

MINUTES

for the

8:00 A.M. Tuesday, December 13, 2022

**Permit Hearing on Grandfathered Use Permits and Operating Permits
and**

REGULAR BOARD MEETING

of the

BOARD OF DIRECTORS

for

NORTHERN TRINITY GROUNDWATER CONSERVATION DISTRICT

MEETING LOCATION:

Board Room located at 1100 Circle Drive, Fort Worth, TX 76119

Regular Board Meeting

All interested parties are invited to attend.

The Board may consider, discuss, and take action, including expending funds, on any of the following agenda items:

AGENDA:

1. Call to order; establish a quorum; and declare meeting open to the public; introduction of Board.

President Laughlin called the meeting to order at 8:02 A.M. A quorum was established, and the meeting was opened to the public.

Board Members present: President Laughlin
Vice President Cozart
Secretary Merritt
Director Gladbach
Director Haster

Staff Present: Corey Jones, General Manager
Hi Newby
Laura Schumacher

Ty Embrey, Attorney for the District with Lloyd Gosselink
James Muela, Attorney for the District with Lloyd Gosselink

Remote: Wade Oliver, Hydrologist-Intera, Inc.

2. **Public Comment.**

No public comment.

3. **Consent Agenda:** Each of these items is recommended by the staff, and approval thereof will be strictly on the basis of the staff's recommendations. Approval for the Consent Agenda authorizes the General Manager or his designee to implement each item in accordance with the Staff recommendations. The Consent Agenda will be approved as a block. Any Board member that has questions regarding any item on the Consent Agenda may have the item pulled and considered as a regular item on the agenda. Any items so pulled for separate discussion will be considered as the first items following approval of the Consent Agenda.

- A. Approval of minutes from the Board meeting on September 29, 2022.
- B. Approval of Current Budget Performance - Operating and Investment account statements.
- C. Payment of bills/invoices received.
- D. Reimburse the General Manager, Field Tech, and/or Office Manager for invoices/bills paid on behalf of the District.
- E.

President Laughlin called for a discussion of the Consent Agenda. No discussion.

President Laughlin called for approval of the Consent Agenda.

Vice President Cozart made the motion to accept and approve the Consent Agenda as presented.

Director Gladbach seconded the motion to accept and approve the Consent Agenda as presented.

President Laughlin called for a Board vote to accept and approve the Consent Agenda as presented. Vote was unanimous.

4. **Any items from Consent Agenda that were pulled for further discussion.**

No items were pulled from the Consent Agenda for further discussion.

President Laughlin called to recess the Regular Board Meeting; Agenda Items 5, 6, 7, 8, and 9 will be taken up at the close of the Permit Hearing. At 8:04 A.M., the Board of Directors recessed the Regular Board meeting.

Permit Hearing was Opened at 8:04 A.M.

President Laughlin called to continue the Regular Board Meeting and declared the meeting open to the public at 8:25 A.M.

5. **Consider and possibly act on regulatory matters associated with Samantha Springs, LP**

President Laughlin introduced Mabel Simpson and Joe McCombs, thanking them for attending the meeting. President asked Northern Trinity GCD Board, staff, and legal counsel to introduce themselves. Board Members, staff, and counsel introduced themselves.

President Laughlin went over a brief history of the District's creation and noted that the Board has been accommodating to well owners and respectful of private property rights while being responsive to the Texas Water Code, Ch. 36. President Laughlin requested that Ms. Simpson and Mr. McCombs speak on why they believe Samantha Springs is exempted from the rules and regulations of the Northern Trinity GCD.

President Laughlin addressed correspondence from Mabel Simpson stating that the District arbitrarily changed its rules. President Laughlin noted he disagreed with that assertion, and the Board adopted the definition of a "well" in 2010.

President Laughlin requested that Samantha Springs representatives inform the Board of the site's history.

Joe McCombs stated he started "Spring 1" in 1985, began submitting plans to TCEQ in 1994, and developed the water business in 1995.

President Laughlin invited Mabel Simpson to state her position.

