

**MINUTES OF THE PUBLIC HEARING  
RED RIVER GROUNDWATER CONSERVATION DISTRICT**

**THURSDAY, AUGUST 18, 2011**

**AT THE GRAYSON COUNTY COLLEGE  
CENTER FOR WORKPLACE LEARNING AUDITORIUM  
6101 AIRPORT DRIVE  
DENISON, TX 75020**

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Members Present: George "Butch" Henderson, George Olson, Don Wortham, David Gattis, Harold Latham, Don Morrison, John Young

Members Absent: None

Staff: Jerry Chapman, Carolyn Bennett and Carmen Catterson

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NOTE: The audio recording of the hearing is the official record of the hearing. These minutes are provided only for convenience.

I. Call to Order and introduction of Board

President Henderson called the hearing to order at 6:00 PM. The Board Members introduced themselves and the manner of their appointment to the Board. All members were present.

II. Review draft Temporary Rules

No comments from the Board were received.

III. Public Comment (verbal comments limited to three (3) minutes each; written comments may also be submitted for the Board's consideration.)

Mike Wilson from the City of Pottsboro expressed his disappointment that, in his opinion, the citizens in Grayson County have no representation on the Board. He read an excerpt from an article to the Board on groundwater and how it relates to cattle ranchers. Mr. Wilson explained that he hauls water for his cattle daily and stated he did not feel like he should have to register, meter or pay for groundwater he works hard to provide to his livestock.

Kent Black from the City of Pottsboro noted a conflict in the rules. Section 2.1(d) should reference 2.1(a)(2) rather than 2.1(a). The incorrect reference makes 2.1(a) irrelevant. The Board acknowledged the incorrect reference and promised to have the Committee correct it.

Alex Moser, with AL Moser Drilling in Pottsboro, TX asked whether the Board had considered grandfathering existing wells. He stated that his understanding of the rules was that all wells capable of producing more than 40,000 gallons per day were not grandfathered from registering or metering. President Henderson stated that if the well was solely for domestic uses it would be exempt, regardless

of capacity. Mr. Moser asked if agriculture was also exempt and President Henderson stated that the well would not be exempt.

Bill Schindler with Tri County Sod asked if wells are capable of producing more than 40,000 gallons per day, would the owner have to pay for the production? Board Member Gattis responded that agricultural wells are limited to \$1 per acre-foot per year, which is a very small fee. He also stated that the Board intends to establish a \$0 fee for all agricultural wells. Mr. Schindler commented that standard turbine meters are destroyed by the high sand content and have to be replaced every two years, which causes a large expense on the well owner. Board Member Gattis stated that the rules allow for alternative means of measuring water production. Each individual situation would have to be visited by the District to determine the best method of monitoring water production for all parties.

A member of the public then asked about the maximum production fee for the District and was informed that the District has a statutory limit of \$0.30 per 1,000 gallons for non-agricultural use, but municipal and rural water suppliers are currently paying \$0.03 per 1,000 gallons to fund a \$150,000 budget.

A citizen encouraged the public to contact their Congressmen and Senators to protest SB 332, which would violate more than 100 years of Texas law regarding the removal of water beneath land owned.

Mr. Jim Maddock who lives in west Grayson County opposed the exclusion of agriculture as an exempt use. He requested the Board add agriculture to 2.1(a). President Henderson stated that agriculture will not be charged a production fee, but will be required to register and meter their wells. Mr. Maddock stated that he opposed being required to register his well because registration is the first step to confiscation. He requested the public address the organization of the Board with their Congressmen and Senators.

A member of the public then proceeded to ask when the District planned to require citizens to test their water for contaminants and other costly restrictions. Another citizen wanted to know if Monarch water systems would be considered domestic and exempted. The Board responded that Southwest Water, the company that owns the Monarch systems is currently paying for the water they produce.

A member of the public again questioned how so many municipal water suppliers became representatives on the board and why a citizen was not established to represent the citizens of Grayson County. The Board explained that the legislation specifies the representatives on the board and would have to be changed by an act of legislation

Luke Edder, a rancher in western Grayson County wanted to know when the permanent rules would be established. President Henderson stated that the Board does not have them on the current time line, but will probably be in two to three years.

Mr. Moser explained that many citizens are concerned with the Board because many of the members represent a government entity or a rural water supplier with no representation for the county at large. Board Member Latham explained that he was appointed to the Board by the Fannin County Commissioners Court to represent all the persons not represented by a city or a rural water supplier.

A citizen asked the Board about their current annual operating expenses and management. The Board responded with information about the budget and explained that the municipalities and rural water suppliers are currently paying the operating expense of the District at a cost of \$0.03 per 1,000 gallons pumped.

Gene Short asked for clarification that all domestic wells are exempt, even if they produce more than 40,000 gallons per day. The Board confirmed that all domestic wells are exempt.

