

**POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT**  
**Board of Directors Meeting**  
**Milano Civic Center**  
**120 West Ave. E**  
**Milano, TX 76556**  
**September 9, 2014 – 5:30 p.m.**

**MINUTES**

**Members Present**

Tommy Tietjen  
Lee Alford  
Durwood Tucker  
Sidney Youngblood  
Robert Ware  
Nathan Ausley  
Dwayne Jekel  
Kerry Starnes  
Steven M. Wise  
Jay Wilder

**Entity**

POSGCD  
POSGCD  
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POSGCD

**POSGCD Staff**

Gary Westbrook  
Elaine Gerren  
Bobby Bazan  
Meredith Earwood

POSGCD  
POSGCD  
POSGCD  
POSGCD

**Others Present**

Paul Terrill  
Pat Reilly  
Barney Knight  
Steve Young  
Ross Cummings  
Kathy Youngblood  
David McClaren  
Colleen Waring  
Alan M. Day  
Dave Barkemeyer  
Kathy Johnston  
Ann Stanislaw  
Bill Graham  
Linda Curtis  
Michele Gangnes  
Amy D.  
Fay Cook  
Don Cook  
Dan Fischer  
Clarence Cheshier  
Gail Cheshier  
Richard Morgan

**Entity**

Terrill Firm  
Blue Water  
Knight & Partners  
Intera  
Blue Water  
  
Self  
Self  
BVGCD  
Milam County  
Land owner  
Self  
Land owner  
League of Independent Voters  
League of Independent Voters/Lee Co. land owner  
Lee Co. Land owner  
Land owner  
Land owner  
Land owner  
Land owner  
Land owner  
Abengoa

Donald Schuerman  
Ronney Coleman  
George Coleman  
James Bene'  
Chris Munson  
Helen Smith  
John Smith  
Gary Gerdes  
Dorothy Gerdes  
Ken Hall  
James Beach

Milam Co. resident  
Milam Co. resident  
Milam Co. resident  
RW Harden  
Milam Co. resident  
Lost Pines  
Lost Pines  
Lost Pines  
Lost Pines  
SWM - WSC  
LBG – Guyton Associates

## **BOARD MEETING**

### **1. Call to Order and establish quorum**

Nathan Ausley, Board President called the Board Meeting to order and established quorum at 5:32 p.m.

### **2. Public Comment**

President Ausley asked for public comment.

Michele Gangnes, a Lee County land owner and member of the League of Independent Voters commented on her support of the Lost Pines GCD method of operation, stating that she would like to see a more conservative approach. Ms. Gangnes requested that the POSGCD Board vote “no” to Blue Water’s request of adding ten years to their transport permit. She also asked the Board vote “no” for any future request of deferral of fees because it has an appearance of impropriety. Gangnes stated that she had a problem with General Manager Gary Westbrook speaking on behalf of the District, and suggested to have clarity on whether or not Blue Water would be able to apply for new permits if a cutback was made to the 2 acre-feet per acre rule. Ms. Gangnes stated that Lee and Bastrop counties were under siege by water marketers, and included written comments.

Linda Curtis, member of League of Independent Voters from Bastrop County included written comments. She requested POSGCD to work with Lost Pines GCD and not permanently damage the aquifer in order to accommodate the I-35 corridor.

Bill Graham, a landowner in Milam County stated that the majority of the people in Milam County do not agree with policies of POSGCD. He stated his main point was equity for all landowners. Mr. Graham stated that the policies of POSGCD send a message to the legislature and SAWS that the people of Milam & Burleson counties were benevolent to adhere to them. Mr. Graham commented that although he could not define “reasonable”, he could define “unreasonable”, and that POSGCD’s policies were unreasonable, and requested the District to represent their people and not a giant metropolis. He requested the Board to think before putting the people of the District at any more risk. He stated that he was not against Blue Water Systems or San Antonio Water Systems, but was against inequity. Mr. Graham also provided a handout to the Board.

Thomas Lyne, a landowner from Brazos County stated that he had experience with the Oil Industry and had comments on several issues within the agenda. He stated that co-mingling of aquifers is a real threat in water wells drilled for use by oil companies. He stated that the oil & gas companies do not

seal wells properly, and when handed over to the landowner for filling ponds the landowner then is at risk of comingling aquifers and having contamination in the current clean water. He gave an example of a landowner in Parker County who experienced gas in his groundwater and could not find the oil company to be liable because it was unknown where the comingling happened. Mr. Lyne also requested that the District not allow selling water outside of the District. He commented that the local area should use the water as an incentive to draw businesses and improve land values.

