

POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT
Special Meeting for Preliminary Hearings and Board of Directors Meeting
Post Oak Savannah Groundwater Conservation District
District Offices
310 East Avenue C
Milano, Texas 76556
October 3, 2019 - 5:30 P.M.

MINUTES

Members Present

President Sidney Youngblood
Vice President Steven Wise
Secretary Tommy Tietjen
Jay Wilder
Becky Goetsch
Bob Wilson
Durwood Tucker
Chris Whittaker
Lee Alford

Entity

POSGCD
POSGCD
POSGCD
POSGCD
POSGCD
POSGCD
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POSGCD
POSGCD

Members Absent

Ed Savage

POSGCD

Staff Present

Gary Westbrook
Bobby Bazan
Elaine Gerren
Ralph Sifuentes
Doug Box

POSGCD
POSGCD
POSGCD
POSGCD
POSGCD
POSGCD
POSGCD

Consultants

Dr. Steve Young
Barbara Boulware-Wells

POSGCD
POSGCD

Public Participants (signed in)

Dan Fisher
Andy Wier
Bobby Schlumacher
Nathan Byron
Kathy Cilny
Charles Cilny
Renee' Bull
Ed Bull
Calvin Whitely
R.W. Hudson
J. Hudson
Michele G. Gangnes
Judy G. Martens
Phyllis Waring
Blair Parker
Caprice Wright
Paul E. Fisher
Andy Hovorak
Gerald Ashlock
Larry Nichols
Craig Supak

Landowner
Landowner/SAWDF
Deanville Water Supply
Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Simsboro Aquifer Defense Fund
League of Independent Voters

SAWS
Personal
Lee County Judge
Burleson County Land Owner
PGMS
Cade Lake Water
Deanville Water Supply

Clover Cochran
James Bene'
Linda Curtis
Rebecca Holmes
Robert Madison
Steve Young
Mike Conner
Joyce Conner
Walter Hurd
Colleen Waring
Ronnie Rushing
Gabbo Goetsch
Shan Rutherford
Ross Cummings
Fritz Wolz
Sidney Zgabay
James Lee Murphy
Amy Jurica Hinnant
Joyce Cilny
Ester Martinez
Bill Graham
Travis Brown
Herald Brown
Linda Adair

Private Land Owner
RW Hardin
League of Independant Voters

Intera
Landowner
Landowner
Landowner
Landowner

Terrill & Waldrop
Blue Water

Burleson County Landowner
Attorney for Sidney Zgabay
Landowner
Landowner
SAWDF
Landowner
SAWDF
Self

SPECIAL MEETING OPENED

At 5:35 pm Board President Sidney Youngblood read the following prepared statement:

"Before we get started, I would like to acknowledge that people's rights are at stake this evening. During this Hearing, every step will be taken to ensure that these rights are respected.

To have full understanding, I will be the hearing officer for all proceedings this evening. To fully ensure that we have a respectful hearing, all discussion will need to go through me. This to include my granting Board members to have the opportunity to ask questions of both the Applicant as well as the individuals seeking affected party status to the Application for an amended permit. We will start with the Preliminary Hearing during which we will determine whether those individuals who are seeking affected party status will be granted such status."

1. Pledge of Allegiance

Board President Sidney Youngblood asked Director Steven Wise to lead the Pledge of Allegiance and he did so.

2. Invocation

Board President Sidney Youngblood asked GM Gary Westbrook to give the invocation and he did so.

3. Call to Order and Establish a quorum

President Sidney Youngblood called the meeting to order at 5:39 and established a quorum.

PRELIMINARY HEARING ON AMENDMENTS OPENED

- 4. Public Hearing on Amendments to Existing Drilling and Operation Permit. Blue Water Vista Ridge LLC, whose address is 3600 N. Capital of Texas Hwy, Suite B180, Austin, Texas 78746, acting as permit administrator for Vista Ridge, LLC, submitted an application on July 1, 2019, for an amendment of Vista Ridge's existing Drilling and Operating Permit (Permit No. POS-**

D&O/A&M-0001d). The amendment application seeks to relocate the PW-18 permitted well site, increase the annual aggregate Simsboro well field production to 40,835 acre-feet per year, and reinstate the previously authorized 3,000 gpm Instantaneous Well Production rates for wells PW-12, PW-13, and PW-16. The amendment application does not seek to change the point of withdrawal for the remaining 32 permitted well sites. The amendment application does not request a change in the purpose or place of use for the produced water referenced by the Drilling and Operating Permit.

