

PECAN VALLEY GROUNDWATER CONSERVATION DISTRICT  
107 N. GONZALES CUERO, TX 77954  
PUBLIC HEARING AND BOARD MEETING  
MINUTES

OCTOBER 21, 2014 – 2:00 P.M.

Board Members Present: Clem Waskow, Vice-Chairman (At Large), Wilbert Sauermilch, Secretary/Treasurer (Pct. 3), Tim Pennell, Director (Pct. 1), and Marvin Sager, Director (Pct. 4).

Board Members Absent: Darnell Knippa, Chairman (Pct. 2).

Also in attendance: Charlotte Krause, GM, Marcia Mann, Admin. Assistant, and Jim Allison, Board Attorney.

Guests: Charles Cole and Michael Addison (BHP); Kathy Oliver, Brian Chandler, Robert Oliver, Raulie Irwin (GCGCD), and 19 members of Citizens Against Pollution (CAP).

1. Call to order: The meeting was called to order by the Chairman at 2:05 P.M.
2. Welcome guests: Guests were welcomed.
3. Public comment: John Hohn requested clarification regarding the taking of public comments. Board decided to consider Agenda Item 26 prior to opening the Public Hearings on Operating Permits.

26. Discussion and possible action on Hohn Road Reclamation Site in Nordheim: Members of the group Citizens Against Pollution (CAP) were present to request assistance in protesting the permitting of proposed oilfield waste disposal sites for Pyote Reclamation System, Inc. Lyn Janssen and John Hohn explained the group's concerns and asked the Board to adopt a Resolution and Policy Statement in opposition of these sites to be submitted to the Texas Railroad Commission. Raulie Irwin, GCGCD board member clarified that GCGCD adopted a Resolution requested by CAP but did not adopt the Policy Statement pending further review by legal counsel.

An Executive Session was held at the end of the Board meeting to confer with legal counsel. When the open meeting resumed, Attorney Allison explained his recommendations and suggested changes to the proposed Resolution. A motion was made by Tim Pennell to approve the Resolution, with recommended changes, opposing the permitting of the Hohn Road and Eckhardt Road waste disposal sites to be submitted to the Texas Railroad Commission. Motion was seconded by Marvin Sager and carried unanimously. A motion to defer action pending further legal review on the proposed Policy Statement was made by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.

No action was taken on the proposed Policy Statement pending further legal review with a motion by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.

PUBLIC HEARINGS OPENED AT 2:45 P.M.

4. Old Business

- a. Discussion and consideration of operating permit application #5 from BHP Billiton on Oliver Ventures' Property: At the request of Applicant a motion was made to table agenda items 4 through 6 and remove from the Agenda until further notice by Tim Pennell. Motion was seconded by Marvin Sager and carried unanimously.
- b. Discussion and consideration of operating permit application #6 from BHP Billiton on Oliver Ventures' Property: At the request of Applicant a motion was made to table agenda items 4 through 6 and remove from the Agenda until further notice by Tim Pennell. Motion was seconded by Marvin Sager and carried unanimously.

5. Public Hearing – BHP Billiton – Oliver Ventures #7

- a. Public Hearing on the Operating Permit Application from BHP Billiton on Oliver Ventures' Property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 30 AF of water per year and a combined total of 240 AF of water per year from seven water wells. This property is located on Bellevue Cemetery Road near Westhoff, Texas and involves 944 acres. No public comment or objection stated.
- b. Discussion and consideration of operating permit application from BHP Billiton on Oliver Ventures' Property: At the request of Applicant a motion was made to table agenda items 4 through 6 and remove from the Agenda until further notice by Tim Pennell. Motion was seconded by Marvin Sager and carried unanimously.

6. Public Hearing – BHP Billiton – Oliver Ventures #8

- a. Public Hearing on the Operating Permit Application from BHP Billiton on Oliver Ventures' Property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 30 AF of water per year and a combined total of 270 AF of water per year from eight water wells. This property is located on Bellevue Cemetery Road near Westhoff, Texas and involves 944 acres. No public comment or objection stated.
- b. Discussion and consideration of operating permit application from BHP Billiton on Oliver Ventures' Property: At the request of Applicant a motion was made to table agenda items 4 through 6 and remove from the Agenda until further notice by Tim Pennell. Motion was seconded by Marvin Sager and carried unanimously.

