

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

**March 9, 2010**

## MINUTES OF REGULAR MEETING

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on March 9, 2010.

President Tramm called to order the regular Board of Directors meeting at 10:25 a.m. announcing that it was open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker  
Reed Eichelberger, PE  
Orval R. Love, PE  
Roy McCoy, Jr.  
Jim Stinson, PE  
Richard J. Tramm  
Scott Weisinger, PG  
James B. Wesley  
W. B. Wood

All members of the Board were present, with the exception of Director Baker, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

### APPROVAL OF THE MINUTES:

President Tramm stated the Board would consider all three (3) meeting Minutes listed as one item. Upon review of the following, a motion was made by Director Weisinger, seconded by Director Wood and unanimously carried, to approve the meeting minutes as presented:

- a) February 9, 2010, Special Board Meeting
- b) February 9, 2010, Public Hearing on Permit Applications
- c) February 9, 2010, Regular Board of Directors Meeting

### COMMITTEE REPORTS:

**Rules and Bylaws Committee – Kathy Turner Jones, Coordinator.** Ms. Jones reported that the committee met February 18, 2010, to consider written input received from the amenity pond Focus Group on potential revisions to the District Rules regarding the use of groundwater to fill or maintain surface impoundments. The Committee drew largely upon suggestions contained in the written comments to develop the outline of a proposed regulatory approach to this issue. It tasked legal counsel and its technical consultant with drafting proposed rules revisions that would allow for the use of groundwater in this manner when certain hydrologic conditions are present, and would repeal the current permitting moratorium. The Committee expects to have a draft proposal to review and consider later this month.

**Policy and Personnel Development Committee – Sam W. Baker, Chair.** In Director Baker's absence, General Manager, Kathy Turner Jones, reported that the committee had not met since the last Board Meeting.

**Water Awareness and Conservation Committee – Billy Wood, Chair.** Director Wood stated that the committee had not met since the last Board Meeting and asked Marjie Risk, Education/Public Awareness Coordinator, to proceed with a report of her activities during the past month.

Ms. Risk noted that one of her goals for the last month was to provide the Board with a timely submittal of the 2009 Annual Report. Ms. Risk handed out draft copies of the District's 2009 Annual Report for review by the Board, with comments due back to her by March 23, 2010, so the report could be finalized at the April 13, 2010 Board Meeting. Ms. Risk noted that the content of the report was directly tied to the Objectives and Performance Standard requirements outlined in the District's Management Plan.

Ms. Risk stated that little interest has been generated from the two articles that were published in the newspaper regarding the "table tent" program. Ms. Risk informed the Board that she will be attending a Montgomery County Restaurant Association "mixer" this afternoon and will be setting up an information table with the District's table tent press releases, her business card, as well as a sample of the table tent. Hopefully that will be more effective than going door-to-door and visiting each restaurant. Ms. Risk also commented that it has been discovered with corporate owned restaurants, this type of decision is made at the corporate level which may make implementation difficult and more of a lengthy process.

Ms. Risk informed the Board she was able to negotiate a quantity discount on a purchase of 1,000 pre-rinse spray valves, providing the District is able to obtain enough partners. The City of Conroe has initially committed to 200-250 based on the estimated number of eligible restaurants (potentially having an existing inefficient spray valve) and schools. Installation takes approximately five (5) minutes and the high velocity, efficient pre-rinse spray valves use 1.2 to 1.6 gallons of water per minute. Older, inefficient valves can use between 304 gallons per minute, so the potential for water savings can easily be 50%. Ms. Risk stated she would like to continue her discussions with the different cities in Montgomery County to determine which ones will be participating and possibly issue a water conservation challenge to those not participating.

Ms. Risk stated she continues to meet with the MUDs and cities and mentioned she had a meeting with Director Weisinger regarding some of the cities he represents to discuss future scheduling of water conservation meetings around current staffing changes. The goal when

meeting with individuals from the cities, is to meet with the person who is responsible for water conservation, as well as, someone who is responsible for making policy changes.

