

Clearwater Underground Water Conservation District Meeting
700 Kennedy Court
Belton, TX
Wednesday, March 13, 2024
Minutes

The Clearwater Underground Water Conservation District (CUWCD) held a Workshop and Board meeting at 1:30 p.m. on Wednesday, March 13, 2024, at the Bell County Historic Courthouse, 2nd-floor Commissioners Court Chambers, located at 101 Central Avenue, Belton, Texas.

Board Members Present:

Leland Gersbach, President, Pct 1
Gary Young, Secretary, Pct 2
Jody Williams, Vice President Pct 3
Scott Brooks, Director, Pct 4
James Brown, Director, At-Large

Absent:

Staff:

Dirk Aaron, General Manager
Whitney Ingram, Assist General Mgr
Shelly Chapman, Administrative Mgr
Tristin Smith, Education & Compliance

Guests

Cole Ruiz – Lloyd Gosselink	Tomas Reynoso	Bryan Neaves – Bell County Eng.
Patrick Wagner – Middle Trinity GCD	Peter DiLillo	Mike Keester – KT Groundwater
Gail Peek – Region G	Derek Spann	Elliot Hemstreet – TDT
Daniel Champeau – Bee Cave Drilling		

Board meeting convened with President, Leland Gersbach, at 1:35 p.m.

1. Invocation and Pledge of Allegiance.

Vice President, Jody Williams, gave the invocation.
Secretary, Gary Young, led the Pledge of Allegiance.

2. Public Comment.

There were none.

3. Approve minutes of the February 14, 2024, Board meeting.

Board members received the minutes of the February 14, 2024, Board meeting and workshop in their Board packet to review prior to the meeting.

Secretary, Gary Young, moved to approve the minutes of the February 14, 2024, Board meeting and Workshop as presented. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

4. Discuss, consider, and take appropriate action, if necessary, to accept the monthly Financial Report for February 2024 (FY24) as presented.

Board members received the monthly financial report for February 2024 in their Board packet to review prior to the meeting.

Director, Jim Brown, moved to accept the February 2024 financial report as presented. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

5. Discuss, consider, and take appropriate action, if necessary, to accept the monthly Investment Fund account report for February 2024 (FY24) as presented.

Board members received the monthly investment Fund account report for February 2024 in their Board packet to review prior to the meeting.

Secretary, Gary Young, moved to accept the monthly Investment Fund account report for February 2024 as presented. Director, Scott Brooks, seconded the motion.

Motion carried 5-0.

6. *Discuss, consider, and take appropriate action, if necessary, to approve the FY24 line-item budget amendments as requested.*

Shelly presented the request for a line-item budget amendment to cover expenses to rent the Harris Community Center for a public hearing related to the ACA petition for possible annexation of portions of Williamson County to the CUWCD jurisdiction.

Shelly commented that the district should be receiving a deposit refund of \$200.

Vice President, Jody Williams, moved to approve the line-item budget amendment as requested. Director, Jim Brown, seconded the motion.

Motion carried 5-0.

7. *Discuss, consider, and take appropriate action, if necessary, to approve the Annual Report for 2023.*

Dirk presented the final version of the 2023 Annual Report. The report is based on performance standards set forth by TCEQ and TWDB. He noted for the record that Pete Diaz with US Fish had submitted his yearly salamander assessment report but needed to add something to it. Once Dirk receives the corrected report, he will send it out to the all agencies required.

Dirk commented that several people have recommended that the district develop a simpler version of the report that the layperson could understand better. He stated that with Whitney now on board, he would like her to develop a more “user-friendly” version of this report with more specificity and visuals that the general public would understand.

Director, Scott Brooks, moved to approve the Annual Report for 2023 presented contingent on receiving final report from Pete Diaz. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

8. *Discuss, consider, and take appropriate action, if necessary, to approve by resolution, support of Williamson County groundwater investigation and studies.*

Dirk reminded the Board that Scott Brooks asked to have a resolution of support for Williamson County related to groundwater investigations and studies on the agenda for this month. Dirk, Scott, Cole Ruiz developed the resolution. Dirk recapped the timeline of events related to the petition from the ACA and comments of Williamson County. Dirk asked Scott to read the resolution into the record. Scott read a portion of the resolution and highlighted what was resolved.

