-1330 Dudley Pohnert – An 8” well to be drilled on 640 ac by Hydro by 3.11.19 in the NC of Sec 48, Blk 7, I&GN Survey (being located 2 mi S of White Deer on Hwy 294, W side of 294, S side of CR 15) Carson County, Texas
2. DO-493 Range Station, LLC – A 5” well to be drilled on 658 ac by 4M by 2.15.19 in the NE4 of Section 21, Block C6, GC&SF Survey (being located approx. 1 ½ mi NE of Clarendon on Hwy 287, on S side of Hwy 287) Donley County, Texas
3. WH-356 Hardcastle Farms – A 3” well to be drilled on 465 ac by Faulk Drilling by 4.1.19 in the NE4 of Section 51, Block A8, H&GN Survey (being located approx. ¼ mi S of Wheeler City Limits between CR 14 & 15) Wheeler County, Texas **Easement on File**
4. WH-357 Rick Hargrove – A 6” well to be drilled on 320 ac by Faulk Drilling by 6.1.19 in the SW4 of Section 73, Block 13, H&GN Survey (being located 4 ½ mi E of Shamrock on I-40 to FM 2168, then 2 mi N to CR Y, then 1 mi E to CR 22, on E side of CR 22) Wheeler County, Texas

President Hardcastle noted number 3 listed under drilling permits was changed from a 3” well to a 2” well. He also noted he would be abstaining from voting because of a conflict of interest.

*Chancy Cruse made the motion to approve drilling permits 1-4, Charles Bowers seconded. In a vote of 7 for and 1 abstention, the motion passed.*

11. CONSIDERATION AND POSSIBLE ACTION ON SPACING EXCEPTION TO SELF
  - a. CA-1331 Charlotte Doshier

The Board of Directors collectively agreed that exceptions to any District rule are not taken lightly. The Board recommended the landowner reconsider the location of the well and move the proposed location the appropriate distance from the domestic well in question. Charles Bowers noted the need for a liability waiver to be signed by the landowner ensuring they assumed all rights and responsibilities for drilling a well against District spacing rules. He wanted the waiver to include the possibility of the landowner potentially losing their domestic well as a result of drilling an irrigation well closer than the recommended spacing rule.

*Charles Bowers made the motion to approve the spacing exception, contingent upon the landowner signing a liability waiver and being made known of the potential risks of drilling against District spacing rules, seconded by Chancy Cruse. In a vote of 7 for and 1 against, the motion passed.*

12. STAFF GUIDANCE
  - a. Meter Installation
  - b. Meter Maintenance

**No action taken.**

13. STAFF UPDATES

**No action taken.**

14. MANAGER’S REPORT
  - a. Legislative Update

**No action taken.**

A copy is attached to these minutes.

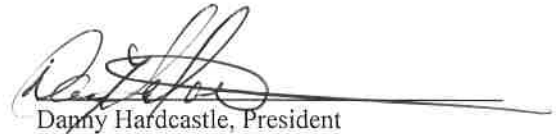
15. CONSIDERATION AND POSSIBLE ACTION TO SET FUTURE MEETING DATES

The next meeting date is set for Thursday, May 9<sup>th</sup> at 9:00 a.m.

16. ADJOURN

*Charles Bowers made a motion to adjourn, seconded by Chancy Cruse. Meeting adjourned at 12:34 p.m.*

  
Chancy Cruse, Secretary

  
Daphy Hardcastle, President