Director Stinson commented that the drought last year heightened awareness of how much water is wasted on lawn irrigation. The Woodlands has developed a program, WISE (Woodlands Irrigation System Evaluation), at no cost to the homeowner. This is a trained group of licensed irrigators who will go out and evaluate the homeowner's irrigation system to make sure the system is operating efficiently. Director Stinson stated he would be happy to share how The Woodlands came up with this program with any interested parties.

**Budget and Finance Development Committee – Jim Stinson, Chair.** Director Stinson reported his committee had not met since the last Board Meeting.

Review of Monthly Financial Reports. Director Stinson stated he has reviewed the monthly financial report and if anyone has any questions he would be glad to address those. The District's expenses through February 2010, was \$171,000, with an income of \$1.2 million.

Discuss, consider, and possible action regarding approval of Resolution #10-001 adopting FY 2010 Operating Budget. Director Stinson stated he had a committee meeting two months ago and the budget was reviewed, presented to the Board for approval, and the Board deferred action for a month. Director Stinson stated he had met with staff yesterday (March 8, 2010) and found additional opportunities to further reduce the originally presented budget, by another 11%. Kathy Turner Jones, General Manager, stated an updated copy was given to each Board member with the line items being reduced highlighted, along with corresponding comments.

A motion was made by Director Wood, seconded by Director Eichelberger, with Director Weisinger abstaining; Director Wood and Director Eichelberger in favor. The motion did not pass. President Tramm stated the objection to defer passage last month was because the Director's had not had an opportunity to review the proposed budget. President Tramm commented he had just received the updated version and wanted to know if it would place the District in a bad spot to defer this Agenda item for an additional month, giving the Board an opportunity to study the changes. The General Manager pointed out that it was important to realize the financials that are generated each month are not accurate financials, as the District is operating off of the 2009 Budget.

Director Eichelberger wanted to know how that affects the District's ability to operate. General Manager, Kathy Turner Jones, stated according to the District's auditor, until the District adopts a budget for the current physical year, the District would remain under the 2009 budget. A motion was made by Director Wesley, seconded by Director Stinson, to defer this agenda item until the April 13, 2010, Board Meeting. The motion passed, with Director Wood and Director Eichelberger voting nay.

**Findings and Review Committee – Orval R. Love, Chair.** Director Love reported the committee met on February 25, 2010, and interviewed three (3) consultants for redevelopment of information technology/GIS web-based mapping. After that meeting, the committee ranked the presentors, but decided since there was so much information that wasn't exactly spelled out, the committee asked Cori Stallings, Permitting Director, to meet with the number one selection to see if a deal could be worked out with them and get things more defined. If not, the committee will proceed with the number two choice. Ms. Stallings will report back to the committee before

the next Board meeting, and at that time the committee will have a recommendation for the Board. Ms. Stallings stated she has met with HALFF and has compiled a list and plans to meet with the committee at their convenience.

Kathy Turner Jones, General Manager stated she had received a letter from Mike Turco, USGS, and had placed a copy at each Director's seat. Mr. Turco was unable to attend today's Board Meeting, but wanted to report there is no notable change since his last project update in January-February. The report is scheduled to be reviewed this week by the USGS Office of Groundwater and Water Quality scientist who is doing an onsite review. It is Mr. Turco's intention to keep the Board up-to-date on a month to month basis and further stressed, given the importance of this project, that USGS hopes to have the final report ahead of schedule. It is anticipated the Board will have some numbers to review by summer.

**Building and Facilities Committee – Kathy Turner Jones.** Ms. Jones stated the committee was authorized to enter into a contract on a purchase opportunity after the last Board meeting. Since that time, the District has been notified that the contract offer was rejected and the District is looking at other opportunities for facility relocation for the District. Ms. Jones stated there are still some other potential possibilities, whether the District wants to look at purchasing its own building or chooses to build. The Board has asked Ms. Jones to visit with the county regarding some opportunities they have regarding unused space.

#### **ENGINEERING REPORT:**

Mark Lowry, District Consultant, stated his report was included in the Board packets. The only item out of the ordinary was helping to put together, and working with, the expert panel that is going to provide some recommendations related to brackish groundwater.