Secretary, Gary Young, moved to approve by resolution, support of Williamson County groundwater investigations and studies. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

9. *Hold a show-cause hearing on the following violation:*

a.) Discuss, consider, and take appropriate action necessary upon receiving testimony related to the second violation and ignoring Order #1 per District Rule 6.5 by drilling and completing a well on January 22, 2022, without a formal CUWCD permit on a tract of land less than 10-acres and greater than or equal to 2-acres, Latitude 30.930066/Longitude -97.701384 by both Raul Zavala (“Driller”) (TDLR License #54363)office at 1910 S Wheeler St, Jasper, TX 76951 and Mr. Tomas Reynoso (“Property Owner”), located at 15731 Cedar Valley Rd, Salado, TX.

President Leland Gersbach called the show-cause hearing to order at 1:50 p.m.

Leland gave a brief history of the events leading up to today’s hearing. He reminded the Board that several 90-day continuances were afforded Tomas Reynoso, but the previous hearing on February 15, 2023, was closed seeing that Tomas had hired legal counsel to help him resolve the problems with his home site. Tomas agreed under oath in his testimony that he would not reconnect the well until receiving an operating permit from the district. Leland noted that the violations and findings were specific to Order #1 issued on March 9, 2022, at the initial show-cause hearing.

Leland stated that the continued show cause hearing today had undergone administrative and legal review by district staff and General Counsel.

Leland laid out the procedures for the hearing and stated that this hearing is to address a second violation by Tomas for reconnecting and using the well without the prescribed permit.

Leland asked if there was anyone wishing to make public comment on this matter. There was none.

Leland asked all parties speaking in the hearing to stand and take an oath. Leland administered the oath to Dirk Aaron – CUWCD General Manager, Bryan Neaves – Bell County Engineer’s Office, and Tomas Reynoso – property owner.

Dirk summarized the 1st violation and actions taken. Tomas was ordered to pay a civil penalty of \$1,000 and get his property in compliance with Bell County subdivision regulations. The well driller, Raul Zaval, received a civil penalty of \$1,000. The well can be reconnected once all violations have been resolved. The Board extended several 90-day continuances in good faith that Tomas was working to get his property in compliance before he could apply for an operating permit.

Dirk summarized the 2nd violation for the Board. He stated that Tomas appeared at the district office on January 8, 2024, with a new survey, filled out the necessary application for an operating permit, and paid a \$150 application fee. Dirk sent district field tech, Corey Dawson, to do a site visit and verify that the well was still sealed and had not been in use. Upon arrival, Corey found the well unsealed and operational. This is a direct violation of Order #1. Dirk reviewed the documents Tomas submitted and found them to be a simple survey and not a recorded plat. Dirk verified this information with the Bell County Engineer's office and the surveyor. Dirk stated that he then contacted Tomas’ son and he confirmed the well was in use and the terms of the agreement had been violated.

Dirk sent Tomas a formal notice of a repeat show-cause hearing and a notice to appear before the Board at the March 2024 Board meeting. Dirk informed Tomas that this was a serious violation, and he could receive additional fines and also be required to have Raul Zavala plug the well.

Dirk spoke to the well driller regarding the potential plugging of the well and stated that the cost would fall on the well driller. Raul agreed to return and plug the well if he was so ordered.

Next, Leland addressed Bryan Neaves from the Bell County Engineers office. Bryan explained the problems with Tomas’ property not being an approved plat and what the MOU is between the district and the County. Dirk and Bryan have been communicating on the issue for a while. He stated that Tomas is trying to resolve the platting issues but has not been able to do so yet.

Leland asked Tomas to come forward to address questions as they related to the second violation laid out by the General Manager. Tomas commented that he was not using the well. He gets water, puts it in his storage tank, and pumps it to the house. The pictures Corey took show that the well is connected. He claimed that Corey came in and removed the insulation and did not ask him any questions. Leland asked if the well was connected and operational. Tomas replied that it is not connected or operational. He hooked up the wires to pump water from his storage tanks to the house. Raul Zavala unhooked the PVC from the well to the tanks. Leland asked if Tomas hired someone to connect the pump and unseal the well to make it operational. He replied that he did connect the wiring himself but not the PVC pipes. Leland asked Dirk if he had verified that the PVC pipes were connected. Dirk replied that this was verified and explained what the Board was seeing in the pictures related to the PVC pipes and seals in the original pictures and the pictures taken after the well had been unsealed. Dirk explained that neighbors observed Tomas was no longer hauling water. Dirk explained that Tomas had threatened staff after he had been questioned regarding the violation. Based on the district's assessment, the well is operational, and Tomas is in violation. Scott Brooks asked Tomas if he threatened staff. Tomas replied no. He told staff to be sure to let him know if someone was coming to his property so he could make sure his dogs were not out. Scott asked Tomas where he was getting his water. He replied he was using bottled water. When asked if the faucets in his house worked, he said no. Scott asked how they showered. He replied that he gets water from SWSC and puts it in his tanks. Scott asked if Tomas had receipts for the water. He replied no. Dirk asked Tristin Smith to call SWSC and verify with them that Tomas does get water from them for his tanks. Dirk again explained that the sealed stickers had been removed for the PVC pipe that sealed the well. When asked where the stickers were he replied they were under the insulation. According to the pictures, the seal/sticker was removed and lying on the ground.