Joe McCombs began with a history of the property and his inability to build on the property because of the saturated ground. After finding a buried barrel on the property, he replaced it with a concrete barrel and was able to lower the water table by opening the barrel to let the water flow from the barrel. Mr. McCombs discussed four (4) wells being drilled because of a potential sale to Coca-Cola.

GM Jones asked if plugged wells on the site have plugging reports filed with TDLR.

Mr. McCombs stated they do not have plugging reports because they were plugged by the landowner.

President Laughlin asked if any wells were required to be maintained for TCEQ monitoring.

Mr. McCombs responded that the wells are not required to be kept for TCEQ purposes, but he does sample them for nitrate levels.

President Laughlin stated that the Board is not asking for the drilled wells to be plugged or to stop operations required by TCEQ and noted that if the wells are pumping into a connected well system, and that system produces over 5,000 gallons a year, the wells are subject to the rules and regulations of the Northern Trinity GCD.

President Laughlin posed the question of when groundwater becomes a spring.

Mabel Simpson responded that groundwater becomes a spring when the water percolates to the surface.

President Laughlin concurred, stating the widespread definition of a spring is when groundwater reaches the surface, also noting water is percolating in subsurface strata.

Joe McCombs described the catchment basins as a sediment trap for the water entering the basin at 6 feet.

President Laughlin asked Mr. McCombs if the water in the catchment would reach the surface if it were to be closed in.

Mr. McCombs stated that the water would reach the surface.

Mr. McCombs asked if the Board's position was that the catchment basins are subject to metering, to which Ty Embrey stated that catchment basins constitute wells and are subject to the District's rules and regulations.

Mabel Simpson stated that the legislative intent of the enabling legislation of the NTGCD pertains to drilled wells, and the NTGCD Board modified and unilaterally changed the definition of a well to capture a spring. Ms. Simpson noted that Samantha Springs is one of six certified springs in the state.

President Laughlin enquired about the definition of a certified spring.

Mabel Simpson stated that a certified spring is a certification by TCEQ that the water percolates to the surface. She stated that none of the wells were drilled other than the monitoring wells, which TCEQ calls bores. Ms. Simpson stated that bores are required because TCEQ requires a monitoring system. She said Mr. McCombs is not producing those wells unless there "is a rise, and he needs to get rid of some things."

President Laughlin reiterated that the NTGCD adopted rules in 2010 that clearly defined a well that included artificial excavation language. Also noting the District's mission is to manage groundwater pursuant to chapter 36.

President Laughlin asked if the spring flow has decreased seasonally over the years.

Mr. McCombs stated that the flow from the two springs had not decreased seasonally, but the flow in the past was roughly 70 gallons per minute and is currently 62 to 63 gallons per minute.

Director Gladbach asked GM Jones if the District had documentation of the closed wells, to which GM Jones stated the District had not received any documentation for plugged wells.

GM Jones requested any plugging documentation for wells on site.

President Laughlin summarized the position of the District for the drilled wells:

- If the wells drilled to reach groundwater are plugged, provide proof that the wells are plugged
- If the wells/bores are operating, pursuant to TCEQ, or are pumping into a catchment, those wells must be registered with the District and complete the required water production reports
- If the wells/bores produce more than 5,000 gallons per year, they do not constitute a monitor well

President Laughlin stated the Board still has questions about the catchments and if those are springs of which Samantha Springs is catching water or if the catchments are excavated wells that capture groundwater at 6ft.

President Laughlin requested any further comments for consideration.

Joe McCombs stated that the reason for keeping the bores was additional capacity, which he calls borrowing from tomorrow. The bores can be used for a short time. This usage equates to the same total number at the end of the year.

President Laughlin asked the Board for any further comment.

President Laughlin reiterated the position of the Board that if the bores/drilled wells are producing, the Board is not requesting they be plugged, but they should be reporting production per NTGCD rules.

President Laughlin, Mabel Simpson, and Joe McCombs briefly discussed local groundwater contamination and jurisdiction.