John Seifert, LBG Guyton, presented a report from the committee stating that the committee was composed of Van Kelly, Steve Young, Bill Mullican and himself. The committee met on February 24, 2010, along with Director Wesley and Director McCoy. One prominent issue addressed was whether the Catahoula Aquifer is part of the Gulf Coast Aquifer system. Based on definitions from TWDB and studies completed, the Catahoula is a basal part of the Gulf Coast Aquifer system. Another question was, will the Catahoula and its pumping permit have an affect on the Upper Jasper and conversely the Upper Jasper having an affect on the Catahoula with a unit called the Lower Jasper sandwiched in between. The consensus of the group was that those units are so separated by sands and clays that it isn't an issue of pumping the Catahoula really being adverse to the Upper Jasper. Mr. Seifert stated the group also discussed the potential productivity of the Catahoula and that is a work in progress. The committee's objective is to get an answer and report back to the Board as soon as possible, hopefully by April.

Mr. Seifert stated the recharge for the Catahoula is several miles wide. It would be located in the area north of Brenham, extend to the Navasota area, then north a few miles; extends up to the northeast of Walker County, proceeds across Grimes County and then extends to the county east of Walker County. It is a large area, but it is a band just like the outcrop for the Chicot. Huntsville has some wells in the Catahoula that provide part of their fresh water supply. The lack of circulation through the formation is the cause of brackish water. It is water that was never flushed out, has low permeability formation, and the rate of movement is low or

slow. There are some areas, of the Catahoula, in the northern part of the county that contain fresh water, but further south it contains brackish water. There is a trough of fresh water that extends down I-45, not as far as Conroe, but it is in the Willis area and north and the further south, the higher the salinity. Subsidence would depend on the overall quantity of water and how much the hydrostatic pressure was lowered. The Catahoula is an older formation where the clays have been consolidated to a significant degree, therefore, subsidence is not a big issue.

Mr. Lowry stated that the purpose of forming the committee, was for the expert panel to be able to provide guidance to anyone doing brackish groundwater projects. The ownership is still going to be on the project manager to meet the stipulations that are in the Board Rules and then if those are not met, the Board will have no choice other than to reject the study. If someone wants to move forward and work on a brackish groundwater project, then they need to be full speed ahead as there isn't anything the panel is doing that anybody has to wait for at this point. The panel is not developing a study that requires anyone to wait until the study is complete before proceeding. There would need to be a change in the District Rules if the Board wants the Catahoula to be excluded from the definition of the Gulf Coast Aquifer for purposes of production of brackish groundwater. It might also be appropriate to change the limit of TDS from 1,500 milligrams per liter, to 1,000 milligrams per liter in terms of the dissolved solid concentration in the water being produced. For all purposes 1,000 and less is considered fresh water.

Mr. Seifert stated the Jasper is in two groups-Upper and Lower. The Upper Jasper is 400-500 feet thick and the Lower is 1,600-1,800 feet thick. If that is considered the lower part of the Lower Jasper, there needs to be a barrier between upper and lower, if the lower is considered for any production. The Lower is comprised of a significant amount of clay. The panel did discuss the lower part of the Lower Jasper, which is just above the Catahoula.

#### **UPDATE ON RESOLUTIONS RECEIVED BY DISTRICT REGARDING EXTENSION OF CERTAIN DEADLINES IN DISTRICT REGULATORY PLAN PHASE II(B).**

Kathy Turner Jones, General Manager, stated that staff has received twenty four (24) letters and resolutions to date regarding variances of different extension requests regarding deadlines of DOI, DRP, and the final conversion deadline. The range of these requests are anywhere from six (6) months on the internal deadlines, to one to two years on the conversion deadline. Copies of these letters and resolutions are available to the public. Ms. Jones stated, for the record, that the City of Conroe was one of the original ones submitting a resolution at the February Board Meeting. Since that time, the District has received a letter from the City of Conroe requesting the District defer any action or discussion on their resolution at this time while they continue efforts towards working with SJRA on the contract terms. Therefore, the General Manager asked that the District recognize that the City of Conroe has requested a moratorium and pull down their resolution at this time.