Dirk commented that this is a he said/she said conversation and the Board could grant another 30-day continuance and go back out to investigate further.

Dirk asked Tristin Smith to come forward with information from SWSC. Leland administered an oath to Tristin. Tristin testified that SWSC sells water to individuals on an as-needed basis for \$4/1,000 gallons – cash pay only and they do not give receipts or track it. They only give receipts and track water used by construction companies. SWSC reminds the individuals the water is not potable.

Leland asked if there were any other questions from the Board. There were none.

Leland concluded the discussion on the 2nd violation. He asked Dirk, based on the status of order #1 and the 2nd violation if he still held to the recommendations listed related to the enforcement order #2. Dirk replied that he does not hold to those recommendations at this time. Because Tomas failed to communicate that his connections were misinterpreted by staff, and claims he did not threaten staff, Dirk recommended the Board grant a 30-day continuance and allow Dirk and 2 Board members to view the well with Tomas present, and see that the home is not connected to the well. Based on the findings Dirk said he would stand down. Leland asked if there would be a need for security. Dirk suggested they have a constable on-site at the time of the investigation. Tomas agreed with Dirk's suggestions. Scott instructed Tomas not to tamper with anything on the well before the reinspection. Tomas agreed.

Director, Scott Brooks, moved to stay the hearing for 30 days continue the show cause hearing it at the April meeting. Director, Jim Brown seconded the motion.

Motion carried 5-0.

10. Hold a public hearing on the following application:

a.) NS Retail Holdings, LLC has submitted an application to the Clearwater Underground Water Conservation District (CUWCD) on February 22, 2024, for a combination drilling and operating permit to authorize drilling and withdrawal from a proposed new well. This permit will authorize the withdrawal from a new well completed in the Lower Trinity Aquifer with a 1 ¼ inch column pipe on a 2.39-acre tract located on State Highway 195 approximately ¼ mile north of the Lampasas River, Killeen, Texas, latitude 30.97562/longitude -97.77514 (well# N3-24-001P), to produce water for public water supply to proposed Dollar General in a proposed annual quantity not to exceed 0.12 acre-feet or 39,102 gallons per year total.

President, Leland Gersbach opened the public hearing at 2:52 and gave a summary of the application to be considered and a brief explanation of the procedural issues. He confirmed a quorum of the Board was in attendance to participate in the ruling of the application. Leland stated that the permit applications had undergone administrative and technical review by District staff, consultants, and legal counsel.

Leland reviewed the procedures that would apply to the hearing and noted the meeting had been properly noticed.

Leland stated anyone wishing to participate in the hearing, in support or protest, would need to sign up to speak and should do so while he addressed other procedural issues.

As presiding officer, Leland will take evidence and sworn testimony, and rule on any procedural issues.

Leland noted that the Board would hear testimony and deliberate on the well application submitted by NS Retail Holdings. Leland will hear testimony from Derek Spann (Developer), Dirk Aaron (General Manager - CUWCD), Mike Keesler (LRE Water), Cole Ruiz (Lloyd Gosselink Attorneys at Law), and Daniel Champeau (Bee Cave Drilling).

Leland invited anyone wishing to make a public comment or protest the application to speak up. There were no public comments or protestants.

Leland administered an oath to all participants (Dirk Aaron, Mike Keesler, Cole Ruiz, Derek Spann, and Daniel Champeau).

Daniel Champeau addressed the Board and explained the request for a well.

Dirk gave a general explanation of the application. He noted that the applicant has met all criteria and has agreed to the special provisions laid out. Dirk replied to Leland's questions and stated that the application had been deemed administratively complete, and all fees had been paid. Dirk recommended the Board approve a drilling/operating permit at this time.

Mike Keesters presented his analysis of the application at hand. Leland addressed questions to Mike pertaining to his findings.

