

**Clearwater Underground Water Conservation District Meeting**  
**700 Kennedy Court**  
**Belton, TX**  
**Wednesday, March 10, 2021**  
**Minutes**

In accordance with Governor Abbott's declaration of the COVID-19 public health threat, action to temporarily suspend certain provisions of the Texas Open Meetings Act, and Executive Order, a quorum of CUWCD's Board of Directors held a regular Board meeting by telephonic conference call and, for redundancy, video conference on Wednesday, March 10, 2021 at 1:30 p.m. The meeting originated from the Clearwater UWCD Building, located at 700 Kennedy Court, Belton, Texas.

**Board Members Present:**

\*Leland Gersbach, President, Pct. 1  
\*David Cole, Vice President, At Large  
\*Gary Young, Secretary, Pct. 2  
\*Jody Williams, Director, Pct.  
\*Scott Brooks, Director, Pct. 4

**Absent:**

**Staff:**

\* Dirk Aaron, General Manager  
\* Shelly Chapman, Admin. Manager

**Guest: (remote & in person)**

*Jim Brown	*Johnny Baird	*Matthew Baird
*Marcus Edwards	*Zach Baird	Dennis Baird
Brian Winterowd	Earl Sterns	Cole Ruiz-Lloyd Gosselink
Randy Gibson	James Beach	John Taliaferro-Victory Rock
Jay Lindholm	Maddie Todd	Mardsen/Hill
Charlot Baird	Amelia Hunter	Marty Kelly
Michael Redman	Mike Keester-LRE	Pete Diaz-US Fish
Jessica Diem	Casey Deweese	Dr. Joe Yelderman- Baylor
Anne Rogers Harrison	Craig Wright	Sandra Blankenship
Bobby Whitson	Michael Spano	Padraic Dillon
Bill Schumann-County Commissioner	*Kirk Michaux-Solana Ranch	*Shannon Seib-7KX
*Ryan Hodge-7KX		

(\*in-person)

**Board meeting convened with President, Leland Gersbach at 1:30 p.m.**

**1. *Invocation and Pledge of Allegiance.***

Vice President, David Cole, gave the invocation.  
Secretary, Gary Young, led the Pledge of Allegiance.

**2. *Public Comment.***

No public comments.

**3. *Approve minutes of the January 13, 2021 Board meeting and Workshop.***

Board members received the minutes of the January 13, 2021 Board meeting and workshop in their Board Packet to review prior to the meeting.

Vice President, David Cole, moved to approve the minutes of the January 13, 2021 Board meeting and Workshop. Secretary, Gary Young, seconded the motion.

**Motion carried 5-0.**

President, Leland Gersbach, asked the Board to skip to item #10 at this time to conduct the public hearing. The Board agreed.

**10. *Hold public hearing on the following permit applications:***

- 1) *Discuss, consider and take appropriate action if necessary, on the proposed operating permit of 30 ac-ft/yr. for Victory Rock LLC authorizing operating production from an existing (well# N2-20-007G) completed in the Middle Trinity Aquifer at 18.6 gpm for mining and crushing aggregate located on a 283-acre site at 7170 Solana Ranch Rd West, Jarrell Texas 76537-5008.*
- 2) *Discuss, consider and take appropriate action if necessary, on a proposed drilling permit to authorize a new well in the Edwards BFZ aquifer for 7KX Investments to produce groundwater for public water supply (well #N2-19-005P) proposed with a maximum 6-inch column pipe at 1000 gpm on a 345.97-acre site located approximately 3 miles south of the Village of Salado Pump, West Side of IH-35, west of the southbound TXDOT rest area.*

President, Leland Gersbach, called the public hearing to order at 1:34 p.m.

Leland gave a summary of the 2 applications before the Board and reviewed the procedures that will apply. He noted for the record that the hearing had been properly noticed according to statute and District rules. Leland instructed anyone wishing to participate in the hearing, in support or protest, to sign up to speak.