#### **DISCUSS, CONSIDER, AND TAKE ACTION REGARDING AUTHORIZING PUBLICATION OF PROPOSED REVISIONS TO DISTRICT REGULATORY PLAN PHASE II(B) REGARDING: (1) USE OF BRACKISH GROUNDWATER AS AN ALTERNATIVE WATER SOURCE; OR (2) EXTENSION OF DEADLINES.**

President Tramm stated there were several members of the public signed up for comment, so at this time the Board would hear public comments.

**Diane Lincoln, Town of Woodloch, Mayor** - Ms. Lincoln stated, although the Town of Woodloch agrees with the Plan, they did not like the contract. The Town of Woodloch would like more time to look at some alternative sources for surface water. Ms. Lincoln wanted the Board to know that the Town of Woodloch was not against reduction, but as they are a unique entity, they do not have the funds to explore alternative uses and are planning to look into grants. Ms. Lincoln informed the Board that the Town of Woodloch would be passing a resolution at their council meeting tonight in favor of delaying the deadlines imposed by the District.

**Jack Curtsinger, River Plantation (Board Member)** – Mr. Curtsinger stated he was here today on behalf of River Plantation’s resolution regarding delay of deadlines. Mr. Curtsinger wanted the Board to understand that River Plantation has an election on May 8, 2010, in which a majority of the Board will be elected. Deadlines will need to be met before an accurate assessment of the matter can be made. Mr. Curtsinger feels that they should be given ample time for those elected to make up their minds as to what to do, as they will be in that elected position for four (4) years. In addition, Mr. Curtsinger stated that River Plantation will submit a request for an exception at the next LSGCD Board Meeting.

**Mike Stoecker, Woodlands Oaks Utility** – Mr. Stoecker stated that this newly formed group is in favor of delaying the deadline. The contract has some good points, but just needs some streamlining. Mr. Stoecker stated he has some resolutions that he will be presenting to the District on behalf of the newly formed organization.

**Tom Baudat, Montgomery County Investor Owned Utility Association** – Mr. Baudat stated he supports the City of Conroe’s Resolution #3020-10.

**Simon, Sequeira, Quadvest** – Mr. Sequeira stated he was concerned with the cost of the project and feels someone from the I.O.U. (Investor Owned Utility) should be on the Board and is also concerned about not being able to recoup his initial out-of-pocket money.

Director Weisinger stated that Director Baker and Director Tramm represent the I.O.U.s and are appointed by the county. If Mr. Sequeira has any questions, he should voice his concerns to either of those Directors. President Tramm suggested he speak with him regarding his out-of-pocket money concerns.

Mark Lowry, District Consultant stated the panel would be providing guidance to the Board and staff, so when the District reviews the various applications, the District will have additional background on how well the permittee has proven the availability and quality of the water they are going to be using. The ownership will still be on the developer of any brackish groundwater project to meet the other requirements of the rule. Mr. Lowry stated the panel does not know at this time, if there is sufficient evidence to separate the Upper Jasper from the Lower Jasper. All of the water being produced in Montgomery County is coming from the Upper Jasper, but again, that is one of the deliberations of the panel. In order to allow people to pursue brackish groundwater, there would need to be some intent by the Board regarding carving out the Catahoula and allowing brackish groundwater for projects in the Catahoula, based on the determination of the expert panel that there is not interaction between the two.

**Bill Kotlan** – Mr. Kotlan stated if the Board doesn't make a decision regarding brackish water, moving forward isn't going to be possible.

**Jackie Chance** – Mr. Chance stated what the Board is voting on now to allow people to use brackish water, is not guaranteeing that the water can be used forever. The Catahoula Aquifer is just like the others and if it starts to deplete because of overuse, this Board still has the option to put regulations on the aquifer. Unless the Board allows people to use it, there is no way the Board will ever know what is down there.

Brian Sledge, General Counsel, reminded the Board that right now the Board faces a legal hurdle. Mr. Sledge stated there is no reason not to eliminate the definition of the Catahoula. Mr. Sledge further stated he wants to make sure that the District makes its expert panel available to the engineers who are working with the different MUDs.

