

Groundwater Management Area #1 Meeting

Minutes

May 13, 2009

The Groundwater Management Area Number 1 (GMA #1) Joint Planning Committee met on Wednesday, May 13, 2009 at 1:30 p.m. in the PRPC Board Room – 1st Floor of the Panhandle Regional Planning Commission, 415 W. Eight Ave., Amarillo, Texas with the following members in attendance:

Voting Members Present:

John R. Spearman, Panhandle Groundwater Conservation District; Daniel Krienke, North Plains Groundwater Conservation District; Jim Conkwright, High Plains Underground Water Conservation District; Jim Haley, Hemphill County Underground Water Conservation District.

Other Groundwater Management Area 1 Representatives Present:

C.E. Williams, Panhandle Groundwater Conservation District; Steve Walthour, North Plains Groundwater Conservation District; Janet Guthrie, Hemphill County Underground Water Conservation District; Robert Meyer, High Plains Water District

Others present:

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| Bruce Rigler | High Plains Water |
| Don McReynolds | HPUWCD #1 |
| David Bowser | Livestock Weekly |
| Steve Stevens | Mesa |
| Bob Harden | R.W. Harden & Assoc. |
| John C. Williams | CRMWA – Ret. |
| Dale Hallmark | NPGCD |
| Joyce Hinsley | LWV - Amarillo |
| Cindy Cockerham | Sen. Seliger |
| Charles Bowers | PGWCD |
| Marty Jones | Sprouse Law Firm |
| Jeff Stovall | Espey Consultants |
| Simone Kiel | FNI |
| Jennifer Foster | Sen. Duncan |
| Ben Weinheimer | TCFA |
| Keith Good | North Plains GCD |
| Bob Zimmer | NPGCD |
| Kent Satterwhite | CRMWA |
| Alan Abraham | TX Silver Haired Legislature |
| Beverly Stephens | ConocoPhillips |
| Herman Bernsen | Hilmar Cheese |
| Kyle Ingham | LGS Director, PRPC |
| Scott Caldwell | LGS Coordinator, PRPC |
| Jonathan Ellis | LGS Intern, PRPC |

1. The meeting was called to order at 1:30 p.m. with Chairman Krienke presiding.
2. Roll Call and Introductions were made. Chairman Krienke welcomed everyone for coming and took roll call. All members were present.
3. **Discuss and consider the minutes from March 13, 2009 GMA #1 Meeting.**

There were three additions to the attendance list: Melvin Waltrip, Jim Copeland, and Bill Mullican. There were six proposed changes regarding grammar and wording. Mr. Spearman made a motion to approve the minutes as presented. Mr. Haley seconded the motion; the motion carried by unanimous vote.

4. **Public Comment – Any citizens may address the GMA #1.**

Marty Jones, representing George Harrington—a person of legally defined interest in groundwater within the HCUWCD—spoke. Mr. Jones made comment that the resolution 2009-01 in its current form utilized a legally incorrect approach. Mr. Jones made reference to the authorizing legislation, Chapter 36 108 D, in regard to joint planning efforts. Mr. Jones pointed out that in the authorizing legislation there can be different DFCs for areas which are defined as: an aquifer, a subdivision of an aquifer, geological strata, and geographical areas. Mr. Jones said currently resolution 2009-01 is using the “geographical area” as justification for different DFCs within the GMA #1. He says this is a mistake. Mr. Jones made the point that the differences in DFCs within the GMA #1 are being enacted along political subdivision boundaries which are not a legitimate division as per the enacting legislation. Mr. Jones proceeded to depict similarities between the lands in the different DFCs. Mr. Jones reinforced the stance that a political subdivision is not a proper place to draw a different DFC, he believes this breaks with the legislative intent of the law. Mr. Jones made comment that his client George Harrington rejects the DFC as it currently is.

Mr. Krienke asked the question if a county line is not following with legislative intent, is that line or any line a reason to have a different pumping limit?

