

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
April 13, 2023**

Board members present at commencement: Blayne Stansberry, Dan Pickens, Lily Lucas, and Vanessa Puig-Williams. Christy Williams arrived at 5:20 p.m. Staff present included: Tim Loftus, Dana Wilson, Brian Smith, Kendall Bell-Enders, Justin Camp, Jeff Watson, Erin Swanson, Alyssa Gilbert, and Tammy Raymond. These minutes represent a summarized version of the meeting; the complete discussion of the following items is recorded digitally.

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. Call to Order.

President Stanberry called the meeting to order at 5:09 p.m., noting that a quorum of the Board was present.

2. Citizen Communications (Public Comments of a General Nature).

There were no citizen communications on items not listed on the agenda.

3. Consent Agenda.

3a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.

3b. Approval of minutes of the Board's March 9, 2023 Regular Meeting.

3c. Approval of a Master Services Contract amendment for Brian Zavala.

Director Pickens moved approval of items 3a. through 3c.

Director Lucas seconded the motion and it passed unanimously with a vote of 4 to 0.

4. General Manager's Report.
Topics

- a. Review of key team activities/projects.
 - i. Updates on:
 - 1. Database project

2. In-house Trinity model status
 3. GMA 10 RFQ
 4. Draft ILA with City of Austin for new monitoring wells
 5. Communications and Outreach – job applications and IGI activity
- ii. Other staff-related news
- b. Aquifer status update.
 - c. Upcoming events of possible interest.

Dr. Loftus and staff gave updates on the items above.

5. Public Hearing.

DC South Fork, LLC (3939 Bee Caves Road, Suite C-100) and Creedmoor-Maha Water Supply Corporation (13709 Schriber Road) filed a well drilling application on July 5, 2022, with the Barton Springs/Edwards Aquifer Conservation District (District) for one new nonexempt well. The well is proposed to be discretely completed in the Middle Trinity aquifer and is planned to be used as a public water supply well to support residents connected to the Creedmoor Maha WSC. A separate Production Permit Application will be required in order to operate and produce from this well in the future. The proposed well is located in Travis County on a 2-acre tract located at Twin Creek Park Dr (30°7'49.702" 97°49'18.017").

President Stansberry opened the Public Hearing at 5:30 p.m.

Ms. Swanson reported that the application is for a nonexempt Middle Trinity well. She said that Creedmoor holds historic and Class A Conditional Edwards Permits with the District but does not have any wells utilizing the Trinity Aquifer. The need for this request is because Creedmoor is seeing a lot of growth in that area right now and that growth is creating considerable demand on their current system's capacity. She said that the application is just for a well drilling authorization, so we do not have a lot of information other than well construction. If this well is approved and drilled and they find that the quality and quantity of the water can be utilized for their needs, they will have to do an aquifer test and submit the results to the District. At that point they can apply for a production permit. The aquifer test will have to support their request for the permit. She showed the well location on a map and said that the well will be drilled to a depth of approximately 1,500 feet. Per normal drilling protocol they will have to submit a geophysical log for our geologists to review so that we can recommend how to complete the well to meet the District's standards. Water quality samples will also be collected, and all of the data will be saved in the District's files. She ended by saying that based on everything that was submitted, staff recommends approval of the application.

Mr. Eddie McCarthy representing DC South Fork, thanked Ms. Swanson and the staff for their hard work on the application process and looks forward to working with the Board in the future.

Mr. Pickle, General Manager of Creedmoor Maha, said that he appreciates the opportunity to explore other water sources to help with the strain that they find on the system right now due to the growth in the area. He said that when he started, they had twice as much water available as the population at the time demanded. He said that people are buying acreage and building large homes,

as well as new developers building 500 to 600 homes per neighborhood, which has basically eaten up every bit of our reserves.

Director Pickens stated that we have a draft NOAV for Creedmoor for overpumping during drought conditions on the agenda and we are being asked to consider a new drilling permit. He asked why we should feel comfortable doing that.

President Stansberry said, "that's a good question". Let's close the Public Hearing and take that up on the Discussion and Possible action item, after we have discussed the NOAV.

President Stansberry closed the Public Hearing at 5:37 p.m.

6. Discussion and Possible Action.

6c. Discussion and possible action related to a Report of Investigation, Notice of Alleged Violation, and draft Agreed Order for Creedmoor Maha Water Supply Corporation.

