

**COASTAL BEND GROUNDWATER CONSERVATION DISTRICT
BOARD OF DIRECTORS MEETING**

AGENDA PREPARED AND POSTED: September 07, 2023
DATE OF MEETING: September 12, 2023
TIME OF MEETING: 8:00 A.M.

PLACE WHERE MEETING WAS HELD: CBGCD Office, 109 E. Milam, WHARTON, TEXAS 77488.

In Attendance:

Ronald Gertson – President CBGCD; Daniel Berglund – Vice-President/Treasurer CBGCD; Tim Anderson – Secretary CBGCD; Aland Wittig – Director CBGCD; Alan Heskamp – Director CBGCD; Neil Hudgins – Manager CBGCD; Jaime Bosch – Office Manager CBGCD; Greg Ellis; Jeanette Garrison

I. Call to Order:

The meeting was called to order at 8:02 A.M. by President Gertson.

II. Public Comments:

None

III. Approval of Minutes:

Director Wittig made a motion to approve the August 08, 2023 meeting minutes as presented. Vice-President Berglund seconded. President Gertson announced the motion passed without opposition.

V. Manager's Report:

Financial Report – Mr. Hudgins reported a checking account balance of \$184,046.20; a money market account balance of \$293,270.26; 2018 CD balance of \$846,249.39; 2020 CD balance \$552,452.59. A budget vs. actual and the balance sheet were also presented. After discussion and review, Vice-President Berglund made a motion to approve the financials as presented. Secretary Anderson seconded. President Gertson announced the motion passed without opposition.

Quarterly Investment Report – Mr. Hudgins presented the board with the quarterly investment report. After discussion and review, Secretary Anderson made a motion to approve the report as presented. Director Wittig seconded. President Gertson announced the motion passed without opposition.

Well Monitoring Update – Mr. Hudgins presented the board with the monthly monitor well levels as of September 2023. The index well graph shows 7-foot decline from the previous month of August 2023 and matching the lowest level in September 2014.

Upcoming Meetings – None

VI. Discussion to Approve Permit Applications: After discussion and review of the permit applications: OP-23082901 for Harry Goudeau and OP-06011904 for King Ranch Turfgrass, Vice-President Berglund made a motion to approve the permits as presented. Secretary Anderson seconded. President Gertson announced the motion passed without opposition.

VII. Review and Discuss 2022-2023 Fiscal Year Budget Amendments: Mr. Hudgins presented the board with the following fiscal year budget amendments: \$1,000 to Advertising/Public Notice from GW Modeling/Engineer; \$1,000 to Data Processing (Inc. Software) from GW Modeling/Engineer; \$500 to Additional Staff from GW Modeling/Engineer; \$1,000 to Retirement from GW Modeling/Engineer; \$6,000 to Legislative Services from GW Modeling/Engineer; and \$500 to Office from GW