7. Public Hearing – BHP Billiton – Cottonmill Trust #5

- a. Public Hearing on the Operating Permit Application #5 from BHP Billiton on Cottonmill Trust's property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 40 AF of water per year and a combined total of 200 AF of water per year from 5 water wells. This property is located on Boldt Road near Cuero, Texas and involves 587 acres. No public comment or objection stated.
- b. Discussion and consideration of operating permit application from BHP Billiton on Cottonmill Trust's property: A motion to approve the Operating Permit Application in the amount of 40 AF of water per year for a combined total of 200 AF of water per year from 5 water wells was made by Tim Pennell, seconded by Marvin Sager, which carried unanimously.

8. Public Hearing – BHP Billiton – Russell & Sherice Judd

- a. Public Hearing on the Operating Permit Application #2 from BHP Billiton on Russell and Sherice Judd's property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 30 AF of water per year and a combined total of 60 AF of water per year from 2 water wells. This property is located on Boldt Road near Cuero, Texas and involves 158 acres. No public comment or objection stated.
- b. Discussion and consideration of operating permit application from BHP Billiton on Russell and Sherice Judd's property: A motion to approve the Operating Permit Application in the amount of 30 AF of water per year for a combined total of 60 AF of water per year from 2 water wells was made by Wilbert Sauermilch, seconded by Tim Pennell, which carried unanimously.

9. Public Hearing – BHP Billiton – Martha Ann Respondek

- a. Public Hearing on the Operating Permit Application from BHP Billiton on Martha Ann Respondek's property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 30 AF of water per year. This property is located on FM 240 near Westhoff, Texas and involves 137 acres. No public comment or objection stated.
- b. Discussion and consideration of operating permit application from BHP Billiton on Martha Ann Respondek's property: A motion to approve the Operating Permit Application in the amount of 30 AF of water per year was made by Tim Pennell, seconded by Wilbert Sauermilch, which carried unanimously.

10. Public Hearing – BHP Billiton – Linda Dermody & Allan Hartman

- a. Public Hearing on the Operating Permit Application from BHP Billiton on Linda Dermody and Allan Hartman's property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 40 AF of water per year. This property is located on Garfield Road

near Yorktown, Texas and involves 114 acres. No public comment or objection stated.

- b. Discussion and consideration of operating permit application from BHP Billiton on Linda Dermody & Allan Hartman's property: A motion to approve the Operating Permit Application in the amount of 40 AF of water per year was made by Marvin Sager, seconded by Wilbert Sauermilch, which carried unanimously.

#### 11. Public Hearing – BHP Billiton – Roger Krause #1

- a. Public Hearing on the Operating Permit Amendment Application from BHP Billiton on Roger Krause's property for OP#0007: The proposed permit amendment application is to be used to hydraulic fracture an oilfield location. The Operating Permit Amendment Application is requesting an additional 40 AF of water per year for a total of 79 AF of water per year from this water well and a combined total of 112 AF of water per year from 2 water wells. This property is located on Catholic Church Road near Westhoff, Texas and involves 427 acres: Although no written protests were received by the District office, Brian Chandler, representing the Oliver family, stated his objection to the approval of this request for additional water until some agreement is reached between the Oliver family and BHP Billiton. Attorney Allison explained that since he had reviewed the Amendment request to ensure compliance with all District Rules and found the Application to be Administratively Complete, the Board has no grounds to deny the Amendment request for additional water usage. Landowner was notified of the request and has no objection. Mr. Chandler reiterated his request and wished the minutes to reflect his objection.
- b. Discussion and consideration of operating permit amendment application from BHP Billiton on Roger Krause's property: A motion to approve the Operating Permit Amendment Application in the amount of an additional 40 AF of water per year for a total of 79 AF of water per year from this water well and a combined total of 112 AF of water per year from 2 water wells was made by Wilbert Sauermilch, seconded by Marvin Sager. Tim Pennell recused himself from this vote and a show of hands votes was 3 in favor, none against, and 1 recusal.

