

Groundwater Management Area #1 Meeting

Adopted Minutes

February 18, 2015

The Groundwater Management Area Number 1 (GMA #1) met on Wednesday, February 18, 2015 at 10:00 a.m. in the PRPC Board Room, 415 SW 8th Avenue, Amarillo, Texas with the following members in attendance:

Voting Members Present:

Jim Haley, Hemphill County Underground Water Conservation District, Bob Zimmer, North Plains Groundwater Conservation District, Lynn Tate, High Plains Underground Water Conservation District and Danny Hardcastle, Panhandle Groundwater Conservation District

Other Groundwater Management Area 1 Representatives Present at Table:

Janet Guthrie, Hemphill County Underground Water Conservation District, Steve Walthour, North Plains Groundwater Conservation District, Jason Coleman, High Plains Underground Water Conservation District and C.E. Williams, Panhandle Groundwater Conservation District

Guests Present:

Robert Bradley, Dr. Bill Hutchinson, Ray Brady, Keith Good, Ellen Orr, Amy Crowell, Gene Born, Kody Bessent, Kent Satterwhite, Bill Mullican, Leland Gabel, Dan Seale, Neil Deeds, Ben Weinheimer and Kirk Welch

Staff Present:

Kyle Ingham, Local Government Services Director; Dustin Meyer, Local Government Services Program Specialist; Joe Price, Local Government Services Program Specialist

1. Call to Order – Welcome

The meeting was called to order at 10:02 a.m. with Chairman Zimmer presiding.

2. Roll Call/Introductions/Quorum

Chairman Zimmer asked Mr. Ingham to conduct roll call. Mr. Ingham conducted roll call and established that a quorum was present. Chairman Zimmer thanked everyone for coming to the meeting.

3. Opening Pledge

4. Public Comment

Chairman Zimmer opened the floor for public comments. No Public Comments were given at the meeting. Mr. Zimmer introduced Gene Born and Mark Howard from the North Plains GCD Board of Directors; followed by their counselors, Keith Good and Ellen Orr; followed by a NPGCD staff member, Kirk Welch. Mr. Tate introduced Dan Seale from the High Plains GCD Board of Directors and Kody Bessent, the High Plains GCD legislative affairs staff member. Mr. Walthour noted that Ms. Amy Crowell is in

attendance from the Mesquite GCD and will be in part of the discussion later. Mr. Williams indicated that their consultant, Bill Mullican was in attendance. Mr. Haley stated that their staff member from Hemphill GCD, Ray Brady was in attendance. Chairman Zimmer thanked Kent Satterwhite for attending the meeting. The Chair additionally thanked Robert Bradley and Dr. Bill Hutchinson with TWDB for attending.

5. **Discuss and Consider - Minutes from November 6, 2014 GMA #1 Meeting.**

Mr. Tate indicated a correction on item #11 located on the second page, the correction to change his first name mentioned to his last name. Mr. Tate stated a correction needed to be made on item #13 on the fourth line down, indicating that Mr. Grady needs to be corrected to Mr. Brady. Mr. Tate stated a correction on item #14 about 12 lines down, the correction to the word 'they' needs to be replaced with the word, 'the.' Mr. Hardcastle indicated that a correction on item 13 about 3 lines from the bottom of the page, the correction needs to remove the word 'an' from in front of the word, 'unknown.' Mr. Haley indicated a correction on item #9, on the third page over, above the bottom paragraph, located 3 lines up; the correction needs to change the word 'discernment' to the word, 'difference.' Mr. Haley indicated a correction on item #11, about the eighth line up from the bottom; the correction needs to change the word, 'probably,' to the word, 'probable.' Mr. Haley stated a correction on item #13; the correction needs to change the word behind Devin from, 'Industry,' to 'Energy.' Motion made by Mr. Tate to adopt the minutes with the previously stated corrections, seconded by Mr. Haley. Motion passed unanimously.

6. **Discuss and Consider - Action as may be necessary in regard GMA #1 Officers and Membership.**

Mr. Walthour iterated that this agenda item was placed on the agenda to reflect the Chairman, Vice-Chairman and Secretary of the Board. He further stated that the slate of officers was voted on this past year. Mr. Walthour stated that this item does not need action just to indicate who the officials are on the GMA#1 Board.