Coleen Waring, a landowner in Milam County commented on the request from Blue Water to extend their transport permit term. Ms. Waring stated that those not being compensated for selling water are more conservative and do not believe there is enough. She expressed concerns that the fail safes would not work and the District would be doing too little too late. She agreed that there is uncertainty who is right in the debate and that time would tell, but if the District was wrong in permitting too much, there would be disaster. She explained that the community is risk averse and the regulators of water should be risk averse as well. Ms. Waring requested that the board take a risk averse stance and regulate.

Ronney Coleman, a landowner in Milam County, asked the Board to protect landowners and bring industry to the District by using water resources as an attraction. He stated that the I-35 corridor had not considered all their options, and there were options that would not hurt Milam & Burleson Counties. He stated that the District could sustain life for years to come and the landowner needs protection in doing so. He stated that transporting water out of the district was highway robbery, and he considered them to be taking resources he owned away from him.

Donald Shurman, of Cameron gave examples of news articles in which General Manager Gary Westbrook had been quoted stating that Bryan/College Station and Lost Pines were the problem, but he believed that the District was the problem because they approved every permit against the citizens' wishes. He stated that making sure water marketers make money was not the District's job, but to regulate the aquifer was. He stated that approving every permit was preposterous and no other water district did that. Mr. Sherman noted that SAWS commented on POSGCD having a different philosophy than any other district because of the 30 year permits. He asked the board to be regulators and say no to Blue Water's extension request, and to not approve every application that came to the Board.

### **3. Minutes of August 12, 2014 Board Meeting**

A motion was made by Director Jay Wilder to approve the minutes of the August 12, 2014 Board Meeting. The motion was 2<sup>nd</sup> by Director Kerry Starnes. The motion passed unanimously.

### **4. Blue Water systems, LLP Schedule of Payment for Deferred Fees**

General Manager, Gary Westbrook summarized the item, stating that Blue Water (BWS) deferred fees earlier this year, and the 6 month deadline has now passed. He stated that BWS has resumed full payments of fees and an additional 1/24 of the amount of deferred fees. Mr. Westbrook noted that according to the deferral agreement, the Board would set a schedule of repayment for the deferred fees. Director Steven Wise asked Mr. Westbrook if Blue Water had made any requests for a certain fee schedule. Westbrook answered that there had not been any suggestion from Blue Water. Director Bob Ware suggested that the payment should happen before 24 months, and added that they should have one year in order to recoup the funds in a timely manner. Director Lee Alford suggested to give Blue Water 6 months. Discussion ensued on the appropriate time limit for Blue Water to pay back the deferred fees. Director Sidney Youngblood stated that he saw this and other agenda items as interconnected. He stated he had read and viewed statements from meetings with SAWS, and needed to ask a question of Mr. Ross Cummings of Blue Water, or Mr. Terrill, to be absolutely certain. Director

Youngblood asked, “Just to be absolutely certain of your position on the matter, please confirm if the Vista Ridge Consortium and Abengoa believes the following statement to be true.” “If the POSGCD board were to determine it necessary to cut back or curtail the groundwater production associated with the BWS existing operating or production permits, BWS/Abengoa believes that POSGCD would approve any or all of their new operating permit requests.” Mr. Cummings re-stated the last part of the questions, “any or all of their operating permit requests.” Mr. Cummings asked for clarification. Director Youngblood responded that this included activating new operating permits if the District curtailed production of existing operating permits.

Paul Terrill responded on behalf of Mr. Cummings, stating, “What we are going to do and have always done is follow your rules.” He noted that if curtailment occurred, BWS would apply additional acreage of landowners to the permits per the rules of the District, and stated “We will follow your Rules; we have always followed your rules.” “How the Board acts on any permit applications is up to the Board and is your decision, but we will follow your rules.” Director Ausley then explained the mechanism in the rules allowing additional acreage to be added to maintain production. Barney Knight and Gary Westbrook made comments on the specifics of the POSGCD rules and applicability to curtailments. President Ausley then reminded the Board of the need to address the current agenda item. Director Tommy Tietjen made a motion for Blue Water to continue to make regular monthly payments of fees, as well as pay the deferred amount in no more than 6 months, and if a deal is made with SAWS, Blue Water has 30 days starting on the day the agreement is made to pay back the total amount of deferred fees. Blue Water will also pay an interest of 2% on the deferred amount from the start date in February. Director Lee Alford 2<sup>nd</sup> the motion and it passed unanimously.