A motion was made by Director Stinson, seconded by Director Wesley and unanimously passed, to authorize staff to publish Rules changes that will address the brackish water in the Catahoula impediment in the Gulf Coast Aquifer in the District Regulatory Plan Phase II(B); and change the TDS from 1,500 to 1,00 milligrams per liter; and make conforming changes in the drilling of test hole permits without the necessity to require Board action; and defer action on any changes to the DRP Phase II(B) deadlines until the April 13, 2010 Board Meeting.

**DISCUSS, CONSIDER, AND TAKE ACTION REGARDING PROTOCOL FOR REVIEW AND DETERMINATION OF "TOTAL QUALIFYING DEMAND" UNDER THE DISTRICT REGULATORY PLAN PHASE II(B) FOR PERMITS USED BY THE DISTRICT BEFORE JANUARY 1, 2010.**

Brian Sledge, General Counsel, stated the District was called upon in the Regulatory Plan Phase II(B) to review the District's LVGU permits, after receipt of the 2009 production reports were received. Staff has been entering the information into a spreadsheet. There are around forty (40) that are outstanding and "Notice of Violations" have been sent. The process now is to work with the General Manager and the District Engineer to come up with a standard protocol for reviewing these items. The District has had discussions in the past to determine whether the permittee has unreasonably exceeded their 2009 demand. Mr. Sledge stated the District wants to look at those permittees that are above a certain percentage (10% to 20%) and seek guidance from the Board, and then have the District Engineer perform a technical review of the applicant. Mr. Sledge stated he would not recommend the Board to approve a formal protocol at this time, but wait until next month after all the past due reports have been received. Mr. Sledge further recommended to the Board that they defer to the General Manager, District Engineer, and General Counsel to start working on the larger ones already received by the District. A motion was made by Director Stinson, seconded by Director Wood and unanimously passed to proceed with the recommendation of General Counsel.

## **General Counsel Report:**

Brian Sledge, General Counsel, reported he had been busy over the last month trying to assemble the expert panel as quickly as possible.

Mr. Sledge updated the Board regarding litigation before the State Supreme Court in the *EAA v. Day* case, which is a case that implicates landowner interests in groundwater in place. Mr. Sledge expects the Supreme Court will issue an opinion within the next year.

Counsel reported Joe Straus, Texas Speaker of the House, appointed a committee to review all manner of special purpose districts, with a focus on water and wastewater related districts. Mr. Sledge also stated that the House Natural Resources Committee has scheduled meetings for April regarding their groundwater issues.

The Texas Water Conservation Association has appointed a special Groundwater Committee to look at possible revisions of Chapter 36. Mr. Sledge stated they had their first subcommittee meeting and the main concern was the desired future conditions use process, changing membership on who gets to vote on those items, requiring districts to do studies in their management plans on total storage ability in the aquifer, different coordination with the regional water planning groups and the groundwater districts through the GMA process, potential modifications to the permitting process and rule making hearing requirements. Mr. Sledge stated this is dominated primarily by water marketing. These are all little items that could impact the District.

## **GENERAL MANAGER'S REPORT:**

Kathy Turner Jones, General Manager, reported a large percentage of the Water Production Reports have been returned. The original deadline for this information to be returned was February 15, 2010. Thirty-four (34) NOV's were sent with fines ranging from \$250-\$500 based on Non-LVGU vs. LVGU status.

Ms. Jones stated this is the first year the District has offered a rebate program on water use fees and it is on the 2009 permitted vs. pumpage numbers. To date, staff has issued \$25,902 in rebates to the public. April 2, 2010 is the deadline to submit for that rebate.

Ms. Jones reported that Bill Thaman and Alan Potok are no longer associated with AECOM and introduced Jason Afinowicz, who will be handling any business the District has with AECOM.

General Manager reminded everyone that Earth Day is April 10, 2010 at the Woodlands High School on Research Forest Drive and the District will have a booth at the event. Last year the event was cancelled due to inclement weather.