9. **DEVIATION ON AGENDA AT CHAIR'S DISCRETION TO NUMBER 9.**

Receive, Discuss, and Consider – Presentation regarding the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Texas Water Code §36.002. {Texas Water Code §36.108(d)(7)} – Tabled at the previous meeting of the GMA#1

Chairman Zimmer stated that Keith Good is the counsel for the North Plains GCD and will make the presentation. Mr. Good gave a power point presentation on the DFC Impact on Private Property. Mr. Good stated that the GMA#1 is mandated by the legislature to address 9 considerations, specified in the Water Code. He further continued stating that one of the factors is how the DFC impacts private property and that he would be addressing this factor under the Texas Water Code §36.108(d)(7) in his presentation. The presentation will be included with the official minutes.

Mr. Hardcastle asked Mr. Good, how you differentiate between an impact and takings. Mr. Good responded that he would answer that as a matter of degree and would recommend

taking it up with your district counsel. Mr. Hardcastle asked Mr. Good, for the GMA's purposes do we as a planning group have at this time to make that designation whether or not any potential impacts could be considered in the future in court cases as a takings. Mr. Good responded that he thinks that you could consider that but he thinks it's the degree. He further stated that if you look at the Bragg case and the absolute denial of the permit and of course that case is still cooking; it's the degree of the impact that results in a takings, if at all. Mr. Good continued stating in his commentary and unlikely comments. He indicated that he was thinking about, that its part of an assumption on his part that the DFCs would probably come out of the GMA#1 to be very similar, the numbers may vary but they will be similar to other DFCs.

Mr. Walthour asked if an impact could be positive. Mr. Good responded yes, they could be positive. Mr. Williams stated that he did not agree with the statement of any meaningful rule may be an impact. He indicated that he did not agree because if it's done correctly you balance all of those interests to where there is not at least a negative impact. He further stated that all the Boards have to balance when implementing their rules, as it relates directly to the DFC. Mr. Williams stated that if it is done correctly that there should be little to no impact. Mr. Good responded that he is specifically looking at the impact on private property rights. Mr. Williams asked what the difference is between a takings and an impact. Mr. Good responded that it is a matter of degree. Mr. Williams stated that when they are doing rules that they try to limit the impact, as much as possible. Mr. Zimmer stated that with any rule, they get calls from people from the district who state they are impacted, no matter what the rule is. Mr. Zimmer gave an example about well spacing and an owner feeling that he is impacted. Mr. Williams stated that he agrees with Mr. Zimmer's comment. Mr. Hardcastle stated that the question would be that there are varied groups and is each group to be considered in each and every rule to be balanced in effect to the rule. Mr. Hardcastle indicated their role as a GCD Board and asked what their role is at the GMA#1 level. Mr. Zimmer responded that at the GMA level, we are charged to review every management plan from all the districts and what the districts goals are. Mr. Hardcastle stated that if that is the case, do we need to have each of our Boards present the annotation on the rules. Mr. Zimmer stated that he welcomed all the districts to present. Mr. Williams indicated that it would be beneficial to do this. Mr. Walthour stated that he could see a landowner have multiple interests and looking at groups that they could have multiple interests. Mr. Williams concurred with Mr. Walthour's comment and you should, he stated that he just has an issue with categorizing them. Mr. Good responded that the GMA needs to consider the impacts on the property rights. Mr. Tate mentioned the Bragg case and their statement regarding the unlimited use. Mr. Good responded that the Bragg case needs to be discussed at the district level. Mr. Walthour asked if the Bragg case is still going through the court system and that it could be possibly heard by the Supreme Court. Mr. Good responded that we are talking about the impacts and not takings. Mr. Tate indicated that the Supreme Court is going to hear the case. Mr. Haley thanked Mr. Good and appreciated the work that the attorneys put in on this factor. Mr. Hardcastle also thanked Mr. Good for the work that they have done. Mr. Haley stated that he wants to point out about being responsive to the interest groups over time. Mr. Zimmer iterated that the GMA is charged to do this and we have to answer the nine (9) criteria directly and try to make decisions in light of the four (4) different interests. Mr. Zimmer indicated that the GMA is an oversight for the entire management area to do what is in the best interest of all of the four (4) interest groups; we need to be thorough in everything that we do. Mr. Hardcastle agreed with Mr. Zimmer's comments. Mr. Hardcastle stated that we should look at a portion of each

district's management plan. Mr. Zimmer stated that if the districts want to make presentations, we can put them on the agenda for the next meeting. Mr. Walthour mentioned item #12 would cover this. Mr. Haley planned on mentioning that, as well.