#### 12. Public Hearing – BHP Billiton – Roger Krause #2

- a. Public Hearing on the Operating Permit Amendment Application from BHP Billiton on Roger Krause's property for OP#0084: The proposed permit amendment application is to be used to hydraulic fracture an oilfield location. The Operating Permit Amendment Application is requesting an additional 40 AF of water per year for a total of 73 AF of water per year from this water well and a combined total of 152 AF of water per year from 2 water wells. This property is located on Catholic Church Road near Westhoff, Texas and involves 427 acres: Although no written protests were received by the District office, Brian Chandler, representing the Oliver family, stated his objection to the approval of this request for additional water until some agreement is reached between the Oliver family and BHP Billiton. Attorney Allison explained that since he had reviewed the

Amendment request to ensure compliance with all District Rules and found the Application to be Administratively Complete, the Board has no grounds to deny the Amendment request for additional water usage. Landowner was notified of the request and has no objection. Mr. Chandler reiterated his request and wished the minutes to reflect his objection.

- b. Discussion and consideration of operating permit amendment application from BHP Billiton on Roger Krause's property: A motion to approve the Operating Permit Amendment Application in the amount of an additional 40 AF of water per year for a total of 73 AF of water per year from this water well and a combined total of 152 AF of water per year from 2 water wells was made by Wilbert Sauermilch, seconded by Marvin Sager. Tim Pennell recused himself from this vote and a show of hands votes was 3 in favor, none against, and 1 recusal.

### 13. Public Hearing – BHP Billiton – John Clark Ranch, LTD

- a. Public Hearing on the Operating Permit Amendment Application from BHP Billiton on John Clark Ranch, LTD's property for OP#0016: The proposed permit amendment application is to be used to hydraulic fracture an oilfield location. The Operating Permit Amendment Application is requesting an additional 19.11 AF of water per year for a total of 70 AF of water per year from this water well. This property is located on Cheapside Road near Westhoff, Texas and involves 298 acres: Although no written protests were received by the District office, Brian Chandler, representing the Oliver family, stated his objection to the approval of this request for additional water until some agreement is reached between the Oliver family and BHP Billiton. Attorney Allison explained that since GM had reviewed the Amendment request to ensure compliance with all District Rules and found the Application to be Administratively Complete, the Board has no grounds to deny the Amendment request for additional water usage. Landowner was notified of the request and has no objection. Mr. Chandler reiterated his request and wished the minutes to reflect his objection.
- b. Discussion and consideration of operating permit amendment application from BHP Billiton on John Clark Ranch, LTD's property: A motion to approve the Operating Permit Amendment Application in the amount of an additional 19.11 AF of water per year for a total of 70 AF of water per year from this water well made by Wilbert Sauermilch, seconded by Marvin Sager. Tim Pennell recused himself from this vote and a show of hands votes was 3 in favor, none against, and 1 recusal.

### 14. Public Hearing – BHP Billiton – Linda Krause Farm, LLC

- a. Public Hearing on the Operating Permit Amendment Application from BHP Billiton on Linda Krause Farm, LLC's property OP#0011: The proposed permit amendment application is to be used to hydraulic fracture an oilfield location. The Operating Permit Amendment Application is requesting an additional 40.11 AF of water per year for a total of 53 AF of water per year from this water well. This property is located on Catholic Church Road near Westhoff, Texas and

involves 397 acres: Although no written protests were received by the District office, Brian Chandler, representing the Oliver family, stated his objection to the approval of this request for additional water until some agreement is reached between the Oliver family and BHP Billiton. Attorney Allison explained that since he had reviewed the Amendment request to ensure compliance with all District Rules and found the Application to be Administratively Complete, the Board has no grounds to deny the Amendment request for additional water usage. Landowner was notified of the request and has no objection. Mr. Chandler reiterated his request and wished the minutes to reflect his objection.