Ms. Swanson reported that Creedmoor holds a permit for a total of just over 247 Million gallons per year, so they fall into our Tier 3 category. They become eligible for occurrences on non-compliance in the first full month of drought, and in this current drought would have been July. Once we issue the first occurrence we have a pre-enforcement meeting, then on the second occurrence we start looking at enforcement options. We first noticed that Creedmoor overpumped in November, we got that meter reading the first of December. As soon as we got that notice of overpumpage we reached out to Creedmoor's General Manager Matt Pickle and notified him of the non-compliance. We had a meeting on December 20th via Zoom. During that meeting Mr. Pickle outlined several issues, one was a major leak in November and growth in the area creating additional demand on their system, and the need to update their monthly allocation distribution chart. He also walked me through their outreach and Education efforts notifying the residents that we are in drought and how to cut back on their water use. We are currently looking at what drought stage we are currently in when the overpumpage occurs and the level of that overpumpage. The deeper stage of drought and the higher level of pumpage equals higher penalties. We looked at several factors that could allow us to adjust penalties including severity, whether the violation was willful, intentional, was it anticipated, how the permittee communicated with us, economic gain, compliance history, and any other factors that we thought could be implied to this situation. She went through each factor and determined that they complied with all of them.

President Stansberry asked Mr. Pickle how often do you have your lines evaluated for leakage?

Mr. Pickle answered that when he notices that their usage is higher than usual, he has crews that walk and drive lines looking for leaks. He said that they have an aggressive leak finding tracking software program so that when we find a leak the location goes into the software and on a monthly basis we can see if we are trending leaks on a specific line. A couple of years ago we got a loan from the TWDB, so we picked eleven of our side streets to replace the lines on and we used that tracking to choose the most troubled lines, that's part of our leak mitigation. With the development going on our major lines which are old are being replaced and upsized by the developers in order to get water to their development. We have 140 miles of pipe for roughly 2800 customers so there are

a lot fewer customers per mile unlike an urban setting. That is part of the difficulty, but it is definitely a focus. When we lose water that has not been sold that is no good for anyone.

Director Pickens asked if through the customers meters do you have some way of gauging how much the customer is using versus the volume going through the pipes, so you can identify those kinds of leaks.

Mr. Pickle answered yes, all of our entry points are metered so on a gross level we can take the total amount we pump versus the total amount we are able to meter and bill. We always bill less than what we pump due to leaks. He said that his personal goal is to keep it below a 10% total loss, we are generally below that, some months we are down to 5% and some months we have been as high as 15% if we have a big line blow out. We do have meters sitting at the different intersections of the pressure plains so that we can see where the water is moving back and forth. It could be due to someone filling up a swimming pool even though they are told not to.

Director Pickens said that this is a common problem but if you know then you can charge them more.

Mr. Pickle said that yes, we have a rate structure of eleven tiers, so we hope to drive some behavior using that.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) on items 6a. and 6c. at 5:53 p.m.

President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 6:34 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Puig-Williams made the following motion:

- I. Direct staff to issue Creedmoor Maha Water Supply Corporation (Creedmoor) a Notice Of Alleged Violation (NOAV).
- II. Include as part of the NOAV an Agreed Order for early resolution. Agreed order should provide:
 - A. Maximum penalty of \$113,600 deferred contingent on compliance with Agreed Order
 - B. Future process for penalty assessment and payment during drought including:
 - i. Determination of average daily use.
 - ii. Determination of when average daily use exceeds UDCP baseline monthly pumpage.
 - iii. Determination of total number of days each month of over pumping.

- iv. Provision for daily penalties for each day over pumping:
 - 1. \$400 during Alarm Stage
 - 2. \$800 during Critical and Exceptional Stages
- v. Provide notice of total monthly penalty by staff each month.
- vi. Payment from Creedmoor within 30 days of staff notice.

C. The Agreed Order shall also include technical requirements requiring Creedmoor to:

- i. Provide the District with Creedmoor's water rates/rate structure and explain how the rates/rate structure provide evidence of being conservation-oriented.
- ii. Meet with District staff to discuss, and if necessary, modify its existing monthly target volumes during drought for the next permit year beginning September 1, 2023.
- iii. Provide documentation of water conservation messaging/communication with its ratepayers and an accompanying explanation for how the messaging/communication is being implemented.
- iv. Provide the District documentation of the 2021 and 2022 annual water loss audit and/or water balance data, as required by the Texas Water Development Board (TWDB) of all retail public water systems with than 3,300 connections or a financial obligation to TWDB, for each year respectively. If Creedmoor has less than 3,300 service connections and is not otherwise obligated to submit annual water loss audit reports to the TWDB then the most recent 5-year report required by the TWDB of all retail public water systems shall be provided.