Mabel Simpson stated she must leave the meeting. Ms. Simpson and Mr. McCombs thanked the Board.

President Laughlin thanked Mabel Simpson and Joe McCombs for coming to the meeting.

Mabel Simpson and Joe McCombs exited the meeting.

President Laughlin called for an Executive Session at 9:30 A.M. pursuant to (§551.071) concerning attorney-client matters.

Regular Board Meeting reconvened at 9:55 A.M.

President Laughlin stated for the record that Directors Thomas Haster and William Gladbach had departed the meeting, noting that the remaining Board Members, Wayne Merritt, Randy Cozart, and President Laughlin remained present, establishing a quorum.

President Laughlin called for a motion regarding a potential Show Cause Hearing related to Samantha Springs, LP.

Vice President Cozart made the motion to authorize District staff and legal counsel to move forward with a Show Cause Hearing with Samantha Springs, LP, including materials and proper notices. Secretary Merritt seconded the motion.

President called for a vote. The vote was unanimous to accept the motion.

6. G M Report

President Laughlin requested the GM to give his report to the Board.

- **Database Mapping**

GM Jones and District staff have been working with Halff and Associates to upgrade the District database map, allowing limited access to the public via the District website.

- **Grand Prairie Monitor Well**

GM Jones stated that staff had had ongoing meetings with TDLR, TWDB, and the City of Grand Prairie to coordinate the engineering of a current decommissioned city well to a continuously monitor well with the District.

- **Meeting with TDLR and TWDB for Grand Prairie Monitor Well**

GM Jones stated that the TWDB is willing to equip this well with continuous monitoring equipment. GM Jones asked the Board if they would be interested in sharing a portion of the expense of pulling the equipment, not to exceed \$1,000, using the District's monitor well budget. GM Jones stated that this is a long process, and he will bring that back to the Board for discussion later in the process.

- **Grandfathered Permit Notice**

GM Jones noted to the Board that the recently mailed Grandfathered Permit Notice can be found in their Board Packet. This notice was sent to all District fee payers and notified them of the information and deadlines associated with grandfathered use permits.

- **Monitor Well progress**

GM Jones stated that Hi Newby had purchased 7 Eno Scientific water level units. These units can be used on wells that were previously unable to monitor.

Side Note from GM: Reviewed the rain barrel giveaway. With help from Jillian North, the District sent information to owners of recently drilled wells. The email contained information about the District and its purpose.

Side Note from GM: The District has received the MAG numbers from the TWDB. GM Jones reviewed the changes in the numbers over the previously approved MAG and discussed the production figures from each layer.

7. Board Reports

No action.

8. Other Business / Setting of next meeting

President Laughlin called for an Executive Session at 10:05 A.M. pursuant to (§551.074) concerning personnel matters.

Regular Board Meeting reconvened at 10:22 A.M.

The Board discussed the next potential Board Meeting date. Possible dates were January 24, 2023, and January 31, 2023. The next Board of Directors' meeting was not set.

9. Adjourn.

The President of the Board adjourned the meeting at 10:25 A.M.

Permit Hearing

The Permit Hearing will begin upon adjournment of the above noticed Regular Board Meeting.

Notice is hereby given that the Board of Directors of the Northern Trinity Groundwater Conservation District (District) will hold a Permit Hearing and may discuss, consider, and take all necessary action

regarding the subject matters of the hearing, including but not limited to approving the application(s) listed below.

Agenda:

1. Call to order; establish a quorum; declare the meeting open to the public.

President Laughlin called the Regular Board Meeting to order, established a quorum, and opened it to the public at 8:04 A.M.

2. Review the Grandfathered Use Permit Applications of:

President Laughlin requested Corey Jones, GM, to introduce the five Grandfathered Use Permits.