7. **Receive, Discuss, and Consider** – Presentation from Neil Deeds from Intera regarding the development and status of the High Plains Aquifer Groundwater Availability Model as it relates to the GMA#1 planning process.

Mr. Zimmer indicated that Dr. Deeds has arrived to give his presentation. Dr. Deeds introduced himself and that he was with Intera. Dr. Deeds gave a PowerPoint presentation regarding the development and status of the High Plains Aquifer Groundwater Availability Model as it relates to the GMA#1 planning process. The presentation will be included with the official minutes.

Ms. Guthrie asked where the division line is between the north and the south. Dr. Deeds pointed to the area on the map. Dr. Deeds stated that most of the Ogallala Aquifer is in the northern model area of the GMA#1. Dr. Deeds proceeded with the presentation. Mr. Tate asked what the dividing line is between the upper and lower Dockum. Dr. Deeds stated the formation was between the Trudeau and the Clovis formations. Mr. Walthour asked about the Santa Rosa formation that cratered most of the water. Dr. Deeds responded that it is sandstone and gives the City of Canyon water. Dr. Deeds progressed with the presentation. Mr. Walthour asked about the area that Dr. Deeds circled in Sherman County, and stated that they have looked at the Santa Rosa being in contact with the base of the Ogallala. He indicated that if they are connected then how you treat it as an aquifer. Dr. Deeds indicated that they would be interconnected. Mr. Haley asked if there will be any volumetric basis change in the GAM. Dr. Deeds responded and stated, yes, that there will be some volumetric change and it will be shown further in the presentation. Dr. Deeds continued with the presentation. Mr. Walthour asked if they added the Rita Blanca together with the Ogallala for saturated thickness. Dr. Deeds stated that they have not added the two together and asked if people drilled to the bottom of the Rita Blanca. Mr. Walthour indicated, no. Ms. Guthrie asked a question about the differences that there are for areas that the saturated thickness is going down 50 to 100 feet in Hemphill County. Dr. Deeds responded that it is just in comparison to the previous model after it has been run for 80 years, the resulting saturated thickness is comparing the wells to the heads. Ms. Guthrie indicated that was what they expected and just wanted to confirm. Dr. Deeds continued with the presentation. Mr. Walthour asked if this is just the Ogallala. Dr. Deeds responded that this is just the Ogallala. Mr. Walthour responded regarding about adding the Rita Blanca on top of the total volume in place. Dr. Deeds stated that the Rita Blanca is in direct hydrolic communication with the Ogallala and treating them as one makes sense; however, the Rita Blanca is not as productive as the Ogallala. Mr. Walthour commented that we have historically had a hard time what aquifer is which. Mr. Coleman asked Dr. Deeds if he could address the asterisks in Oldham County and Randall County. Dr. Deeds responded that is because that is where two counties gained a little bit of area where they were actually able to represent more of the area than previous models. Mr. Tate responded that you are comparing the two models, like in Randall, that this current model shows twice as much water in Ogallala. Dr. Deeds indicated that it does. Dr. Deeds continued with the presentation. Mr. Coleman asked if you could change it per cell for a certain County. Dr. Deeds responded that you could. Mr. Hardcastle indicated that in several places don't have saturated point of 30 feet

