

MINUTES OF THE BOARD OF DIRECTORS' PUBLIC HEARING
NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT

TUESDAY, NOVEMBER 8, 2016

MUSTANG SUD ADMINISTRATIVE OFFICES
7985 FM 2931
AUBREY, TEXAS

Members Present: Eddy Daniel, P.E., Chris Boyd, Evan Groeschel, Philip Sanders, Thomas Smith, P.E., Ron Sellman, Kenny Klement, and Ronny Young

Members Absent: Joseph Helmberger, P.E.

Staff: Drew Satterwhite, P.E., Wayne Parkman, Velma Starks, Carolyn Bennett

Legal Counsel: Kristen Fancher

Visitors: Peter M. Schulmeyer, Collier Consulting
Alan Strittmatter, Strittmatter Irrigation and Supply

Public Hearing

1. Call to order, establish quorum; declare public hearing open to the public.

President Daniel called the public hearing to order at 10:02 a.m., established that a quorum was present, with one member, Joseph Helmberger, being absent, and declared the hearing open to the public.

2. Conduct Show Cause Hearing under Rule 9.6 on the following for alleged violations of District Rules, discuss, consider, receive testimony, and take appropriate action, including without limitation authorizing the District to initiate a civil lawsuit to enforce compliance with the District Rules, including recovery of civil penalties, costs, and attorney's fees, and all other appropriate legal and equitable relief.

A. Strittmatter Irrigation & Supply, Inc., 800 North Highway 377, Pilot Point, Texas 76258.

Mr. Strittmatter was present at the Public Hearing, representing Strittmatter Irrigation & Supply, Inc. Mr. Strittmatter addressed the Board of Directors, regarding the penalties assessed to Strittmatter Irrigation and Supply, \$15,000 total, \$5,000 for falsification of documentation, \$5,000 for failure to timely meter a well, and \$5,000 for not providing well production information. Mr. Strittmatter stated that the well for which violations were assessed was for the Krum ISD. When the quote was originally requested by the Krum ISD, a request was made for a small well and one was requested for a larger well. Krum ISD eventually opted for the larger well to be completed.

Mr. Strittmatter informed the Board that when the office manager sent the application to the North Texas GCD she inadvertently sent the application for the small well. When the Well Completion Report was provided it reflected a 7.5 horse pump and a small well. The Texas Department of Licensing and Regulation State Report for the well, however, reflected a test pump

of 120 gpm. Mr. Strittmatter stated this was an oversight in his office, and did not get caught. He indicated that there was no intent to falsify records, and that it was simply a clerical mistake.

Mr. Strittmatter stated he welcomed questions from the Board regarding the circumstances. President Daniel stated there were three violations, 1) falsifying the report, 2) failure to meter the well and 3) not turning in meter production reports. President Daniel stated if there was an error in the report providing the correct information, this is only one of the violations for which penalties were assessed. There are still the other violations for not putting a meter on the well and not providing well production reports.

Mr. Strittmatter replied that the meter ordered for the Krum ISD well was mistakenly sent to another well south that was being drilled by his company. A meter has been ordered for the Krum ISD well, and Snyder Electric, the contractor hired to install the meter, was to get the meter installed. Mr. Strittmatter stated he had contacted Snyder Electric regarding installing the meter, and has not yet heard back from them. Wayne Parkman, Field Technician, stated when inspecting the new well, he found the well to be metered.

Mr. Strittmatter stated Snyder Electric's representative, Danny Moran, signed off on the original application to the North Texas GCD. Mr. Moran was informed of what was required when the application was submitted to North Texas GCD.

President Daniel stated the action on the table currently is that a \$15,000 fine has been assessed in penalties for violations of the District Rules, \$5,000 for each violation. Those fines were to have been paid within 15 days, but have not yet been paid. Mr. Strittmatter stated he had understood he could pay the penalties or request a hearing. President Daniel stated the fines have already been assessed. Chris Boyd stated the Board did not get to this point before going through a long process of reaching compliance. Chris Boyd asked Mr. Strittmatter why he did not respond when he was first notified of the penalties. Mr. Strittmatter replied the lack of response is because of the incompetence of his office manager. He stated he has not been receiving his emails or messages. His office manager takes messages and reads his emails for him, and is not providing him with information in a timely manner. Mr. Strittmatter assured the Board the problem has been corrected from this day forward. Mr. Strittmatter stated that he takes these matters seriously, and has been assessed and paid penalties in the amount of \$4,000 for past violations. He stated he would never do anything to jeopardize his license. He further stated after the first round of violations he went through an office managerial change, with two different sets of personnel. Current office staff made the errors on the Krum ISD well, because the project has been going on for over one year.