- Modeling/Engineer. Vice-President Berglund made a motion to approve the amendments as presented. Director Wittig seconded. President Gertson announced the motion passed without opposition.
- VIII. **Review and Adopt 2023-2024 Budget:** Mr. Hudgins presented and discussed the proposed 2023-2024 budget. Vice-President Berglund made the motion to adopt the 2023-2024 budget as presented which would necessitate a Tax Rate of \$0.00615/100 valuation. Secretary Anderson seconded. President Gertson announced the motion passed without opposition.
- IX. **Review and Adopt 2023-2024 Tax Rate:** Vice-President Berglund made a motion to adopt the 2023-2024 tax rate of \$0.00615/100 valuation. Secretary Anderson seconded. President Gertson announced the motion passed without opposition.
- X. **Discussion to Approve Continuation of Coverage Agreement with TML Health Benefits Pool Regarding District Health Insurance:** Mr. Hudgins presented the board with the TML Health medical, vision, and dental options for 2024. After review and discussion, Director Wittig made a motion to approve medical option 1 as presented. Vice-President Berglund seconded. President Gertson announced the motion passed without opposition. Vice-President Berglund to approve dental, vision, and \$25 HRA contribution as presented. Director Wittig seconded. President Gertson announced the motion passed without opposition.
- XI. **Review and Propose Possible CBGCD Rule Amendments: Schedule a Public Hearing on the Proposed Rules:** After review and discussion, the following motions were made: Director Heskamp made a motion to propose amendment to section 1.3 as presented (see attached). Vice-President seconded. President Gertson announced the motion passed without opposition. Vice-President Berglund made a motion to propose amendment to section 3.46(b) as presented (see attached). Secretary Anderson seconded. President Gertson announced the motion passed without opposition. Vice-President Berglund made a motion to propose amendment to section 3.5(a) as presented (see attached). Director Heskamp seconded. President Gertson announced the motion passed without opposition. Director Wittig made a motion to propose amendment to section 3.44(c) and 3.23(b) as presented (see attached). Director Wittig seconded. President Gertson announced the motion passed without opposition.
- XII. **Review and Propose Possible CBGCD Management Plan Update:** After review and discussion, Vice-President Berglund made a motion to propose management plan updates as presented (see attached). Director Wittig seconded. President Gertson announced the motion passed without opposition.
- XIII. **General Counsel's Report on Groundwater Litigation and Legislation:** Greg Ellis updated the board on the current cases status and current legislation.
- IV. **PDSI:** The report shows exceptional drought in areas within CBGCD.
- XIV. **Possible Future Agenda Items:** None
- XV. **Public Comments/Announcements:** None
- XVI. **Set Next Meeting Date and Agenda:** Vice-President Berglund made a motion that the next CBGCD board meeting be set for Tuesday, November 14, 2023 at the CBGCD office. Secretary Anderson seconded. President Gertson announced the motion passed without opposition.
- XVII. **Adjournment:** Meeting adjourned at 9:53 a.m.

**Draft Amendments to the Coastal Bend
Groundwater Conservation District rules**

(1) Amend Rule 1 by adding Section 1.3 as follows:

§1.3 AMENDING RULES

(a) A person with a real property interest in groundwater in the District may file a petition with the District to request the adoption of a rule.

(b) Petitions must be submitted in writing to the District office and must comply with the following requirements:

(1) Each rule requested must be submitted by separate petition;

(2) Each petition must be signed and state the name and address of each person signing the petition;

(3) Each petition must include:

(A) a brief description of the petitioner's real property interest in groundwater in the District;

(B) a brief explanation of the proposed rule;

(C) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and

(D) an allegation of injury or inequity that could result from the failure to adopt the proposed ;
and

(E) signed by at least 50 persons at least 18 years of age with a real property interest in groundwater in the District.

(c) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this section and shall provide notice to the petitioner of the reason for the rejection.

(d) Within 90 days after submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the board meeting or in a letter providing a written explanation to the petitioner, or initiate rulemaking proceedings as provided by Section 36.101, Water Code.

(e) The Board may, following notice and hearing, amend these Rules or adopt new rules from time to time.

(2) Amend Rule 3.46(b) to read as follows:

(b) **Export Fees.** The District may establish an export fee in accordance with Sec. 8829.151, Special District Local Laws Code-Texas Water Code Chapter 36. The export fee rate will be established by Board resolution, and the fee rate will be included in the District's fee schedule. Pursuant to Water Code section 36.122(e-2), the District opts into assessing an

export fee under Sec. 8829.151, Special District Local Laws Code. Export fees will not be applied to:

- (1) the export of groundwater from the District for incidental use as defined in Chapter 2 of these Rules;
- (2) the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or
- (3) the export of groundwater that occurs as a result of the distribution of water within a single, aggregate system of a retail public utility that overlaps the District boundary.

(3) Amend Rule 3.5(a) to read as follows:

(a) The following wells are not required to have a permit from the District:

- (1) a well used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day (17.36 gpm);
- (2) a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;
- (3) a temporary water well used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District;
- (4) a water well authorized under a permit issued by the Railroad Commission of Texas under Natural Resources Code Chapter 134, provided the withdrawals are no greater than the amount necessary for mining activities specified in the Railroad Commission permit, regardless of any subsequent use of the water;
- (54) a well used for domestic use or agricultural use if the well owner or well operator provides a signed statement that the well will not produce more than five million gallons (15.34 acre feet) of water per year;
- (65) leachate wells, extraction wells, injection wells, relief wells, and dewatering wells; and
- (76) monitoring wells that produce less than 5,000 gallons per year.