of saturated thickness and some that have over 60 feet of saturated thickness. Mr. Hardcastle concluded that he thought Mr. Coleman had a valid point. Dr. Deeds progressed with the presentation. Dr. Deeds stated that the technique that they used for the decline curve is slightly different than in the past. Ms. Guthrie asked if Dr. Deeds could elaborate on that. Dr. Deeds responded that in the previous one, we were restarting the model every year and would initialize with the certain pumping rate and see what the heads did and then we would restart with a new pumping rate based on the previous heads. Mr. Walthour asked about the pre-defined decline curve and how you would generate that, would it be from the district or something else. Dr. Deeds responded that this curve is not the same as Panhandle GCD, it is similar but not the same. Ms. Guthrie stated that the previous one was consistent throughout. Dr. Deeds responded that Ms. Guthrie's statement was correct. Dr. Deeds continued with the presentation. Mr. Walthour asked about Sherman County showing 40% more saturated thickness. Dr. Deeds said that is correct and looked at Sherman County closer on the map. Dr. Deeds continued with the presentation. Mr. Walthour asked about March 31st is the day that you are going to give this to the TWDB. Mr. Walthour asked what TWDB was going to do with it? Dr. Deeds elaborated on the timeline of events and said the draft model and report were due by March 31st and that the TWDB Board would review the deliverables and give them back in June to finalize the reports for August 31st. Mr. Walthour responded that you anticipate what the numbers would be known by the end of May and asked when they would be 100% certain on the model run. Mr. Walthour asked if you see problems and if they contact you to address those. Dr. Deeds indicated that they would contact Intera and everything would be addressed before August because of the conclusion of the Intera contract. Mr. Tate asked if the underlying data sources going to be made available. Dr. Deeds responded, yes. Mr. Hardcastle asked about the data input slide in the PowerPoint and asked what Dr. Deeds has and doesn't have. Dr. Deeds responded that I only have the items from last planning round and has nothing from this planning round. Mr. Tate stated that you indicated that will not be done until July. Dr. Deeds responded that MAG runs are being done under this contract and are done when you want them to be done. Mr. Williams stated if we get the information to you before the end of March that would be the best timeframe. Dr. Deeds stated that would be the best time. Mr. Tate asked how the charge works if we send you items. Dr. Deeds indicated that \$20,000 was dedicated by the 3 districts in GMA#1 for MAG runs. Mr. Tate asked what we could get for \$20,000. Dr. Deeds responded that 2 runs could be doable and include GMA#1 plus High Plains District. Mr. Tate stated that the model is designed to have different DFCs in different aquifers. Dr. Deeds responded that the request has to be within plausible reality, in order to work effectively. Ms. Guthrie asked about the results that Dr. Deeds gave a 50 year timeframe. Mr. Walthour stated that from 2015 to 50 years (2065). Dr. Deeds stated that would be proposed initially.

8. **Receive, Discuss, and Consider** – As needed – instructions and request from GMA#1 to Intera regarding model runs associated with the High Plains Aquifer Groundwater Availability Model.

Mr. Zimmer asked the group how many runs do we want and runs for different cutoff points for each county. Mr. Walthour asked if the 3 districts were onboard with using the \$20,000 to do the MAG runs. Mr. Tate and Mr. Hardcastle stated, yes. Mr. Zimmer responded when does the group want to come up with this. Dr. Deeds stated that their goal of saturated thickness would be 30 feet, not necessarily the minimum requirement.