Mr. Jones said that under principles of hydrology and ownership, landowners own the water under their land. Under law by the Railroad Commission which is applicable because water is a fugacious substance just as oil and gas—the subject of the Commission law—the courts have said you can’t draw an arbitrary line and distinguish between owners over the same reservoir. By that reason, Mr. Jones asserted that county lines are inappropriate to distinguish between pumping limits.

Mr. Krienke asked for any more questions, there being none he closed the public comment period.

5. **Discuss and consider groundwater conservation districts responses to Public Comment noted at the March 13, 2009 GMA #1 Meeting.**

Mr. Krienke made comment that though he was not present at the last meeting it was his understanding that several questions had been asked and been responded to in the mean time by the individual groundwater conservation districts.

Kyle Ingham offered several options on how the answers to the questions might be disseminated. Mr. Krienke suggested entering the responses into the minutes for public record. Mr. Conkwright made comment that High Plains had not issued responses but they should be completed by Monday. Mr. Ingham made comment that

hardcopies would be made available for anyone who wished to have one, he suggested that perhaps once High Plains completes their responses they could be posted at www.panhandlewater.org. Mr. Conkwright made a motion that when High Plains completes their responses all the responses would be included in the minutes as public record; additionally the response would be posted on the panhandle water website. Mr. Spearman seconded the motion; the motion carried by unanimous vote.

6. Discuss and consider action as may be necessary in regard to technical information provided by TWDB Staff including additional Groundwater Availability Model Runs.

Mr. Krienke asked Mr. Walthour for any additional information on the Dockum GAM run. Mr. Walthour had spoken with Richard Smith from the Texas Water Development Board and by all accounts the Dockum run will be ready by September. Mr. Ingham made known that should the group wish to consult with Robert Bradley either on this issue or the DFC resolution he was available via direct line. Mr. Krienke asked for any further questions or comments. There were none.

7. Discuss and consider action as may be necessary in regard to a Desired Future Condition of the Ogallala Aquifer in GMA #1.

Mr. Conkwright spoke to the fact that this item had been tabled at the last meeting. Mr. Ingham confirmed this and said in the interim he had received a slightly amended resolution which had been agreed upon in principle by the two parties who were dissatisfied with the wording at the last meeting. Mr. Ingham went over the current wording and the changes which had been made from the last draft, additionally an attachment had been added elaborating on the 390-acre tract in question at the last meeting. Considering the current draft, Mr. Walthour asked for a correction to be made on the attachment: changing “390-arce tract” to “390-acre tract.” Mr. Conkwright asked for a change on page 2: adding a comma after “rights” in the line “including private property rights”. Mr. Krienke asked each representative if their respective boards had approved the current resolution. Mr. Haley said his board had approved the wording unanimously. Mr. Spearman said his board had approved similar wording with a vote of 7-2 and that the current wording is similar enough. Mr. Conkwright said his board had approved the wording unanimously. Mr. Krienke said his board had approved the wording unanimously. After several comments between members, clarifying what action was to be taken today and would need to be taken afterwards to adopt the DFC, Mr. Spearman made a motion to accept and adopt resolution 2009-01 as amended. Mr. Haley seconded the motion. Mr. Krienke asked for any further discussion. Mr. Conkwright made several comments: he remarked on the length of time that this board had been working on this DFC and to consider that it was their first. Furthermore they should not consider it a finished work and that the goal and impetus should now be on improvement.

Ben Weinheimer, of the audience, asked the group a question: Does the resolution reference the base year? Mr. Williams said that the group ought to do that. After much discussion on what might be done, it was decided the group should consult Robert Bradley via telephone call. While waiting for Mr. Bradley, discussion focused on the baseline year identified in the 2001 Regional Plan versus the 2006 baseline year identified in the latest GAM Run. Mr. Williams made the point that for all

intensive purposes his organizations baseline year was 1998 and if 2006 was a universal baseline then it might disregard 10 years of action by the PGWCD.