Applicant: Quality Technology Services, LLC

Location of Well System: 14100 Park Vista Blvd, Fort Worth, TX 76177

Well 1-N-2016-1686 - Latitude: 32°59' 21.6" N **Longitude:** -97°15' 27.3" W

Well 2-N-2016-1687 - Latitude: 32°59' 15.5" N **Longitude:** -97°15' 26.5" W

Purpose of Use: Irrigation

Requested Amount of Use Annually: 1,518,800 gallons

Production Capacity of Wells: Well 1- 100 GPM Well 2- 70 GPM

Aquifer: Antlers

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GM reviewed the Grandfathered Use Permit for Quality Technology Services, LLC, discussed the well system configuration, and verified that the requested usage was a verified amount.

Applicant: Fidelity Real Estate Company/FMR Texas I, LLC

Location of Well: One Destiny Way, Westlake, TX 76262

N-2022-0211 - Latitude: 32° 58' 49.0" N **Longitude:** -97° 11' 37.0" W

Purpose of Use: Pond for Irrigation

Requested Amount of Use Annually: 14,760,000 gallons

Production Capacity of Well: 150 gallons per minute

Aquifer: Paluxy

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Applicant: Fidelity Real Estate Company/FMR Texas I, LLC

Location of Well: Two Destiny Way, Westlake, TX 76262

N-2018-0053 - Latitude: 32.985717° N **Longitude:** -97.189367° W

Purpose of Use: Pond for Irrigation

Requested Amount of Use Annually: 13,780,965 gallons

Production Capacity of Well: 400 gallons per minute

Aquifer: Twin Mountains

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GM reviewed the two Grandfathered Use Permits for Fidelity Real Estate Company/FMR Texas I, LLC, discussed the well completions and locations, and verified the requested usage was a verified amount.

Applicant: Stonetown Benbrook, LLC

Location of Well: 5130 Ben Day Murrin Rd, Benbrook, TX 76126

N-2018-0614 - Latitude: 32.60673° N **Longitude:** -97.53704° W

Purpose of Use: PWS

Requested Amount of Use Annually: 8,985,100 gallons

Production Capacity of Well: 100 gallons per minute

Aquifer: Twin Mountains

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Applicant: Stonetown Benbrook, LLC

Location of Well: 5130 Ben Day Murrin Rd, Benbrook, TX 76126

N-2017-085 - Latitude: 32.60972° N Longitude: -97.53777° W

Purpose of Use: PWS

Requested Amount of Use Annually: 3,115,600 gallons

Production Capacity of Well: 20 gallons per minute

Aquifer: Paluxy

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GM reviewed the two Grandfathered Use Permits for Stonetown Benbrook, LLC, locations of each well, and verified the requested usage was a verified amount.

3. Public Comment on the Grandfathered Use Permit Application(s).

No public comment.

4. Consider and act upon the Grandfathered Use Permit Application(s), including the designation of parties and/or granting or denying the Grandfathered Use Permit Application(s) in whole or in part, as applicable.

President Laughlin called for a motion.

Vice President Cozart noted General Manager's approval recommendation for the Grandfathered Permit Applications.

Vice President Cozart made the motion to approve the five (5) Grandfathered Use Permits, one (1) for Quality Technology Services, LLC, two (2) for Fidelity Real Estate Company/FMR Texas I, LLC, two (2) for Stonetown Benbrook, LLC, as presented. Director Gladbach seconded the motion.

President called for a vote. The vote was unanimous to approve the Grandfathered Use Permits.

5. Adjourn or continue Grandfathered Use Permit Application(s) hearing.

Grandfathered Use Permit hearing was adjourned at 8:11 A.M.

President Laughlin opened the Operating Permit Hearing at 8:11 A.M.

6. Review the Operating Permit Applications of:

President Laughlin requested Corey Jones, GM, to introduce the Operating Permits.

Applicant: Cummings Investment Properties, LLC

Location of Well System: 8750 Ten Mile Bridge Road, Fort Worth, TX 76135

N-2022-0298 - Latitude: 32.8621944° N Longitude: -97.46550° W

Purpose of Use: PWS

Requested Amount of Use Annually: 14,016,000 gallons

Production Capacity of Well: 80 gallons per minute

Aquifer: Twin Mountains

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GM Jones presented the Cummings Investment Properties, LLC permit. The well will be a Public Water System well supplying an RV park. The well must be screened to the Twin Mountains layer to meet spacing from neighboring Paluxy wells. The GM requested that the owners provide a copy of the geophysical log after drilling.