As presiding Officer, Leland will hear evidence and sworn testimony, and rule on any procedural issues. He stated that the permit applications must meet certain elements to be approved. General Manager, Dirk Aaron, will cover these elements in his review and recommendations.

Leland noted that the 2 applications before the Board have undergone administrative, legal, and technical review by District staff, General Counsel, and Geoscience Consultants.

First, Leland will take appearances by the parties related to the Victory Rock LLC application. He will hear testimony from Dirk Aaron (General Manager), Mike Keester (Geoscience Consultant), and Cole Ruiz (Legal Counsel), as well as representatives for Victory Rock.

Leland explained that the Board can only rely upon testimony and other information presented by the applicant, applicant's representative, CUWCD General Manager and Consultants. Any person wishing to protest an application must submit a contested case hearing request.

Dirk asked Cole Ruiz, legal counsel, to explain the contested case hearing and procedures. Cole explained what a contested case hearing is.

Leland addressed parties wishing to make public comment and explained the procedures to be followed. Leland administered an oath to all parties who will be speaking on the applications.

Leland asked John Taliaferro, representative for Victory Rock, to layout the application for an operating permit for an existing well on the 283 acre tract and the beneficial needs associated with the proposed groundwater production and any other information he would like to add.

John Taliaferro presented his case and answered questions regarding the application. He noted that after discussion with the District, the applicant would like to alter their request to 2 acre feet for the remainder of 2021 and Victory Rock will submit an application for a new drilling an operating permit for a well to be drilled into the Lower Trinity Aquifer.

Leland asked Dirk Aaron (CUWCD) to describe in general what deems the application as an N2 nonexempt operating permit. Dirk explained the criteria for an N2 operating permit. He presented his executive summary that was provided in the Board packet. He noted for the record that application had been deemed administratively complete, all fees have been paid, and all criteria have been met. Dirk also explained that the applicant will be required to meter the well, report monthly usage, and has agreed to the installation of an observation tube so CUWCD staff can periodically measure drawdown.

Next, Leland addressed Mike Keester (LRE-Water). Mike Keester presented his hydrogeologic review, his assessment, findings, and options/alternatives that have been discussed to the original application. Leland asked if the proposed operating permit of 30-acre feet would adversely impact adjacent well owners. Mike

replied that he felt it would impact their ability to produce. He commented that special provisions should be imposed if the permit is approved. He discussed his recommendations and how to best use the available resources.

Legal Counsel, Cole Ruiz, commented that the District has done a superb job in evaluating this application and working with the applicant and negotiating special provisions and permit conditions. Procedurally everything has been done in line with what required from the statute and District rules.

Leland addressed the applicant. The applicant understands the Board does not have the authority to approve or deny the application beyond the described elements reflected in the General Managers executive summary. The applicant would be willing to possibly modify the application to address concerns of property and well owners. The applicant has agreed to special provisions as laid out by district staff and consultants.

Leland opened the floor up to comments from protestants that have been determined to have a legal standing in the hearing.

**Brian Wintrowd** – Concerns have been addressed as long as the Board moves to enforce measures to the lower trinity.

**Casey Dewees** – Experience with VR is one of distrust. He is not confident they can be trusted to do what is required on their own. As long as these requirements are being enforced, then he can't really complain.

**Dennis Baird** – Appreciates the Board allowing them to attend the hearing. He is a landowner adjacent to Victory Rocks quarry. He listed his credentials. He is concerned there is no signage to deter trespassing or about heavy equipment operating, or that blasting may occur. Fencing is in bad shape. There has been no communication from the applicant. He is concerned about contamination of water in Salado Creek or nearby wells. The quarry could affect property and home values. He is opposed to any water permit.

**Earl Sterns** – Lives in Hidden Springs. Receives regular notices from CUWCD that water quality is poor because of drawdown in Georgetown. He is opposed to any groundwater use for the quarry.