President Daniel stated there has been a previous assessment of penalties to Strittmatter Irrigation and Supply on three occasions. Mr. Strittmatter replied that he thought the issues had been resolved each time. After the first time, he went through office managerial change. The current office manager made the mistake on the Krum ISD well about a year ago, but this well project drug out longer than normal projects. He indicated that the meter issue was an oversight, and when it came to his attention, a new meter was purchased and Danny Moran with Snyder Electric was asked to install it.

President Daniel asked Mr. Strittmatter what specifically he was requesting the Board to do regarding these matters. Mr. Strittmatter stated he was requesting the Board lift this fine, after hearing his explanation and case, and considering the previous \$4,000 in fines being paid by his company.

President Daniel stated he felt the North Texas GCD Board has gone above and beyond in notifications of the violations and penalties. Kenny Klement stated he had a corporation for the biggest part of his life producing milk and cattle. In conducting his business, he always felt it to be

the owner's responsibility to take care of problems.

Philip Sanders asked Mr. Strittmatter to clarify how he was not made aware of the most recent incidence. General Manager Satterwhite stated this matter was brought before the Board, and pursuant to their instructions, a letter mailed out to Strittmatter Irrigation and Supply, Inc. Kristen Fancher, the District Legal Counsel, exchanged voice mails and was in touch regarding the penalties assessed. During the deadline period voice mails were traded between Mr. Strittmatter and Ms. Fancher.

Mr. Strittmatter stated during this time period he spoke with a representative of the Texas Department of Licensing and Registration and requested he send him information regarding the Krum ISD well. The representative has not yet responded to this request.

Philip Sanders questioned General Manager Satterwhite what steps were taken to notify Mr. Strittmatter of the violations assessed. General Manager Satterwhite responded that he had telephoned Danny Moran with Snyder Electric, the contact for this project, and informed him the well was inspected and registered 101.5 gpm on a meter installed on the well. Krum ISD was also contacted, regarding getting the meter installed, providing meter readings to the District, and payment of back fees for use of the well since installation. District staff made telephone calls to Mr. Strittmatter's offices. Correspondence regarding the assessment of the penalties was provided by email and certified mail.

Philip Sanders asked Mr. Strittmatter if stated he had submitted a bid on a small well and a large well, and inadvertently submitted the wrong application to the North Texas GCD for the small well, but the correct report was submitted to the Texas Department of Licensing and Regulation. Mr. Strittmatter replied that the application for the well and the completion report for the well submitted to the North Texas GCD contained incorrect information. President Daniel stated the North Texas GCD requires a completion form stating how the well is equipped, which was filed with the District stating the incorrect amount after the well was completed. Mr. Strittmatter replied the completion report information was an oversight on their part, and was not intentional. He further stated all documentation from this day forward is being reviewed by him, and he has delegated himself to be on the front lines for receiving reports.

Kenny Klement asked what Mr. Strittmatter would suggest to be the best manner in which to contact him in the future so this does not occur again. Mr. Strittmatter replied personal telephone calls or texts directly to him would be best, to his cellular telephone number. General Manager Satterwhite stated the District staff uses the office number for contact, and needs to obtain his cell number.

President Daniel reminded the Board they could take no action, as the previous action stands, or take action to increase or decrease the penalties – the floor is open for discussion. Philip Sanders stated he had some questions for the District's Legal Counsel. In compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, President Daniel stated the North Texas Groundwater Conservation District Board of Directors would adjourn into Executive Session at 10:35 a.m. to discuss Strittmatter Irrigation & Supply, Inc.'s violations of District Rules with the District's Legal Counsel.

The Board reconvened into the Public Hearing at 10:54 a.m. President Daniel stated no action was taken on any matters discussed during closed Executive Session.

Thomas Smith made a motion to leave the penalties as previously assessed by the Board of Directors: 1) \$5,000 fine for falsification of documents, 2) \$5,000 for failure to meter a non-exempt well, and 3) \$5,000 fine for failure to provide well production reports. The motion was seconded by Kenny Klement. There was no further discussion by the Board. President Daniel asked

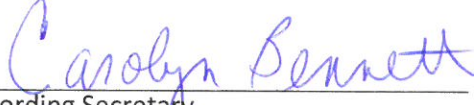
for a vote. Six (6) voted Yes and two (2) voted No. Motion passed 6-2.

President Daniel stated the Board upheld the violation and fines, a letter will be forwarded to Strittmatter Irrigation and Supply, Inc. allowing 30 days to pay the fines.

3. Adjourn or continue Show Cause Hearing.

President Daniel adjourned the Public Hearing at 10:55 a.m.

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Recording Secretary



Secretary-Treasurer