- b. Discussion and consideration of operating permit amendment application from BHP Billiton on Linda Krause Farm, LLC's property: A motion to approve the Operating Permit Amendment Application in the amount of an additional 40.11 AF of water per year for a total of 53 AF of water per year from this water well made by Marvin Sager, seconded by Wilbert Sauermilch. Tim Pennell recused himself from this vote and a show of hands votes was 3 in favor, none against, and 1 recusal.

15. Public Hearing – Sabine Oil & Gas, LLC – Armstrong Family Rev. Liv. Trust

- a. Public Hearing on the Drilling and Operating Permit Applications from Sabine Oil & Gas, LLC on Armstrong Family Rev. Liv. Trust's property: The proposed permit application is to be used to hydraulic fracture an oilfield location. The Operating Permit Application is requesting 60 AF of water per year. This property is located on Morris Community Road near Yoakum, Texas and involves 362 acres. No public comment or objection stated.
- b. Discussion and consideration of drilling and operating permit applications from Sabine Oil & Gas, LLC on Armstrong Family Rev. Liv. Trust's property: A motion to approve the Drilling Permit and to approve the Operating Permit Application in the amount of 60 AF of water per year was made by Tim Pennell, seconded by Marvin Sager, which carried unanimously.

16. Public Hearing – Ronald Afflerbach

- a. Public Hearing on the Drilling and Operating Permit Application from Ronald Afflerbach: The proposed permit application is to be used for irrigation. The Operating Permit Application is requesting 90 AF of water per year. This property is located at 1452 Gohlke School Road near Yorktown, Texas and involves 180 acres. No public comment or objection stated.
- b. Discussion and consideration of drilling and operating permit application from Ronald Afflerbach: A motion to approve the Drilling Permit and to approve the Operating Permit Application in the amount of 90 AF of water per year was made by Tim Pennell, seconded by Wilbert Sauermilch, which carried unanimously.

17. Public Hearing – Mary Lou Gerhardt

- a. Public Hearing on the Drilling and Operating Permit Application from Mary Lou Gerhardt: The proposed permit application is to be used for an RV Park. The Operating Permit Application is requesting 10 AF of water per year. This property is located at on Nathan Mueller Road near Yorktown, Texas and involves 96 acres. No public comment or objection stated.
- b. Discussion and consideration of drilling and operating permit application from Mary Lou Gerhardt: A motion to approve the Drilling Permit and to approve the Operating Permit Application in the amount of 10 AF of water per year was made by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.

18. Public Hearing – RSI

- a. Public Hearing on the Drilling and Operating Permit Application from RSI: The proposed permit application is to be used for commercial purposes. The Operating Permit Application is requesting 1 AF of water per year. This property is located at 8852 Hwy 183 South near Cuero, Texas and involves 10 acres. No public comment or objection stated.
- b. Discussion and consideration of drilling and operating permit application from RSE: A motion to approve the Drilling Permit and to approve the Operating Permit Application in the amount of 1AF of water per year was made by Tim Pennell, seconded by Marvin Sager, which carried unanimously.

19. Public Hearing – BHP Billiton Petroleum (Eagleford Gathering), LLC

- a. Public Hearing on the Drilling and Operating Permit Application BHP Billiton Petroleum (Eagleford Gathering), LLC: The proposed permit application is to be used for irrigation/industrial purposes. The Operating Permit Application is requesting 9.2 AF of water per year. This property is located at 504 Sandy Gate #2 Lane near Yorktown, Texas and involves 120 acres. No public comment or objection stated.
- b. Discussion and consideration of drilling and operating permit application from BHP Billiton Petroleum (Eagleford Gathering), LLC: A motion to approve the Drilling Permit and to approve the Operating Permit Application in the amount of 9.2 AF of water per year was made by Marvin Sager, seconded by Wilbert Sauermilch, which carried unanimously.