**Johnny Baird** – Thanked the Board for allowing him to speak. His family moved to a piece of land outside of the city to enjoy safe, happy place to live. Quarry signage not valid. They contacted TCEQ and they could not locate a permit. Permit was finally found under another name. Blasting has disrupted the serenity of country living. Received notice about the permit hearing. He met with Dirk Aaron. He has concerns about the quarry having a Jerrell address. Why is there no phone # or name of the quarry listed on their signage? Believes dust suppression needs more than 2-acre feet per year. He suggests CUWCD works with TCEQ to understand requirement needed to do what Victory Rock requests. He strenuously objects to this permit being granted.

**Marcus Edwards** – Property owner near Victory Rock. He has an Edwards well on his property. He believes his well will be affected by the drawdown. His concerns are water quality, demand, and conservation. He believes what is being excavated is the filtration of the Edwards aquifer. He believes the District has the jurisdiction to deny a permit because of that. The District needs to require them to have an engineered plan. Require inspection and verify inspections of the conservation plan. Asked the District to take a leadership role and prevent what is happening in Georgetown.

**Matthew Baird** – He is against the permit process. His well is the closest to the well and will be affected the most. He is concerned about water quality as well. Does not want a quarry there.

**Zach Baird** – Has an Edwards well. Would like to drill a Lower Trinity well in the future. He has the same concerns as the others as far as water quality and drawdown.

**Jim Brown** – Concerned well owner. His well is part of the CUWCD WellIntell program. He is aware of the issues in the Trinity Aquifer. He stated his credentials and accomplishments. His concerns are as follows: Regarding Victory Rock's water use estimates, he was concerned with the information and calculations in the reports. Clearwater needs to work again to verify the numbers are actually correct. Did not

see anything in the calculation about dust control. Issues regarding the Middle Trinity being used by numerous exempt wells in Southern Bell County for Domestic use. He would like to see a 72 hour aquifer test if the well is permitted in order for the impacts to be more accurately assessed. The proposed well would use a significant portion of remaining available exempt use. Water levels in confined aquifers wells respond relatively quickly to prolonged pumping. He is concerned that increased pumping in the long term could cause drawdown that impacts the Hensell Sand wells in Solana Ranch area and Hidden Springs Middle Trinity wells. He strongly recommends CUWCD require Victory Rock to obtain its requested groundwater from the Lower Trinity formation. He is not against business or industry. But it must be done responsibly.

Seeing that all parties have had an opportunity to make their cases, Leland asked if anyone wanted to submit additional evidence. There was none.

Because of multiple concerns and formal arguments, Leland had questions he wanted to address with Legal Counsel in executive session.

Vice President, David Cole, moved to convene executive session. Secretary, Gary Young, seconded the motion. Motion carried 5-0.

### **Executive Session 3:23-3:58 p.m.**

Director, Scott Brooks, moved to continue the hearing at the April 14, 2021 meeting with 2 requirements from the applicant: 1) the applicant needs to work with CUWCD General Manager and Consultant to re-establish/clarify beneficial use analysis; 2) justify 18 month window made during testimony due to unavailability to get a well driller capable of drilling to the Lower Trinity scheduled. Applicant will need to provide letters from 3 well drillers stating such. Secretary, Gary Young, seconded the motions.

Director, Jody Williams, moved to amend the motion to include an application for a Lower Trinity well be submitted by the applicant prior to the April 14<sup>th</sup> meeting. Secretary, Gary Young, seconded the amended motion.

### **Motion and amendment carried 5-0.**

Leland continued the public hearing on to the application for a drilling permit for 7KX.

Leland will take appearances from General Manager, Dirk Aaron, Mike Keester, and Cole Ruiz. Ryan Hodge and Shannon Sieb are representing 7KX.

Leland asked if anyone wished to provide public comment or protest the application. There were no comments or protests.

Leland administered the oath to all parties who would be speaking on this application.

Leland asked Ryan Hodge to layout the application to drill and equip a new well in the Edwards BFZ Aquifer for Public Water Supply on 345.97 acres.

Ryan Hodge presented his case and request to drill a new well for Public Water Supply.