**PUBLIC COMMENT:** None

**NEW BUSINESS:** None

There being no further business, upon a motion by Director Wood, seconded by Director Weisinger, the meeting was adjourned at 12:05 p.m. The next regular meeting of the Board of Directors is scheduled for April 13, 2010, at 10:00 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 13<sup>th</sup> DAY OF APRIL, 2010.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

March 9, 2010

## MINUTES OF PUBLIC HEARING ON PERMIT APPLICATIONS

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on March 9, 2010.

President Tramm called to order the Public Hearing on Permit Applications at 10:15 a.m., announcing that it was now open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker  
Reed Eichelberger, PE  
Orval R. Love, PE  
Roy McCoy, Jr.  
Jim Stinson, PE  
Richard J. Tramm  
Scott Weisinger, PG  
James B. Wesley  
W. B. Wood

All members of the Board were present, with the exception of Director Baker, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

Kathy Turner Jones, General Manager, stated no action would be taken on the first item number, as additional information has been requested to complete the application.

Item #1, **East Montgomery County Improvement District** – No action. Additional information is needed and will be reposted for the April Board Meeting.

Kathy Turner Jones, General Manager, stated Item #2 and Item #7 are both amendments to Operation Permits. Based on Technical Review, it is the General Manager’s recommendation

to approve increasing authorization, but that 2009 usage be limited to the total usage registered by meter as of December 31, 2009. The General Manager further recommended that the increase requested for each of these permit amendments for 2010 usage be approved as submitted. A motion was made by Director Weisinger, seconded by Director Stinson to approve the permit applications in accordance with the recommendation of the General Manager. Motion passed.

**Item #2, Crystal Springs Water (Timberland Estates**

**Item #7, San Jacinto River Authority**

**Item #3, Clark Chiropractic Clinic** – Applicant has requested 100,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1980 for the clinic that staff found in non-compliance. Based on Technical Review of information supplied by application, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Weisinger, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

**Item #4, Conroe Express Concrete** – Applicant has requested 5,000,000 gallons for 2010 and annually thereafter. This is an existing well that staff found in non-compliance. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Weisinger, seconded by Director Stinson to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

**Item #5, CLW, Inc.** – Applicant has requested 100,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1980 for the clinic that staff found in non-compliance. Based on technical review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Weisinger, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion Passed.

**Item #6, Montgomery County Fresh Water District** – This is an application for a new Operating Permit requesting allocation only. This application is associated with an existing Historic Use Permit. Based on Technical Review, it is the General Manager’s recommendation

to approve that which is being requested. Motion was made by Director Stinson, seconded by Director Wesley to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #8, **RV Residence** – Applicant has requested 100,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 1983 for the RV Park that staff found in non-compliance. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Stinson, seconded by Director Weisinger to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #9, **Neubaum Family** – Applicant has requested 400,000 gallons for 2010 and annually thereafter. This is an existing well, operating since 2001 for the retail center that staff found in non-compliance. Based on Technical Review, it is the General Manager’s recommendation to approve what is registered by meter for the remainder of 2010, not to exceed 400,000 gallons. A motion was made by Director Stinson, seconded by Director Weisinger to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

Item #10, **City of Splendor** – Applicant has requested an increase in allocation in the amount of 35,000,000 gallons on an annual basis. Based on Technical Review, it is the General Manager’s recommendation to approve that which is being requested. A motion was made by Director Weisinger, seconded by Director Stinson to approve the permit application in accordance with the recommendation of the General Manager. Motion passed.

President Tramm adjourned the Public Hearing on Permit Applications at 10:20 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 13<sup>th</sup> DAY OF APRIL, 2010.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

**March 9, 2010**

## **MINUTES OF SHOW CAUSE HEARING**

The Board of Directors of the Lone Star Groundwater Conservation District (“District”) met in regular session, open to the public, in the Lone Star GCD – Board Room located at 207 W. Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on March 9, 2010.