Mr. Bradley was contacted. Mr. Williams clarified the question. What would be the starting point date, or the starting point water level, or the starting point volumetrically for the DFC? Ms. Guthrie asked what is the baseline year? Mr. Bradley said you can use what the latest model used. Mr. Bradley consulted with Richard Smith also of TWDB. He confirmed that the default year of the latest GAM Run was 2006. Mr. Williams explained that the Panhandle rules were derived off of water levels and saturated thickness. Could we continue to run our management system off of water levels as long as pumpage does not exceed the MAG? Mr. Bradley confirmed yes. Mr. Williams then clarified that each district is responsible for how they enact their management plan as long as it enforces the DFC which would be adopted? Mr. Bradley confirmed yes again. The question turned to issues of enforcement. Mr. Bradley said that it would require a petition by a legally interested party to TCEQ to say that the management strategy was out of compliance with the established DFC. Mr. Williams concluded that it would then be up to each district to demonstrate where they started and that they are in compliance. More discussion ensued. After clarifying some points made, questions for Mr. Bradley were concluded. Mr. Weinheimer made the comment that it did not matter which starting point was used 1998 or 2006 but rather just that each district had a clear starting point, from which levels might be derived off of. Mr. Williams made the comment since there did not seem to be a clear path, his suggestion was to accept the current DFC and then as a problem or conflict presented itself, address it at that time. The motion having been moved and seconded, a vote was called for. Mr. Krienke called for a vote. Mr. Ingham suggested that a roll call vote be utilized. The results are as follows:

Mr. Conkwright (High Plains) – aye

Mr. Krienke (North Plains) – aye

Mr. Haley (Hemphill) – aye

Mr. Spearman (Panhandle) – aye

The vote was unanimous in favor of adopting resolution 2009-01. Mr. Ingham said he would prepare a final version of this and have each member sign before leaving today.

8. Discuss and consider status of the Groundwater Availability Model requested for the Dockum Aquifer in the GMA #1 planning area

It was determined that this item was covered in discussing item 6.

9. Discuss other business and any future agenda items.

Mr. Ingham made comment regarding future actions by the board, this resolution was it unless TWDB decided changes needed to be made; furthermore once the Dockum GAM was completed a DFC would be need to be set. Mr. Walthour made comment that GMA #8 had been required to provide TWDB minutes from the meeting in which they adopted a DFC, as such he thought perhaps another meeting might be in order to adopt the minutes from this meeting. Mr. Ingham said that perhaps that was

due to not providing of a signed resolution, but he pointed out that if another meeting was determined to be needed for the approval of these minutes, it could be called. Besides that he made comment that the Chairman could call the group together at any time he deemed necessary. Mr. Krienke told the members if anything came up that needed to be discussed they could contact him.

Mr. Krienke asked for any further business.

Mr. Ingham thanked all of the audience members for coming, their participation, and interest.

Charles Bowers asked if the members were going to try and address each individual time frame for when the baseline time began? He asked if it was unreasonable to have a time frame by the next meeting in September. Mr. Williams said that arguably they each had a time frame. Mr. Williams spoke to how PGWCD allowed their produces to pump.

John Williams made the comment that really it did not matter where the starting point is but where the ending point is. Mr. C.E. Williams agreed with this, and added perhaps how quickly the number was achieved—the ending point—and ended with the assessment that it is up to each district on how this is achieved. Furthermore he expressed belief that all concerns would be able to be worked through.

Ms. Joyce Hinsley thanked all the members for their answers to questions of the League of Women Voters.

10. Establish the date and location for the next meeting.

It was determined in discussion of item 9 that the next meeting date was set to be in September dependent upon progress on the Dockum GAM or an issue which might arise until that point. No specific date was set.

11. There being no further business to come before the Board, Mr. Krienke asked for a motion to adjourn. Mr. Conkwright so moved, Mr. Haley seconded. The meeting adjourned at 2:44 p.m.