Leland asked Dirk Aaron (CUWCD) to describe in general what deems the application as an N2 nonexempt operating permit. Dirk explained the criteria for an N2 operating permit. He presented his executive summary that was provided in the Board packet. He noted for the record that application had been deemed administratively complete, all fees have been paid, and all criteria have been met. Dirk also explained that the applicant will be required to meter the well, report monthly usage, and has agreed to the installation of an observation tube so CUWCD staff can periodically measure drawdown.

Next, Leland addressed Mike Keester (LRE-Water). Mike Keester presented his hydrogeologic review, his assessment, and findings for a new well for a potential operating permit of 500-acre feet per year. Mike recommends the Board approve the application with the all special provisions as agreed upon by the applicant.

Legal Counsel, Cole Ruiz, commented that the District has addressed all aspects of the application in its jurisdiction and has no other thoughts necessary to add clarity to the deliberation on the 7KX application.

Leland addressed the applicant. The applicant understands the Board does not have the authority to approve or deny the application beyond the described elements reflected in the General Managers executive summary. The applicant understands the requirements and special provisions that have been laid out for the proposed application.

Leland asked if there were any additional questions or discussions necessary for this application? There were none.

Leland concluded the evidentiary portion of this hearing.

Director, Scott Brooks, moved to approve the drilling permit for 7KX with special provisions as agreed upon. Vice President, David Cole, seconded the motion.

**Motion carried 5-0.**

**Public Hearing concluded and regular Board meeting resumed at 4:30 p.m.**

**4. *Discuss, consider, and take appropriate action if necessary, to accept the monthly Financial Report for January 2021 (FY21) as presented.***

Board members received the monthly financial report for January 2021 in their Board Packet to review prior to the meeting.

Director, Jody Williams, moved to accept the monthly financial report for January 2021 as presented. Vice President, David Cole, seconded the motion.

**Motion carried 5-0.**

**5. *Discuss, consider, and take appropriate action if necessary, to accept the monthly Financial Report for February 2021 (FY21) as presented.***

Board members received the monthly financial report for February 2021 in their Board Packet to review prior to the meeting.

Vice President, David Cole, moved to accept the monthly financial report for February 2021 as presented. Director, Scott Brooks, seconded the motion.

**Motion carried 5-0.**

**6. *Discuss, consider, and take appropriate action if necessary, to accept the monthly Investment Fund Account report for January 2021 (FY21) as presented.***

Board members received the monthly investment fund account report for January 2021 in their Board Packet to review prior to the meeting.

Secretary, Gary Young, moved to accept the monthly investment fund account report for January 2021 as presented. Director, Jody Williams, seconded the motion.

**Motion carried 5-0.**

**7. *Discuss, consider, and take appropriate action if necessary, to accept the monthly Investment Fund Account report for February 2021 (FY21) as presented.***

Board members received the monthly investment fund account report for February 2021 in their Board Packet to review prior to the meeting.

Vice President, David Cole, moved to accept the monthly investment fund account report for February 2021 as presented. Director, Scott Brooks, seconded the motion.

**Motion carried 5-0.**

8. ***Discuss, consider, and take appropriate action if necessary, to approve the FY21 line item budget amendments as requested.***

Shelly Chapman presented the request for line item budget amendments for the purpose of adjusting line item 50500 (Dues & Memberships) to cover increase in fees for TWCA and AWA, and line item 53305 (database enhancements) to allow Halff to update features on the District database..