(4) Amend Rule 3.44(c) to read as follows:

(c) If a contested case is presided over by a majority of the Board, then the Board's decision shall be rendered not later than the 60th day after the date on which the hearing is finally closed. If the Board refers a contested case to SOAH, then the Board's decision will be rendered no more than 60 days after the ~~date that the proposal for decision is presented at a final hearing~~ is concluded, unless the Board determines

that there is good cause for extending the deadline. For contested case hearings conducted by SOAH, the Board decision on a Proposal for Decision must be made no later than the 180th day after the date the District received the final Proposal for Decision from SOAH. The Board is considered to have adopted a final proposal for decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposal for decision if the board has not issued a final decision by:

(1) adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or

(2) issuing revised findings of fact and conclusions of law.

(5) Amend Rule 3.23(b) to read as follows:

(b) Requests for Rehearing. A decision of the Board may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before an appeal may be brought. The Board must consolidate requests for rehearing filed by multiple parties to one contested case hearing, but only one rehearing may be held per application. The Board's decision is final and appealable if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon the Board's rendering of a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter unless otherwise agreed to by the parties to the proceeding, and the Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing. The failure of the Board to grant or deny a request for rehearing within 90 calendar days of the date of submission will be deemed to be a denial of the request.

Permit limitations will be triggered if average aquifer levels decline below the Desired Future Condition. The first permit limitations will be triggered when aquifer levels drop at least one foot below the Desired Future Condition level; the second permit limitations will be triggered when aquifer levels drop at least two feet below the Desired Future Condition level; the third permit limitations will be triggered when aquifer levels drop at least four feet below the Desired Future Condition level. The percentage reduction will be based on hydrogeologic calculations of that amount of production that must be reduced to restore aquifer levels above the Desired Future Condition level. The exact amount of percentage reduction for each type of permit will be established by rule.

The District will employ reasonable and necessary technical resources at its disposal to evaluate the groundwater resources available within the District and to determine the effectiveness of regulatory or conservation measures. A public or private user may appeal to the Board for discretion in enforcement of the provisions of the water supply deficit contingency plan on grounds of adverse economic hardship or unique local conditions. The exercise of discretion by the Board shall not be construed as limiting the power of the Board.

IX. Desired Future Conditions - (§36.108, Water Code, and 31 TAC 356.5 (a)(5)(A))

Per §36.001, Water Code, "Desired future condition" means a quantitative description, adopted in accordance with §36.108, Water Code, of the desired condition of the groundwater resources in a management area at one or more specified future times. To establish a Desired future condition, the District shall participate in the joint planning process in GMA 15 as defined per §36.108, Water Code, including establishment of Desired Future Conditions (DFCs) for management areas within the District.

Based on the GMA 15 joint planning resolution dated October 14, 2021, the member Districts agreed to adopt the following Desired Future Condition:

"The Desired Future Condition for the counties in the groundwater management area (gma-specific DFC) shall not exceed an average drawdown of 13 feet for the Gulf Coast Aquifer System at December 2080. Desired Future Conditions for each county within the groundwater management area (county-specific DFCs) shall not exceed the values specified in Table 6 at December 2080." (Desired Future Condition Explanatory Report for Groundwater Management Area 15, 2021)(Keester and others 2021)

Aransas County	0 feet of drawdown of the Gulf Coast Aquifer System
Bee County	7 feet of drawdown of the Gulf Coast Aquifer System
Calhoun County	5 feet of drawdown of the Gulf Coast Aquifer System
Colorado County	17 feet of drawdown of the Chicot and Evangeline Aquifers 25 feet of drawdown of the Jasper Aquifer
Dewitt County	17 feet of drawdown of the Gulf Coast Aquifer System
Payette County	44 feet of drawdown of the Gulf Coast Aquifer System
Goliad County	-4 feet of drawdown of the Chicot Aquifer -2 feet of drawdown of the Evangeline Aquifer 7 feet of drawdown of the Burkeville Aquifer 14 feet of drawdown of the Jasper Aquifer
Jackson County	15 feet of drawdown of the Gulf Coast Aquifer System
Karnes County	22 feet of drawdown of the Gulf Coast Aquifer System
Lavaca County	18 feet of drawdown of the Gulf Coast Aquifer System
Matagorda County	11 feet of drawdown of the Chicot and Evangeline Aquifers
Refugio County	5 feet of drawdown of the Gulf Coast Aquifer System
Victoria County	5 feet of drawdown of the Gulf Coast Aquifer System
Wharton County	15 feet of drawdown of the Chicot and Evangeline Aquifers