5. **Public Hearing on Amendments to Existing Transport Permit.** Blue Water Vista Ridge LLC, whose address is 3600 N. Capital of Texas Hwy, Suite B180, Austin, Texas 78746, acting as permit administrator for Vista Ridge, LLC, submitted an application on July 1, 2019, for an amendment of Vista Ridge's existing Transport Permit (Permit No. POS-T-0001b). The amendment application seeks to make corresponding changes to the annual groundwater withdrawal, instantaneous well production rates, and well locations identified in the requested Amendments to Existing Drilling and Operating Permit. The amendment application does not request a change in the term, place of use, or purpose of use of the transported water.

President Sidney Youngblood opened the Preliminary Hearing and confirmed with GM Gary Westbrook that the Hearing had been properly noticed as per District Rules. GM Gary Westbrook acknowledged that it was. He then asked if the Blue Water/Vista Ridge application submitted was complete as per District Rules. GM Gary Westbrook confirmed that it was. He then asked Paul Terrill if each person seeking affected party status had properly notified him that they were seeking affected party status. Paul Terrill replied as far as he knew that all parties seeking party status had sent notification. Formal confirmation was asked for and received from the District's General Counsel, Barbara Boulware-Wells, Hydrogeologist, Dr. Steve Young, and the General Manager, Gary Westbrook, that the application has met the standards as set forth in the District's Rules to officially proceed with the Hearing and that the Applicant is in good standing with the District.

President Sidney Youngblood opened Items 4 & 5 for the Preliminary Hearing and asked for a summary of the Applications from Paul Terrill, Attorney for the applicant, Vista Ridge. Paul Terrill passed his opening statement to Vista Ridge's Hydrogeologist, James Bene'. Mr. Bene' gave a slideshow presentation on all aspects of the Applications.

President Youngblood then turned to those who had requested to be considered as affected parties. Affirming with the District's GM, General Counsel and the Applicant, President Youngblood noted that there were only two who had timely requested to be considered.

President Youngblood called up Curtis Chubb, a landowner who had timely requested to be considered as an affected party, to present his case to be considered an affected party. Mr. Chubb gave a brief presentation but then promptly stated that he was withdrawing his request to be considered as an affected party and standing at 6:25 pm. He was asked again if he was sure he wanted to withdraw his request to be considered as an affected party and he affirmed he was certain.

President Sidney Youngblood called up Sidney Zgabay, another landowner who had timely requested to be considered as an affected party to present his case to be considered an affected party. Mr. Zgabay stated that he believed that he was an affected party and deferred his time to speak to his Attorney James L. Murphy. Mr. Murphy then gave some brief opening remarks, confirming his client's well appeared to be in the Queen City Aquifer but refused to put on further testimony,

requesting instead a continuance of the Preliminary Hearing and proceedings until his expert was available.

Legal Counsel Barbara Boulware stated that we needed to focus on determining affected party status of Mr. Zgabay. Attorney Jim Murphy continued to request a continuance to put on evidence at a later time.

Paul Terrill stated that the thirty business (30) days' notice was given and that should have been ample time to prepare.

President Youngblood opened questions to the Board.

Director Chris Whittaker asked Dr. Young about impacts on production in the Simsboro aquifer and the Queen City aquifer. Dr. Young affirmed an earlier statement by the Applicant that it has less than 1/10th of a foot.

Director Steven Wise asked Paul Terrill why approximately 1000 acres more than required by the Rules was included in the Applications. Mr. Terrill responded that additional acreage was requested by the District's GM.

Director Becky Goetsch stated that the District needed updated names on the Lease schedule. Paul Terrill stated that the names on the Lease schedule are the original lease holders.

President Youngblood recessed the Preliminary Hearing at 7:28 pm for a break. The Board reconvened from recess at 7:39 pm.

President Youngblood stated that at this time, he will leave the Preliminary Hearings open and move back into the Regular Meeting Agenda item #6 for public comment.

6. Public Comments

President Youngblood began calling people who had signed up to give comments. Their comments are summarized below; the public comments ranged from affected party status to comments on the overall Amendments filed by Applicant.

- 1.) Judge Fisher – Thanked the Board for their service. His questions: why does Vista Ridge need more Water? He urged the Board to take this process slow and take a good look at these applications
- 2.) Mike Conner – He said that Vista Ridge is asking for more water and we needed to make sure that the water is not being wasted. He stated that this meeting is about party status but the agenda states it is about a hearing, not sure why we are trying to determine party status.
- 3.) Clover Cochran – She feels that San Antonio sees a water source for future water sales and feels they will not use the water wisely.
- 4.) Ronnie Rushing – He has lived in Houston 25 years and he is concerned that the population will increase as it has in Houston and when it does where will San Antonio get their water?
- 5.) Andy Hovorak - He stated that he had just returned from West Texas and that water is liquid gold. He stated that he was previously on the Post Oak Savannah Board and believes that the aquifers communicate and that it would takes months for him to process all the information presented here tonight. He stated that he personally knows Mr. Zgabay and that he could sit on his front porch and hit the closest well with lead. He suggested the Board read Judith McGeary's report carefully. He also requested

that Mr. Westbrook's position be reviewed and the Board look at hiring a replacement for him.