Vendor	Line Item	Invoice Amount	Available Funds	Amount Requested	New Balance	From	Available Funds	New Balance
TWCA	50500-Dues/Memberships	\$815.00	\$207.00	\$608.00	\$815.00	50800-Mileage Reimbursement	\$5,000.00	\$4,392.00
AWA	50500-Dues/Memberships	\$83.00	\$0.00	\$83.00	\$898.00	50800-Mileage Reimbursement	\$4,392.00	\$4,309.00
HALFF	53305-DataBase Enhancen	\$1,000.00	\$0.00	\$1,000.00	\$1,000.00	50800-Mileage Reimbursement	\$4,309.00	\$3,309.00
HALFF	53305-DataBase Enhancen	\$500.00	\$0.00	\$500.00	\$1,500.00	50800-Mileage Reimbursement	\$3,309.00	\$2,809.00

Requested By: Shelly Chapman

Verified By: Dirk Aaron

9. ***Discuss, consider, and take appropriate action if necessary, to approve registration and sponsorship of the 2021 Texas Groundwater Summit.***

Dirk Aaron informed the Board that the Texas Groundwater Summit will be held in person this year. The event will be in San Antonio. Dirk requested the Board continue to be the "Program" sponsor for the event. The District has sponsored the Program for the last couple of years. Money has been budgeted for this event. He encouraged all Board members to attend.

Director, Scott Brooks, moved to continue with the sponsorship for the Texas Groundwater Summit and directed staff to register for the event. Vice-President, David Cole, seconded the motion.

**Motion carried 5-0.**

11. ***General Manager's Report concerning office management and staffing related to District Management Plan<sup>3</sup>.***

- Dirk would like to step away from Facebook social media platform. Doesn't find it to be beneficial.
- Dirk briefed the Board on issues that occurred regarding subdivision plats. Informed them of the steps the District will take to resolve the issues.

12. ***Receive monthly report and possible consideration and Board action on the following:***

- a) ***Drought Status Reports***
- b) ***Education Outreach Update***
- c) ***Monitoring Wells***
- d) ***Rainfall Reports***
- e) ***Well Registration Update***
- f) ***Aquifer Status Report & Non-exempt Monthly Well Production Reports***

Dirk discussed the drought status report.

(Copies of the Monthly Staff Reports were given to the Board Members to review. No action required. Information items only.)

**13. Director comments and reports<sup>3</sup>.**

- **Gary Young:** Commented that he stays in contact with Dirk. He appreciates all the time Dirk has spent with working with Victory Rock prior to the public hearing and all the time and energy he has put in with the Coalition.
- **David Cole:** None
- **Jody Williams:** None
- **Scott Brooks:** None
- **Leland Gersbach:** None

**14. Discuss agenda items for next meeting.**

- Audit review
- Annual report
- Continuation of the Victory Rock public hearing

**15. Set time and place of next meeting.**

Wednesday, April 14, 2021

**16. Adjourn.**

**Board meeting adjourned with President, Leland Gersbach, at 4:30 p.m.**

**Workshop convened with President, Leland Gersbach at 4:32 p.m.**

**Workshop Item #1. Receive information related to Groundwater Management Area 8, per the Joint Planning and Development of the Round 3 Desired Future Conditions.**

Dirk Aaron gave a brief update on the DFC process.

**Workshop Item #2. Receive Legislative update on 87<sup>th</sup> Legislative Session from Ty Embrey, Lloyd Gosselink Rochelle & Townsend.**

Ty Embrey updated the Board on the current Legislative session and noted items that are of interest to the District.

**Workshop Item #3. Receive annual report from Pete Diaz related to the 2020 Salado Salamander Assessment under the current Reimbursable Task Order.**

Pete Diaz presented his annual report on the Salado Salamander Assessment for 2020.

**Workshop Item #4. Receive draft of the 2020 Annual Report for the District pursuant with Chapter 35 and District Bylaws.**

Dirk Aaron presented the draft of the 2020 Annual Report. He noted that Tristin has been working to get this complete. He asked the Board to review it for corrections or changes that should be made. The final report will be presented for approval at the April Board meeting.

**Workshop Item #5. Receive update on the status of the USFWS SSA efforts related to the Edwards BFZ Aquifer.**

Dirk presented information related to on-going efforts of the USFWS Salado Salamander Assessment and the Edwards BFZ.

**Workshop closed with President, Leland Gersbach at 5:19 p.m.**

  
Leland Gersbach, President

ATTEST:



Gary Young, Secretary or  
Dirk Aaron, Assistant Secretary