

LONE STAR GROUNDWATER CONSERVATION DISTRICT

January 30, 2019

MINUTES OF SPECIAL MEETING

PUBLIC MEETING COMBINED WITH GROUNDWATER MANAGEMENT AREA 14 JOINT PLANNING COMMITTEE MEETING

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) attended a public meeting in conjunction with the Groundwater Management Area 14 Joint Planning Committee Meeting, in the Lone Star GCD - James B. “Jim” Wesley Board Room located at 655 Conroe Park North Drive, Conroe, Texas, within the boundaries of the District on January 30, 2019.

The Joint Planning Meeting was called to order at 10:00 AM.

RECOGNIZE AND ESTABLISH QUORUM OF LONE STAR GROUNDWATER CONSERVATION DISTRICT BOARD OF DIRECTORS PRESENT:

Kathy Turner Jones, General Manager of Lone Star GCD and GMA 14 representative, introduced and recognized Lone Star GCD Board Directors in attendance. Present: Directors Hardman, Rogers, Spigener and Director Traylor. Ms. Jones announced a quorum was present.

RECEIVE INFORMATION FROM, PROVIDE INFORMATION TO, ASK QUESTIONS OF, AND/OR RECEIVE QUESTIONS FROM THE GROUNDWATER MANAGEMENT AREA 14 JOINT PLANNING COMMITTEE. (GMA 14 Agenda included as Attachment “A”).:

Director Hardman addressed the Committee and public, reciting a formal statement on behalf of the Lone Star Groundwater Conservation District. *A copy of the statement is attached hereto as Exhibit “A”.*

ADJOURN:

The meeting was adjourned at 11:36 AM.

PASSED, APPROVED, AND ADOPTED THIS 12th DAY OF FEBRUARY 2019.



Stuart Traylor, Board Secretary



January 30, 2019

Kathy Turner Jones
General Manager

Board of
Directors

Webb Melder
President

Harry Hardman
Vice-President

Stuart Traylor
Secretary

Jim Spigener
Treasurer

Jon Paul Bouché

Jonathan Prykryl

Larry A. Rogers

Good morning and welcome back to our facility! My name is Harry Hardman and I am Vice President of the LSGCD, which I will refer to as "Lone Star."

I am here today to share with you the concerns and desires of the newly elected Lone Star Board. I am not sure of everyone's familiarity with the challenges in our District, and I am also new on the job, so I'll provide a brief synopsis of the circumstances we find ourselves in today. The District's **prior** method of regulation was the subject of multi-year litigation that began in 2015. Several permittees sued the District challenging the validity of Lone Star's regulations. After three years of litigation, the Montgomery County District Judge found the regulations to be invalid and exceeding the District's authority granted by the Legislature. The past District Board filed an appeal of that decision, and fortunately, the litigation was settled last week. The settlement will result in a final judgment declaring the regulations void and unenforceable, and it will keep the parties out of the courthouse for years to come. Now that the District is out of the courthouse, we can now focus on the important job of rebuilding our regulatory program in accordance with the authority granted by the Legislature.

As each of you are likely aware, the DFCs adopted by Lone Star were also subject to two different petitions—both claiming the DFCs were unreasonable. The DFC contested case ended with a Final Order declaring the District's DFCs no longer reasonable. The order was also based on the District's new management policy – one that allows measured water level declines over time.

As you are aware, last March, GMA 14 voted to NOT adopt amended DFCs applicable to Lone Star for the second round of joint planning, but instead to consider these in conjunction with the third round of planning. In studying this issue, I share that the new Board understands your thinking and agrees it would have been problematic to adopt new DFCs based on an arbitrary and prescribed increase in pumping, and also that it is difficult to adopt new DFCs just for Lone Star without affecting the aquifer conditions in nearby counties. I'll bring this up more in a minute, but now, the new Board finds itself without a set of reasonable DFCs at this time.

To add to our challenge, the new Board now also has a past due management plan, and we must adopt a new one as soon as we can. But, a management plan requires listing the DFCs that are applicable to the District, and we do not have reasonable ones! We have an unprecedented situation here.

So, let's see—the District has to get a new management plan approved, adopt new rules consistent with the plan and Chapter 36 authority, and adopt reasonable DFCs. Just to get back to square. Quite a task for a newly elected Board!

In looking at some of the causes and characteristics of our situation, the new Board has taken time to review what has happened. The Board believes it was partly the nature of the DFCs formed in the 2nd Round of Planning that contributed to our current challenges. The past DFCs were adopted by assuming pumping in each county, then running the model with the assumed pumping to calculate the DFCs by county. In other words, the pumping amount was decided first and then used to back-calculate the corresponding DFC. Because our aquifers do not stop at the county boundaries, it is obvious that if pumping is changed in one county, it changes drawdown in that county AND can change the DFCs in other counties in GMA 14, as well.

Our Board would like to propose a different approach for the 3rd Round of joint planning. A method that hopefully provides more robustness to our efforts. In this way, we may avoid the mistakes of Round 2.

In the Texas Supreme Court's 2012 ruling in the *Day* Case, the Court prophetically stated, "One purpose of groundwater regulation is to afford every owner *of a common, subsurface reservoir* a fair share." Further, the Senate Committee on Agriculture, Water and Rural Affairs in its Dec. 2018 interim report recognized the need for similar DFCs for GCDs over the same aquifer by specifically stating "*two GCDs over the same aquifer with similar science-based hydrological formations should not have dissimilar DFCs.*"

We look at this, the problems we have had, the lessons we have learned as a result of those problems, and we would like GMA 14 to first identify the boundaries of each common, subsurface reservoir in GMA 14 for the purpose of adopting DFCs. I understand there are commonly accepted methods to do this. Methods the State of Texas has followed for 70 years.

With the boundaries of the common reservoirs in hand, we can then set appropriate DFCs for each delineated common reservoir.

I hope we can agree that we do not know which future owners will choose to use their property, or which ones may choose to just hold their property, or who might want to sell their property. Fortunately, if we look at the common reservoir as a unit of management, we begin the process of managing in a way that makes these decisions much less critical. Managing to a standard as opposed to specific users ensures fair and impartial treatment for all owners regardless of what happens in the future.

Thank you for the opportunity to address you today. The new board looks forward to working with GMA 14 in a manner that recognizes groundwater is private property, and in so doing regulate in a legal manner to avoid future litigation, including taking claims.

On Behalf of the LSGCD Board of Directors


Harry H. Hardman, Vice President