- 6.) Mr. Wright asked about impact outside the Vista Ridge Wells and other production.
- 7.) Kenneth & Sherry Prestonbach – They are addressing the additional acreage feet requested. Vista Ridge has not even started yet and they are requesting additional water.
- 8.) Ronald W. Hudson – He has a shallow Simsboro well in Milam county and he is wanting to know why are they requesting to move the well now. He has concerns for subsidence and states that in Houston this caused whole neighborhoods to disappear. He stated that he would get with GM Westbrook for further questions.
- 9.) Dr. Nathan Bryan – He owns a large amount of family land and he wished he had been involved in this sooner. He stated that the # 3 killer in the United States is prescription drugs and that models do not work and he feels that this is all an educated guess.
- 10.) Mr. Andy Weir – He is from Bastrop and he has looked at the drawdown maps and has reviewed the Vista Ridge application and he feels that he will have 13% more because of Vista Ridge and Blue Water. He feels that it is inaccurate to say that the Aquifers do not communicate. He stated Mr. Young gave a presentation that states that the Aquifers do communicate. He stated that all of the available groundwater is slated for the Vista Ridge project. He says the MAG is already tapped out according to the State Water Plan.
- 11.) Michelle Gagnes – She is a landowner and an attorney. She said that Mr. Zgabay's request provides a lot of information. He has asked you for forbearance and to allow him a hearing and review the rules to determine his affected party status. Rule 4.6 states that you have the authority to deal with this application and rule 7.6.5 states that Blue Water has to show a substantial need for the water. She stated that Judith McGeary has raised the issue of the lease expiration and being put into a pool with other leases. Mr. Zgabay's well only 9200 feet from new PW-18 location. POSGCD Rule 7.6 gives latitude to deal with this application.
- 12.) Elaine Poole – She is a Burleson County Landowner and she feels that all citizens in Burleson County will be affected. She wants to know why was information and studies were only taken from Vista Ridge and no other studies were considered. She only received 4 days' notice to attend this meeting and to file for party status.
- 13.) Ed Poole – stated that his wife is passionate about water. He owns 5 acres in Deansville that does not have a well. He stated that he is not optimistic that this District is a Conservation District. He said the Board should use their common sense and deny this application.
- 14.) Hugh Brown – Lee County Landowner states that he feels this project will render his well un-operable. He said the Calvert Bluff has an aquifer in it, not only clay. He stated that the Hooper was not added into the evaluation and that the evaluation was difficult to believe and the Geology is complicated. Urged the Board to go slow and consider all possibilities. You can not drink thoughts & prayers.
- 15.) Ester Martinez – She is opposed to the amended application. She wants to know why they need so much water. She says this is a Neanderthal way of dealing with the water.
- 16.) Linda Adair – is trying to visualize things. She asked if the Simsboro interacts with the Brazos River. she said we do not know the future of the weather or climate change. The modeling has been taken from the past and she is not comfortable with the models. She stated that San Antonio is already taking 50,000 AF and says that they

need 35,000 AF. Their greed is not important.

- 17.) Linda Curtis – She is from Bastrop County and she urged the Board to read Judge Paul Pape's letter. She then read the letter.
- 18.) Colleen Waring – She wants the Board to vet the use for the increase. She said she has one word- "Ogallala". Rule 7.6.4 states that it has to be for beneficial use and not cause or contribute to waste. She feels that the staff has not explained the need for the additional water.
- 19.) Larry Nichols – He has lived in Burleson County for 36 years. He is the President of the Cade Lakes Water Supply Corporation. They are concerned about their wells. He said the Board and GM Gary Westbrook need to stop sucking up to Vista Ridge. He states this should be a History lesson that there will be no end to this.