Figure 5. Table 6 from Desired Future Condition Explanatory Report for Groundwater Management Area 15, 2021)(Keester and others 2021)For the purpose of joint planning in GMA 15, the District considers the Burkeville Formation and Jasper Aquifer as non-relevant aquifers. Thus, the District will not have a DFC for the Burkeville and the Jasper Aquifer. For the Chicot and the Evangeline Aquifers, the District will manage groundwater supplies to achieve a DFC of not more than 15 ft of average drawdown in the Chicot and Evangeline Aquifers over the period from January 2000 to December 2069. To manage the Chicot and Evangeline Aquifers so that 15 ft DFC will not be violated, the District will adopt rules to regulate groundwater withdrawals by means of well spacing and production limits as appropriate. If the Board finds it is necessary to reduce the maximum allowable production or the permitted production within the District or for any management zone to accomplish the desired future conditions, preserve and conserve groundwater or protect groundwater users within the District or a management zone, the Board shall establish a schedule for reducing the maximum allowable production or permitted production for the District or a management zone.

X. Modeled Available Groundwater - (§36.1071(e)(3)(A), Water Code and 31 TAC 356.5(a)(5)(A))

Modeled available groundwater is defined in §36.001, Water Code, as “the amount of water that the executive administrator determines may be produced on an average annual basis to achieve a desired future condition established under §36.108, Water Code. Table X.1 provides the MAG values for Wharton County as determined by the GAM Run 21-020 MAG (Dowlarn, 2022) (Table 2). These MAG values are based on the DFC established by GMA 15 (Appendix B, Desired Future Condition Explanatory Report for Groundwater Management Area 15, 2021)(Keester and others 2021).

Table X.1 Modeled Available Groundwater (acre-feet/yr) for the Gulf Coast Aquifer in Wharton County as Determined by GAM Run 21-020 MAG (Dowlearn 2022) (Table 2)

Year	Modeled Available Groundwater (MAG) (acre-feet/yr)
2020	181,446
2030	181,446
2040	181,446
2050	181,446
2060	181,446
2070	181,446
2080	181,446

The MAGs listed in Table X.1 were developed through the application of Version 1.01 of the groundwater availability model for the central portion of the Gulf Coast Aquifer System (Chowdhury and others, 2004). This model includes four layers represent the Chicot Aquifer (layer 1), the Evangeline Aquifer (layer 2), the Burkeville Unit (layer 3), and the Jasper Aquifer including portions of the Catahoula Unit (layer 4). (Keester and others 2021) provides the description of the methods, assumptions, and results of the groundwater availability model simulations.

The District will consider the MAGs in Table X.1 along with other factors, when issuing permits. Implicit in this consideration is recognition of the TWDB disclaimer associated with MAG report (Dowlearn, 2022) that:

“The groundwater model used in completing this analysis is the best available scientific tool that can be used to meet the stated objectives. To the extent that this analysis will be used for planning purposes and/or regulatory purposes related to pumping in the past and into the future, it is important to recognize the assumptions and limitations associated with the use of the results.....

Because the application of the groundwater model was designed to address regional scale questions, the results are most effective on a regional scale. The TWDB makes no warranties or representations relating to the actual conditions of any aquifer at a particular location or at a particular time.”

XI. Groundwater Monitoring

The District will maintain a monitoring well network that will be used by the District to obtain measured water levels, and will also utilize any data from wells monitored by TWDB. Groundwater monitoring will be designed to monitor changes in groundwater conditions over time. The District encourages well owners to volunteer wells to be used as part of the monitoring network. The District will accept wells into, or replace an existing well in, the monitoring network. The selection process will consider the well proximity to other