Mr. Zimmer asked would it better to do a number for the county. Dr. Deeds response and stated what the deadlines is for these runs. Mr. Walthour stated that we need to go back to the district to discuss this further and recommend a number to you. Mr. Walthour further indicated that the managers need to look at district boundary lines. Mr. Coleman asked that if you are encountering a situation that Mr. Hardcastle mentioned about saturated thickness, would they show pumping if a cell from 2004 was 40 feet and now 30 feet. Dr. Deeds stated, yes they would. Dr. Deeds asked Mr. Hardcastle where they are seeing that. Mr. Hardcastle responded that they are seeing it in the southeastern portion counties of their district. Mr. Zimmer asked about lowering from 30 feet to improve accuracy or what is the goal. Mr. Hardcastle responded that it would improve the accuracy and could see if high level concentrations of water left, then to cut the pumping off. Mr. Coleman asked why couldn't we go the other way with a certain amount of pumping and observe what the effect is and could get away without specifying a remaining amount. Dr. Deeds responded that we could certainly do that and observe what the effect is. Ms. Guthrie asked Dr. Deeds if it would be more uniform of a range of saturated thickness with a level of pumping and is there a certain point where we turn that pumping off. Dr. Deeds responded that the differences can be accommodated as much as possible. Mr. Walthour asked a question on saturated thickness and how that would affect the model and the joining cells. Dr. Deeds responded that it would drain water from adjacent cells, we have to decide minimum spacial ability. Mr. Tate asked about the studies. Dr. Deeds stated that he wasn't sure where the studies were from. Ms. Guthrie asked a question to Dr. Deeds on how sensitive the gaming stream switches to contributing streams in those cells and under what pumping scenario and what decade that occurred. Dr. Deeds responded that it would be under a water balance. Mr. Walthour asked when he did this. Dr. Deeds responded that he did it this past week to help generate discussion. Mr. Walthour asked how hard would it be to do the same thing for the other two aquifers based on what the DFCs were for most periods. Dr. Deeds indicated that it would not be that hard, and that is exactly what he would do and it would have all those aquifers with their DFC targets in it. Dr. Deeds asked what the deadline was to do these runs. Mr. Williams responded the sooner the better. Mr. Walthour stated that our biggest problem is getting approval from the TWDB that this works. Ms. Guthrie asked about the accuracy. Dr. Deeds stated that it was better on an average overall. Mr. Walthour stated about not setting the DFCs and just having a run on all the aquifers. Dr. Deeds asked what the plan is for the Rita Blanca. Mr. Walthour responded that we would combine it with the Ogallala. Dr. Deeds asked if the goal would be to reduce the thickness because it would be challenging to do that. Mr. Walthour stated to talk about that and see what the options are. Ms. Guthrie asked what would be the most valuable information from the new model to be the easiest to deliver. She further stated if it would be the water balance on a per county or is that difficult to deliver. Dr. Deeds responded that it would just be wherever the water is coming from. Ms. Guthrie asked if this would be beneficial to anyone else to give the group high and low ranges. Dr. Deeds responded that in the previous discussion several of the items could be done. Chair Zimmer asked what the group wanted to do. Mr. Tate indicated that we need to go back to our respective districts and have the managers get back together. We need to have it done before the next GMA meeting. Mr. Ingham procedurally indicated about granting authority to the managers to make a recommendation to Dr. Deeds. Motion by Mr. Tate to give the managers the authority to make a recommendation to Dr. Deeds, second by Mr. Hardcastle. Motion passed with unanimous assent.

10. **Receive, Discuss, and Consider** – Any new developments, available data, or public comment related to the following items:

- a. Information regarding Aquifer Uses or Conditions within the management area, including conditions that differ substantially from one geographic area to another for each of the Major Aquifers in GMA#1. {Texas Water Code §36.108(d)(1)}

No comments.

- b. Information regarding water supply needs and water management strategies included in the 2012 Texas State Water Plan. {Texas Water Code §36.108(d)(2)}

No comments.

- c. Information regarding background information related to hydrologic conditions, including for each aquifer in the GMA#1 planning area, the *current* total estimated recoverable storage as provided by the Texas Water Development Board Executive Administrator. {Texas Water Code §36.108(d)(3)}

Ms. Guthrie commented about legislation proposed to have TWDB do the sustainability study about each aquifer and estimate the sustainable rate of each aquifer. Mr. Zimmer asked about if it has anything to do with their intent to reach a DFC. Ms. Guthrie did not think so, it is the counter play to the damage done by the total estimated recovery. Mr. Walthour commented about the total estimated recoverable; however, the problem is how much resources are you going to throw at it to recover it. Mr. Williams asked Robert Bradley about how much of an effort and if it would be another model run. Mr. Bradley responded stated that it would be another model run with certain parameters. Bill Mullican indicated that they are asking TWDB to add another chapter to the State Water Plan. Mr. Williams indicated that it would be valuable. Mr. Coleman asked a question on the work ‘current’ as an italicized word and his understanding is that number is based on last year’s calibration and I think that number is from 2000 or 2001. Mr. Bradley responded to that is the current total estimated recoverable storage report as provided by the TWDB and not time of report. Mr. Tate asked if it was 15 years old. Mr. Bradley stated that he would have to check. Ms. Guthrie asked if they could possibly do another one. Mr. Coleman said that if you want to pay for it. Mr. Williams commented that they would surely use the model after all the effort that has gone into it. Mr. Bradley indicated about talking to TWDB staff about the model. Mr. Walthour stated that they are on a certain timeline but there can be surprises; but, as far as going back to the 2005 run, that run is done and is the official run that we got from the TWDB. Mr. Bradley stated that once ya’ll get to a proposal DFC, we are asking the consultants to give TWDB GAMs back to do a pre-run, so that there are no surprises. TWDB is asking that of all GMAs. The group took a short recess at 12:02pm.