#### **5. Five Year Review of Blue Water systems, LLP Permits**

Ross Cummings of Blue Water presented an overview of the BWS permits, and existing and future facilities and projects, to the Board. Ross Cummings stated that the project relies on 35,000 acres of groundwater leases from more than 3,400 citizens and that over the last decade BWS has paid the district about \$10,000,000 in fees and paid over \$6,000,000 to lease holders. James Bene' of Harden and Associates then presented on behalf of BWS on the hydrogeological characteristics, including past responses to pumping, of the Carrizo-Wilcox formations, including the Carrizo and Simsboro Aquifers. The presentation included a discussion of the amount of water in storage, and Blue Water's permits. General Manager Gary Westbrook concluded with a presentation on the water level monitoring network in place, as well as the management plan and rules of POSGCD as they are applicable to management of permits by the District to achieve the goals of the District

#### **6. Consider any Amendments to Blue Water systems, LLP Permits**

President Ausley opened this agenda item for discussion and noted requests from BWS in a letter from Mr. Paul Terrill on behalf of BWS of September 4, 2014. After brief discussion, Director Steven Wise made a motion to approve Blue Water's request to bifurcate the current permits held by Blue Water as described in Mr. Terrill's letter. Director Jay Wilder 2<sup>nd</sup> the motion. The motion carried unanimously.

Director Wise then made a motion to approve Blue Water's request to amend the daily transport amount listed in the Transport Permit issued to BWS to match the Drilling and Operating permit as requested in that same letter from Mr. Terrill. The motion was 2<sup>nd</sup> by Director Sidney Youngblood. After brief discussion, and a clarification of the motion, the motion passed unanimously.

Discussion turned to the request from BWS, included in the same letter from Mr. Terrill, to extend the term of the current Transport permit by 10 years to be coterminous with the current BWS operating permit. Mr. Terrill spoke on behalf of BWS. Legal Counsel, Barney Knight then commented on law as it applied to this request from Blue Water. After discussion, Director Kerry Starnes made a motion to

extend Blue Water's transport permit by 10 years, to be coterminous with the production permit. Director Bob Ware 2<sup>nd</sup> his motion. Director Lee Alford requested a roll call vote. Those voting for were Bob Ware, Nathan Ausley, Dwayne Jekel, Kerry Starnes, and Jay Wilder. Those voting against were Steven Wise, Durwood Tucker, Sidney Youngblood, Lee Alford, and Tommy Tietjen. The vote ended in a tie, and the motion failed.

**7. Rules applicable to production of groundwater for uses by Oil and Gas Industry**

General Manager Gary Westbrook gave a presentation on the spacing issues in the Yegua-Jackson aquifer. He then requested the Board to consider a rule change for incorporate vertical spacing in addition to the horizontal spacing for certain wells to be produced in the Yegua-Jackson aquifer. President Nathan Ausley made a motion to empower the rules committee to make a decision on spacing rules to be placed for hearing at the October Board meeting. Director Sidney Youngblood 2<sup>nd</sup> the motion. The motion carried unanimously.

**8. Water Quality of groundwater resources and unconventional drilling methods**

General Manager Gary Westbrook informed the Board that he along with the staff and Directors Steven Wise and Durwood Tucker met with Inform Environmental at the TAGD Summit on ideas for water quality testing. He also noted that this company is working toward accreditation with National Environmental Laboratory Accreditation Program and he and Steve Young, District hydrogeologist, recommended that the District refrain from engaging this company until this process is completed.

**9. Cast vote for TML MultiState Intergovernmental Employee Benefits Pool Region 10 Board Trustee**

President Nathan Ausley made a motion to allow General Manager Gary Westbrook to make the decision and vote on these positions on behalf of the Board. Durwood Tucker 2<sup>nd</sup> the motion. The motion passed unanimously.