Director Pickens seconded the motion and it passed unanimously with a vote of 5 to 0.

6a. Discussion and possible action on a well drilling application for DC South Fork, LLC and Creedmoor-Maha Water Supply Corporation for a new nonexempt well located in the Middle Trinity Aquifer to be used as a Public Water Supply well.

Director Pickens moved approval of a well drilling application for DC South Fork LLC, and Creedmoor Maha Water Supply Corporation for a new nonexempt well located in the Middle Trinity Aquifer to be used as a Public water supply well.

Director Lucas seconded the motion and it passed unanimously with a vote of 5 to 0.

Mr. Pickle thanked the Board for the opportunity to explore other water sources.

6b. Discussion and possible action related to a legislative update by SledgeLaw Group.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 6:42 p.m.

President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 7:44 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

d. Discussion and possible action related to a Report of Investigation, Notice of Alleged Violation, and draft Agreed Order for Monarch Utilities Inc.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 7:52 p.m.

President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 7:59 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Lucas made the following motion:

- I. Direct staff to issue Monarch Utilities Inc. (Monarch) a Notice Of Alleged Violation (NOAV).
- II. Include as part of the NOAV an Agreed Order for early resolution. Agreed order should provide:
 - A. Maximum penalty of \$38,400 deferred contingent on compliance with Agreed Order
 - B. Future process for penalty assessment and payment during drought including:
 - i. Determination of average daily use.
 - ii. Determination of when average daily use exceeds UDCP baseline monthly pumpage.
 - iii. Determination of total number of days each month of over pumping.
 - iv. Provision for daily penalties for each day over pumping:
 1. \$400 during Alarm Stage
 2. \$800 during Critical and Exceptional Stages
 - v. Provide notice of total monthly penalty by staff each month.
 - vi. Payment from Monarch Utilities Inc. within 30 days of staff notice.
 - C. The Agreed Order shall also include technical requirements requiring Monarch to:
 - i. Provide the District with Monarch's water rates/rate structure and explain how the rates/rate structure provide evidence of being conservation-oriented.
 - ii. Meet with District staff to discuss, and if necessary, modify its existing monthly target volumes during drought for the next permit year beginning September 1, 2023.
 - iii. Provide documentation of water conservation messaging/communication with its ratepayers and an accompanying explanation for how the messaging/communication is being implemented.

- iv. Provide the District documentation of the 2021 and 2022 annual water loss audit and/or water balance data, as required by the Texas Water Development Board (TWDB) of all retail public water systems with than 3,300 connections or a financial obligation to TWDB, for each year respectively. If Monarch has less than 3,300 service connections and is not otherwise obligated to submit annual water loss audit reports to the TWDB then the most recent 5-year report required by the TWDB of all retail public water systems shall be provided.

Director Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

6e. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Ms. Swanson reported the following:

Tier 3 Permittees that overpumped.

Creedmoor Maha
Monarch Utilities

Tier 2 Permittees that overpumped.

Aqua Texas - Bliss Spillar (Edwards)
Marbridge Foundation
Texas Lehigh Cement Company
Grey Rock Golf Club
Aqua Texas - Bear Creek Park

Tier 1 Permittees that overpumped.

Texas Old Town
Cook Walden/Forest Oaks
Hays County Youth Athletic Association

Ms. Swanson said that she would be meeting with all of the permittees that overpumped.

6f. Discussion and possible action on a complaint against the general manager and a contract for a workplace investigation.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) and 551.074 (Personnel Matters) at 8:07 p.m.

President Stansberry stated that no final actions or decisions would be made while in Executive Session.

The Board reconvened into open session at 8:56 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Mr. Dugat stated that he reached out to six different professionals to conduct a workplace investigation and asked for an expression of interest. After consideration he recommended Attorney Geraldine Tucker.

Director Pickens moved to approve a contract with Geraldine Tucker to conduct a workplace investigation with an amount not to exceed \$25,000.

Director Williams seconded the motion and it passed unanimously with a vote of 5 to 0.

7. Directors' Reports.

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

Directors' reports were postponed due to the length of the meeting.

8. Adjournment.

With no objection, President Stansberry adjourned the meeting at 9:00 p.m.

Approved by the Board on May 11, 2023.

By: Blayne Stansberry Attest: Christy Williams
Blayne Stansberry, Board President Christy Williams, Board Secretary