- d. Information regarding Environmental Impacts, including impacts on spring flow and other interactions between groundwater and surface water of potential Desired Future Conditions in the major aquifers of GMA#1. {Texas Water Code §36.108(d)(4)}

No comments.

- e. Information regarding the impact of subsidence of potential Desired Future Conditions in the major aquifers of GMA#1. {Texas Water Code §36.108(d)(5)}

No comments.

- f. Information regarding the socioeconomic impacts reasonably expected to occur based on potential Desired Future Conditions in the major aquifers of GMA#1. {Texas Water Code §36.108(d)(6)}

No comments.

- g. Information regarding the feasibility of achieving the Desired Future Condition {Texas Water Code §36.108(d)(8)}

No comments.

- h. Information regarding any other information relevant to Desired Future Conditions {Texas Water Code §36.108(d)(9)}

No comments.

11. Receive, Discuss, and Consider – Consideration of Blaine Aquifer to be non-relevant for the Panhandle Groundwater Conservation District portions of the GMA#1 Joint Planning Area.

The group reconvened after a short recess at 12:20pm. Chairman Zimmer turned the meeting over to Mr. Williams and Mr. Hardcastle. Mr. Williams commented on the agenda item title, for GMA#1 to be a non-relevant aquifer, instead of PGCD. Mr. Williams and Mr. Hardcastle stated that it was important to PGCD; but, not relevant to the GMA#1 body. Chairman Zimmer stated about making a motion to change the item title. Chairman Zimmer asked Amy Crowell if she wanted to make any comments or statements. Amy Crowell discussed the Blaine Aquifer. Ms. Crowell stated that the aquifer was minimal and does not have a problem declaring the aquifer as non-relevant. Mr. Tate stated that the PGCD recommendation is to make the Blaine Aquifer non-relevant for GMA#1 purposes. Motion made by Mr. Tate to declare the Blaine Aquifer non-relevant for GMA#1 purposes, seconded by Mr. Haley. Mr. Haley stated that he feels in Hemphill County that they don't over lay any of that, we should leave that to the business to those that do or have some interest in it. Chairman Zimmer questions asked if this is the appropriate time to consider this motion. Mr. Williams indicated that he does not believe that it makes any difference. Robert Bradley stated that you could do this anytime but still have to do an explanatory report. Mr. Hardcastle wanted to make sure that they understood their Board's wishes and go ahead and get it out of the way. Motion Passed by unanimous assent.

12. **Discuss** – Each GCD in GMA #1 may provide updates on new developments in process to amend management plans and rules necessary to achieve the various adopted Desired Future Conditions.

Chairman Zimmer stated that at their last meeting, they voted to send a proposed draft to the public with 3 stakeholder meetings in March and have set a Public Hearing in April. Mr. Zimmer stated that they have amended their rules and are getting feedback from the public. Mr. Haley indicated that they have a Rules Committee in place and they are working on some rules changes; but, most are in-house clerical changes. Mr. Zimmer further added that they did vote and approve a rule change to begin charging a production fee for the PGMA's in Dallam County, \$1.00 for agriculture and \$5.00 for all other purposes per acre foot. Mr. Williams asked if this is pretty close to equating the same as a tax. Mr. Zimmer stated they went into several scenarios. Mr. Hardcastle stated they are updating their rules and some changes to the management plan and there is a hearing next week. Mr. Tate stated that they have a monthly meeting set for March 13th and will be held in Tulia. Mr. Tate further stated that they are considering the Briscoe County TCEQ recommendation with a vote set for March 13th, also will have a hearing and consider minor changes to how they accept exempt wells.

13. **Discuss and Consider** – Scheduling of the Next Meetings of the GMA#1

Kyle Ingham stated that he received several questions about the slide shows today. The slides will be on the panhandlewater.org website. Dr. Deeds stated that mid-April would be best if he gets the information soon. Next meeting date possibly: Friday, April 10th at 10:00AM.

14. **Adjournment**

Motion to adjourn by Mr. Haley, seconded by Mr. Tate. Motion passed with unanimous assent. Meeting adjourned at 12:41 pm.