**10. Milam and Burleson Counties Groundwater Summit of August 13, 2014**

General Manager Gary Westbrook gave a general overview, stating that at least 220 individuals attended this event, with many complimentary comments received, and no negative comments received. He also noted that the District received all positive comments from a survey sent to all the speakers. Director Bob Ware suggested a change of venue next year to accommodate a bigger audience and parking.

**11. 2014 Texas Alliance of Groundwater Districts Groundwater Summit of August 26-28, 2014**

General Manager Gary Westbrook gave a general overview of the Summit, stating that two hot topics were Aquifer Storage and Recovery and Brackish Water legislation for the upcoming Legislative Session. He also noted that he was asked to present on POSGCD's Rules for regulation of groundwater used by oil companies for Oil and Gas hydraulic fracturing. Durwood Tucker commented that he was delighted to see that POSGCD was very well thought of among other GCDs and he was very proud to be a part of POSGCD.

**12. Update on District Modeling Efforts**

The District's Hydrologist Steve Young of Intera advised the Board that the Texas Water Development Board was still interested in helping with funds to improve the Central Queen City/Sparta/Carizo Wilcox Groundwater Availability Model, used in GMA 12. Dr. Young advised that with improvements to the GAM the District would have better tools to study the impact of pumping on groundwater resources in POSGCD and GMA 12. General Manager Gary Westbrook noted that Brazos Valley GCD has also expressed interest in improving the model. Dr. Young presented a handout with a scope of work and

requested that the Board support his continued efforts toward allowable improvement of the model within POSGCD and attempts to secure funding from TWDB and other GCDs for this purpose. Dr. Young asked that the project no longer be pursued as a GMA 12 project but instead primarily as a POSGCD project with GMA 12 input. The switch is recommended to help expedite the project in order to get the quality tools needed to help the District with its mission. Among the project goals would be to produce a revised groundwater model that could be easily modified and adopted by the TWDB as a update to the Central QCSP GAM. Director Ware asked about the cost to the District. Dr. Young answered that the amount was consistent with past amounts set aside by the District, and would be \$150,000 to \$200,000 over the next two years. President Nathan Ausley made a motion to allow Young to continue working with this plan. The motion was 2<sup>nd</sup> by Director Durwood Tucker and passed unanimously.

### **13. Draft Legislation Work by Texas Water Conservation Association Interim Groundwater Committee**

General Manager Gary Westbrook reviewed the current draft legislation which has been debated by the TWCA committee and he requested guidance from the Board. Westbrook stated that the main topics were about Aquifer Storage and Recovery (ASR) and Brackish Groundwater legislation. Director Steven Wise asked about the likelihood of an ASR project in our District, Steve Young answered moderate because of the proximity to the Brazos River and the type of aquifers in the District. After discussion by the Board which was supportive of Westbrook's actions, Westbrook noted that understood the Board's stance on these issues and he would continue to represent those values in future TWCA meetings.

### **14. Joint planning process and Desired Future Conditions (DFCs), groundwater resources in the District, and future process for evaluating District DFCs for Groundwater Management Area 12 (GMA 12) and Groundwater Management Area 8 (GMA 8)**

No action was taken on this item.

### **15. Receive report from District Manager on recent District activities and take appropriate actions.**

A. Permit applications filed with the District and Hearing Dates; Emergency Permits Granted

B. Well Drilling activities: registrations:22, applications: 6 , completions: 12, wells plugged: 0, inspections: 0

C. Recent and future District presentations and activities

1. District website –

GM Westbrook noted that he had received communication concerning improvements to the District's website and recommended this item be sent to the Advisory Committee and allow them to bring recommendations to the Board at the next Board meeting.

2. District Presentation at University of Texas Law 2014 Texas Water Law Institute

GM Westbrook informed the Board that he had been invited to present at this Water Law Conference concerning the District's management strategies concerning curtailments and protection of District resources.

### **16. Bills received, current financial status, Investment Officer Report.**

After discussion, Director Bob Ware made a motion to pay all District's bills, 2<sup>nd</sup> by Director Steven Wise. The motion carried unanimously

### **17. Adjourn Board Meeting**

President Nathan Ausley adjourned the meeting at 8:36 pm.

THE ABOVE MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT HELD ON SEPTEMBER 9, 2014 WERE APPROVED AND ADOPTED BY THAT BOARD ON OCTOBER 14, 2014.

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Nathan Ausley, President

**Attest:**

\_\_\_\_\_  
Kerry Starnes, Secretary

Date\_\_\_\_\_