A citizen commented that the District will have to hire staff to check all the wells and read the meters. They asked how many employees the District estimated hiring. President Henderson responded that the Board has not determined an estimate for staff needed. He hopes that the well owners will be responsive and enforcement will not be needed. Vice President Olson stated that he intended to keep the cost as low as possible to keep his customers cost low.

A citizen asked once the Board is satisfied with the draft of the temporary rules, who approves them? President Henderson stated that the Board would determine the temporary rules and provide final approval. The citizen then asked since the District is part of GMA 8 will other districts have a say in the rules that are applied to Fannin and Grayson Counties. President Henderson explained that all the members of GMA 8 participate in joint planning, but cannot determine the rules for other districts.

Gil Bernabe questioned the process of how the District does business and if minutes were kept properly. The District responded that minutes are kept for every meeting and posted on the website. Mr. Bernabe recommended that the citizens read the minutes and send them to the State to oppose the processes that the Board uses to conduct business. He also requested that the other property owners contact groundwater districts across the state to see how they have been received.

The public asked how much revenue the Board anticipated receiving from the public. Mr. Moser responded that he drills between 75 and 100 wells per year in this area. The citizen then commented that if each well is charged \$250 to register with the District, the District will be making a great deal of money. The Board reminded the public that the more revenue that is generated with registrations, the lower the production fee would be.

The public again began discussing HB 1730, which was passed into law as SB 332. Several expressed the opinion that the bill makes groundwater districts impotent.

Bob Patterson, Upper Trinity GCD (UTGCD) General Manager explained that he is a veterinarian and a member of the Texas Farm Bureau, the Texas and Southwestern Cattle Raisers, and the Texas Quarter Horses Association. He raises, trains and sells horses and also works as a cattle rancher. The UTGCD was created for the same reason as the Red River GCD. It was formed by the Texas Legislature to provide a mechanism for local control over the groundwater. Dr. Patterson stated that this area is lucky because groundwater is available. In his district groundwater is very scarce and has become very tightly controlled. His district charges \$0.22 per 1,000 gallons. Currently his district exempts domestic wells and agricultural wells, but that may change in the future due to their dwindling groundwater supplies. He explained that the districts were created to protect and conserve the groundwater. The oil and gas industry is very active and causes increased water usage. Dr. Patterson explained that each district is different by necessity to meet their individual and local needs. He explained that the Board receives no compensation and are simply trying to help solve problems and perform their required tasks.

A concerned citizen requested Dr. Patterson educate the citizens because taxation on water is very emotional and she would like more information on why the District needs to register private wells. Dr. Patterson explained that water is a limited resource and that SB 332 had more hearings and amendments than any other bill this past session. He asked Brian Sledge, a water attorney, to address the legislation.

Brian Sledge, a groundwater law attorney, explained that groundwater law in Texas began in Denison in 1904 when Mr. East's well dried up because the railroad drilled a large well nearby. The Texas Supreme Court ruled that Mr. East had no case against the railroad due to the Rule of Capture. In 1949 the Legislature passed a law authorizing the first groundwater districts to manage the way the water is pumped, even though landowners have an ownership interest in it. The only method that exists to monitor and regulate groundwater is groundwater conservation districts. SB 332 was, indeed, signed into law by the governor, and restates what existed only in court cases and statutes for the last 107 years, and turned it into a statute. The landowner has an ownership interest in water beneath the ground. The groundwater conservation districts regulate how that water is pumped.

Mr. Sledge then explained the method the state used to determine areas of high aquifer decline. The Texas Commission on Environmental Quality created Priority Groundwater Management Areas (PGMAs). Once those areas are determined a window of two years is opened and the area either has to create a district by legislation or the TCEQ will create a Chapter 36 groundwater district, which may provide for little to no local control. This process started in 2006 for the area from the Red River to south of Waco along the Trinity Aquifer. The local municipalities and water providers opposed the PGMA designation and spent funds for legal assistance. However, after a hearing at the State Office of Administrative Hearings, the TCEQ ruled that the PGMA designation would be established. After the two-year window began, the local water producers worked with local Legislators to create SB 2529, which was passed into law in 2009. This PGMA has the highest level of water decline in the state. The water cannot be used indiscriminately or it will not be available for use. This District is charged with setting goals for the state of the aquifer in 50 years and achieving those goals. The District is required by law to develop well spacing guidelines, register and locate all wells, determine the total amount of water being pumped out of the aquifer and putting permanent rules into effect to meet the goals for the aquifer in 50 years.

A member of the public again requested that information about public meetings be provided to the citizens. The District outlined its notice posting requirements and practices, and noted also that the Herald Democrat has also run a series of articles regarding the meetings of the District.

V. Adjourn or continue public hearing on proposed rules

Upon motion by Board Member Gattis seconded by Vice President Olson and passed unanimously, the Board adjourned at approximately 7:17 PM.

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Recording Secretary

  
Secretary-Treasurer