President Youngblood asks for any additional persons who want to offer public comment. No further comments were offered and President Youngblood asks for clarification from Mrs. Boulware-Wells that public comment section ended and the Board can return to the public hearing. Mrs. Boulware-Wells stated that we had never really left the Public Hearing and explains the process of public hearings and states that the Board is still at the point of determining Party Status. President Sidney Youngblood stated that we needed a ruling on party status. Vice President Steven Wise asked Mrs. Boulware-Wells who has the burden of proof of deserving standing, noting he asked Mr. James Murphy which of the 6 items identified in the rules he would use to prove party standing, and he gave no answer. Director Chris Whittaker had a question on Mr. Zybay's presentation. Legal Counsel Barbara Boulware stated that Mr. Zybay had indicated that he needed more time. Director Chris Whittaker stated he had already been given time. Legal Counsel Barbara Boulware stated that the 30 business day notice had been satisfied and that the Board can either make a decision or wait to decide.

Paul Terrill repeats question, "who has the burden?" and states POSGCD Rule 7.5.3 states any person wishing to be considered. The burden is on the person in writing for personal justifiable interest. He stated that the posting gave over a month's notice.

James Lee Murphy stated that the testimony and science doesn't come into play and he sees no harm in allowing participation and it is easier to have us here rather than in court. Paul Terrill stated that his well is not close, it is 3 miles and 1500' above the nearest well. Less than 1/10 impact.

Lee Alford has a question for Paul Terrill asking what the additional water that is being requested for? Paul Terrill stated that it is being used for the Vista Ridge and San Antonio project.

President Sidney Youngblood asked the Board for further thoughts. Director Becky Goetsch requests to allow Mr. Zgabay to have the opportunity to come back. Director Chris Whittaker questions to let Mr. Zgabay come back. Director Steven Wise clarifies, are we granting status or allowing Mr. Zgabay the opportunity to argue for his status. Director Becky Goetsch states that we could wait and get more information. Legal Counsel Barbara Boulware responded and stated that you can continue this and reconvene at a later date.

Jim L. Murphy stated that George Rice is Mr. Zgabay's Hydrologist. Director Tommy Tietjen stated that he was fine with getting more information. Legal Counsel Barbara Boulware stated that it is not bad to wait for more information. Director Durwood Tucker stated that he was good with getting more information. President Sidney Youngblood stated that we could recess this evening. A motion was made by Director Chris Whittaker to recess and set a date to reconvene by Monday. The motion was 2nd by Director Tommy Tietjen. The motion passed unanimously. Vice President Steven Wise addressed Mr. Zgabay that tonight was for this purpose to establish affected party status and urged him to

be prepared when we reconvene the next time. President Youngblood adds clarification and declares that at this juncture, the Preliminary Hearing is recessed, that Mr. Zgabay is the only qualified person remaining who is seeking party status as an affected party with justiciable interest and that he will set the time and date for reconvening this preliminary hearing by end of day, Monday, October 7, 2019, and all parties should give dates and times available to District staff as soon as possible. He then recessed the hearing at 9:25 p.m.

7. **Consider Amendments to Existing Drilling and Operation Permit.** Blue Water Vista Ridge LLC, whose address is 3600 N. Capital of Texas Hwy, Suite B180, Austin, Texas 78746, acting as permit administrator for Vista Ridge, LLC, submitted an application on July 1, 2019, for an amendment of Vista Ridge's existing Drilling and Operating Permit (Permit No. POS-D&O/A&M-0001d). The amendment application seeks to relocate the PW-18 permitted well site, increase the annual aggregate Simsboro well field production to 40,835 acre-feet per year, and reinstate the previously authorized 3,000 gpm Instantaneous Well Production rates for wells PW-12, PW-13, and PW-16. The amendment application does not seek to change the point of withdrawal for the remaining 32 permitted well sites. The amendment application does not request a change in the purpose or place of use for the produced water referenced by the Drilling and Operating Permit.
8. **Consider Amendments to Existing Transport Permit.** Blue Water Vista Ridge LLC, whose address is 3600 N. Capital of Texas Hwy, Suite B180, Austin, Texas 78746, acting as permit administrator for Vista Ridge, LLC, submitted an application on July 1, 2019, for an amendment of Vista Ridge's existing Transport Permit (Permit No. POS-T-0001b). The amendment application seeks to make corresponding changes to the annual groundwater withdrawal, instantaneous well production rates, and well locations identified in the requested Amendments to Existing Drilling and Operating Permit. The amendment application does not request a change in the term, place of use, or purpose of use of the transported water.

9. Dates, locations, and times of future meetings

10. Adjourn Hearing

THE ABOVE MINUTES OF THE HEARING OF THE POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT HELD ON OCTOBER 3, 2019 WERE APPROVED AND ADOPTED BY THAT BOARD ON.

Sidney Youngblood, President

Attest:

Tommy Tietjen, Secretary/Treasurer

Date

A meeting recording of this meeting is available on tape.