Applicant: The Mark at Arlington Owner, LLC
Location of Well System: 100 W. Arbrook Blvd, Arlington, TX 76014
N-2022-0275 - Latitude: 32°40' 58.07" N Longitude: -97° 6' 4.18" W
Purpose of Use: Irrigation from Pond
Requested Amount of Use Annually: 6,570,000 gallons
Production Capacity of Well: 50 gallons per minute
Aquifer: Paluxy

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GM Jones presented the Mark at Arlington Owner, LLC permit. The well will be used for irrigation out of a pond.

Applicant: City of Pelican Bay
Location of Well System: 1416 Yachtclub Dr., Pelican Bay, TX 76020
N-2022-0306 - Latitude: 32° 55' 49.9" N Longitude: -97° 31' 14.1" W
Purpose of Use: PWS
Requested Amount of Use Annually: 20,498,400 gallons
Production Capacity of Well: 39 gallons per minute
Aquifer: Twin Mountains

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GM Jones presented the City of Pelican Bay permit. The well will be a Public Water System well supplying a newly approved plat.

The GM stated that the City of Pelican Bay had been granted a variance from TCEQ to allow the city to have lower than typical requirements for GPM per connection. The added capacity will supply the newly created subdivision.

The GM requested that the owners provide a copy of the geophysical log after drilling.

Applicant: Eagle Mountain- Saginaw ISD
Location of Well System: 3451 W. Bonds Ranch Rd, Fort Worth, TX 76179
N-2022-0302 - Latitude: 32.922414° N Longitude: -97.437449° W
Purpose of Use: Irrigation from Pond
Requested Amount of Use Annually: 70,000,000 gallons
Production Capacity of Well: 200 gallons per minute
Aquifer: Twin Mountains

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GM Jones presented the Eagle Mountain-Saginaw ISD permit. The well will be used for irrigation out of a pond. The pond will be fitted with a float system, the meter will have leak detection capabilities, and the irrigation system will be equipped with rain and freeze sensors.

7. Public Comment on the Operating Permit Application(s).

No public comment.

8. Consider and act upon the Operating Permit Application(s), including the designation of parties and/or granting or denying the Operating Permit Application(s) in whole or in part, as applicable.

President Laughlin called for a motion for Cummings Investment Properties, LLC permit noting the requirement to screen to the Twin Mountains layer and submit a geophysical log to the District.

Vice President Cozart made the motion to approve the Cummings Investment Properties, LLC permit with the requirement that the well must be screened to the Twin Mountains layer and the owner must supply the District with a geophysical log of the well after completion. Director Haster seconded the motion.

President called for a vote. The vote was unanimous to approve the Operating Permit for Cummings Investment Properties, LLC.

President Laughlin called for a motion for both The Mark at Arlington Owner, LLC and Eagle Mountain-Saginaw ISD permits.

Vice President Cozart made the motion to approve both The Mark at Arlington Owner, LLC and Eagle Mountain-Saginaw ISD permits. Secretary Merritt seconded the motion.

President called for a vote. The vote was unanimous to approve the Operating Permits for The Mark at Arlington Owner, LLC, and Eagle Mountain-Saginaw ISD.

President Laughlin called for a motion for the City of Pelican Bay permit, noting the requirement to submit a geophysical log to the District.

Vice President Cozart made the motion to approve the City of Pelican Bay permit with the requirement to supply the District with a geophysical log of the well after completion. Director Gladbach seconded the motion.

9. Adjourn or continue Operating Permit Application(s) hearing.

President Laughlin adjourned the Operating Permit Hearing at 8:25 A.M.

PASSED, APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS this

9th day of February 2023.

Attest:  Secretary of NTGCD Board