**The audio recording will serve as the official record for the Show Cause Hearing. The summary below is provided for convenience**

President Tramm called to order the Show Cause Hearing at 10:20 a.m.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker  
Reed Eichelberger, PE  
Orval R. Love, PE  
Roy McCoy, Jr.  
Jim Stinson, PE  
Richard J. Tramm  
Scott Weisinger, PG  
James B. Wesley  
W. B. Wood

All members of the Board were present, with the exception of Director Baker, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian Sledge, General Counsel; Mark Lowry, District Consultant; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

President Tramm stated this was a Show Cause Hearing directing James H. Cappiello, (“Respondent”), pursuant to District Rule 2.5, to appear before the Lone Star Groundwater Conservation District Board of Directors and show cause why the District should not issue a cease and desist order pursuant to District Rule 2.6(c); file a civil suit against Respondent in State District Court seeking enforcement of District rules and the collection of all due and owing water use fees, late payment penalties, other civil penalties and attorneys fees and court costs incurred by the District in the prosecution of claims against Respondent for its violations of District Rules; and take all other enforcement action that is necessary and appropriate under the laws of the State of Texas.

President Tramm then turned the meeting over to Kathy Turner Jones, General Manager.

Ms. Jones stated that this well was found in non-compliance of District Rules in June, 2009, for "Failure to Permit and Meter". At that time, staff made a site visit and discovered there was no meter, nor had the well ever been permitted. Numerous letters have been sent requesting cooperation to come into compliance and staff has made numerous phone calls to try and assist with compliance of district rules. A Notice of Violation was sent following the November, 2009, Board Meeting with another "Notice" being sent following the February 9, 2010, Board Meeting, informing Mr. Cappiello he would be listed for a Show Cause Hearing at the March 9, 2010, Board Meeting. Ms. Jones further stated that it was her understanding that Mr. Cappiello was not in attendance at today's meeting. The General Manager recommended to follow the same procedure the district took in a similar situation at the February Board Meeting and authorize the General Manager to contact, and meet, with Mr. James Cappiello to negotiate a settlement; or otherwise authorize the General Manager and legal counsel to initiate a law suit on behalf of the District to resolve the matter by April 1, 2010. A motion was made by Director Stinson, seconded by Director Love and unanimously passed to proceed with the recommendations of the General Manager.

The Show Cause Hearing was adjourned at 10:25 a.m.

**PASSED, APPROVED, AND ADOPTED THIS 13<sup>th</sup> DAY OF APRIL, 2010.**

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Sam W. Baker, Board Secretary

# LONE STAR GROUNDWATER CONSERVATION DISTRICT

March 9, 2010

## MINUTES OF SPECIAL MEETING

Lone Star Groundwater Conservation District (“District”) held a “Special Meeting,” open to the public, at 207 W Phillips Street, Suite 300, Conroe, Texas, within the boundaries of the District on March 9, 2010.

President Tramm called the meeting to order at 9:04 a.m., announcing that it was now open to the public.

The roll was called of the members of the Board of Directors, to wit:

Sam W. Baker  
Reed Eichelberger, PE  
Orval R. Love, PE  
Roy McCoy, Jr.  
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W. B. Wood

All members of the Board were present, with the exception of Director Baker, thus constituting a quorum of the Board of Directors. Also, in attendance at said meeting were Kathy Turner Jones, District General Manager; Brian L. Sledge, General Counsel; District staff; and members of the public. *Copies of the public sign-in sheets are attached hereto as Exhibit “A”.*

After a proper and legally sufficient announcement to the public by President Tramm, the Board of Directors went into a Closed Executive Session at 9:05 a.m. as authorized by the Open Meetings Act, Sections 551.071 or 551.072, Government Code, to consult with the District's attorney regarding pending or contemplated litigation, settlement offers, or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, or to deliberate the purchase, exchange, lease, or value of real property.

Following Executive Session, the Board reconvened in Open Session and declared it open to the public at 10:05 a.m.

No action was taken on matters discussed in Executive Session and the meeting was adjourned at 10:05 a.m.

President Tramm declared a 10 minute recess before beginning the Regular Board Meeting.

**PASSED, APPROVED, AND ADOPTED THIS 13<sup>th</sup> DAY OF APRIL, 2010.**

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Sam W. Baker, Board Secretary