Leland addressed the applicant with questions about their understanding related to the proposed application and the special provisions agreed upon. Daniel Champeau replied that she understood all special provisions and requirements as discussed and agreed to.

Leland gave the Board an opportunity to ask any additional questions they might have concerning the application. Hearing none, Leland invited the applicant an opportunity for rebuttal. They had none.

Leland asked if any parties were interested in submitting additional evidence. There was none.

Leland concluded the evidentiary portion of the application.

Leland asked for a motion to grant/deny/partially grant the applicant's request for a combination drilling/operating for .12 acre-feet per year of groundwater from the Hosston Layer of the Trinity Aquifer.

Director, Jim Brown, moved to grant the applicant's request for a combination drilling/operating permit for .12 acre-feet per year from the Hosston Layer of the Trinity Aquifer, to include all special provisions as agreed upon. Vice President, Jody Williams, seconded the motion.

Motion carried 5-0.

11. Discuss, consider, and take appropriate action, if necessary, to approve the set-back waiver for PID #42479 as related to well # E-20-029GU.

Dirk presented the request for a set-back waiver explaining that the applicant is requesting an exception to the 75 ft setback from property lines. Staff conducted a site inspection and found the existing well does not meet the required setback. The applicant provided the required waiver from the adjacent property owner. Dirk noted that this is a low-producing well and serves the ranch house that the Mustang Springs Development caretaker lives in. The fact that the home was occupied was not originally made known in previous meetings with the landowner. The well will be located 53.46 feet from the western property line. The well satisfies all requirements for an exempt well and no permit is needed.

Dirk recommended approving the request and noted that all requirements had been met.

Director, Scott Brooks, moved to approve the set-back waiver for PID #42479 as related to well #E-20-029GU. Secretary, Gary Young, seconded the motion.

Motion carried 5-0.

12. General Manager's report concerning office management and staffing related to District Management Plan.

- Received an update on the new Board Room. Should be finished and ready to go for the April meeting.
- 2010 F250 will be sold at auction this month.
- Received an update on exempt test well permits (Cude Engineers/7KX & Victory Rock).
- Received an update on approved and active drilling permits.
- Upcoming Educational events: Staff will be taking the mobile classroom to the Cadence Bank Center for the BCMGA plant sale on 3/23 and participating in the Native Plant Society Sale in Salado on 4/20.
- Received an update on BelCor RHCP.
- Pending permits: American Rock Wool Plant, Victory Rock amendment, and Lake Thomas RV Resort.

13. Review monthly report and possible consideration and Board action on the following:

- a) **Drought Status Reports** – Dirk discussed drought status issues and concerns.
- b) **Education Outreach Update**

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

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

14. Director's comments and reports.

- **Leland Gersbach:** None
- **Jody Williams:** None
- **Gary Young:** None
- **Scott Brooks:** None
- **James Brown:** Just completed his first year on the Board. It's been a great year. Learning a lot.

15. Discuss agenda items for the next meeting.

- Jaffe encumbrance
- Permit hearings
- Security Benefit Qtr. Report
- Show-cause hearing continuance

16. Set the time and place of the next meeting.

Wednesday, April 10th, 1:30 – New Board Room – 640 Kennedy Court, Belton

17. Adjourn.

Board meeting closed and Workshop convened with President, Leland Gersbach, at 4:01 p.m.

Workshop:

Workshop Item #1: Discuss the need for potential rule changes related to transport fees.

Dirk discussed the need for potential rule changes related to transport fees and what it will look like for the district's local water supply companies.

Workshop Item #2: Receive information related to the Texas Alliance of Groundwater Districts 2024 Groundwater Summit.

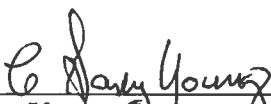
Dirk presented the dates for the 2024 TAGD Groundwater Summit. This year's summit will be Aug 20-22 in San Antonio. The district will sponsor the printed program again this year. Jody asked if we would be coming to the Board with a budget amendment request for the sponsorship. Dirk commented that the event had been included in the original budget. Shelly asked Board members to let her know as soon as possible if they would be attending.

Workshop Item #3: Receive updates related to GMA8 DFC determination, per TWC section 36.108, and plans for the next round.

Had a 2nd technical meeting with all parties. Still moving forward. Working with Intera on questions regarding the calibration of the models.


Leland Gersbach, President

ATTEST:


Gary Young, Secretary or
Dirk Aaron, Assistant Secretary