20. Public Hearing – Spacing Variance – Will & Miranda Adams

- a. Public Hearing on the Spacing Variance from Will & Miranda Adams: This hearing is to receive public comments on the Spacing Variance from Will & Miranda Adams. This property is located at 1473 Zengerle Road near Cuero, Texas. No public comment or objection stated.

- b. Discussion and consideration of spacing variance from Will & Miranda Adams: A motion to approve Spacing Variance was made by Marvin Sager, seconded by Wilbert Sauermilch, which carried unanimously.

PUBLIC HEARINGS CLOSED AT 3:25 P.M.

21. Minutes from 09-09-14 Meeting (provided prior to meeting): A motion to approve the minutes as presented was made by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.
22. Financial Reports – September (provided prior to meeting): A motion to approve the September financial reports as presented was made by Wilbert Sauermilch, seconded by Tim Pennell, which carried unanimously.
23. Quarterly Financial Report: A motion to approve the Quarterly Financial Report as presented was made by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.
24. Discussion and consideration of FY 2014 budget amendments: Wilbert Sauermilch suggested that \$3,000 be added to the line item for public notices. A motion to approve the FY 2014 Budget Amendments, with the addition of \$3,000 to Public Notices for a total amount of \$11,000, was made by Wilbert Sauermilch, seconded by Tim Pennell, which carried unanimously.
25. Discussion and consideration of proposal from Intera for Improving the GAM for GMA 15 for the Gulf Coast Aquifer: Attorney Allison reported on participation from other Districts in GMA 15 and explained the reason for the project. A motion to approve the proposal from Intera as presented was made by Marvin Sager, seconded by Wilbert Sauermilch, which carried unanimously.
26. Discussion and possible action on Hohn Road Reclamation Site in Nordheim: Moved to beginning of Agenda and recorded there.
27. Discussion and consideration of draft lease agreement with Frank Burns: Attorney Allison is preparing a draft lease agreement but it was not completed in time for Board consideration. A motion to table action on this item until the draft lease is completed was made by Tim Pennell, seconded by Marvin Sager, which carried unanimously.
28. Discussion and consideration of renewal of TAGD yearly dues: GM asked the Board to consider not renewing membership in the Texas Alliance of Groundwater Districts (TAGD). After discussion on the benefits of membership vs the membership dues, the Board elected not to continue with membership with a motion by Tim Pennell, seconded by Marvin Sager, which carried unanimously.
29. Discussion and consideration of approving audit proposal from Goldman, Hunt, & Notz for yearly audit: Letter of Engagement from Goldman, Hunt, & Notz was approved and



accepted with a motion by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously.

30. Discussion and consideration of approving Actual 2014 Tax Roll from Susie Dreyer, DeWitt County Tax A/C: A motion was made by Tim Pennell, seconded by Wilbert Sauermilch, to approve the Actual 2014 Tax Roll as presented, which carried unanimously.
31. Discussion and consideration of employee compensation changes: After discussion in an Executive Session Board made the following recommendations in a motion by Wilbert Sauermilch, seconded by Marvin Sager, which carried unanimously: GM salary is to be increased to \$68,800 annually, effective October 1, 2014, and Administrative Assistant's hourly rate is to be increased to \$25.07 per hour, effective October 1, 2014.
32. Closed Meeting (If necessary) – Close the meeting to conduct private consultation with PVGCD attorney regarding matters protected by the attorney-client privilege pursuant to V.T.C.A. Government Code 551.07, or to discuss matters regarding personnel pursuant to V.T.C.A. Government Code 551.074: An Executive Session was called with a motion by Tim Pennell, seconded by Marvin Sager, which carried unanimously, beginning at 4:10 PM, for private legal consultation regarding Agenda Item 26 and Agenda Item 31.
33. Return to Open Meeting (If Necessary) – Returned to open meeting at 5:00 PM.
34. Next Scheduled Board Meeting: Next meeting is scheduled for November 18, 2014.
35. Adjournment: The meeting adjourned at 5:30 P.M. with a motion by Wilbert Sauermilch, seconded Tim Pennell, which carried unanimously.



Sec/Wilbert Sauermilch

Recorded: Marcia Mann, Admin. Assistant