

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
December 12, 2013**

Board members present at commencement: Mary Stone, Gary Franklin, Craig Smith, Bob Larsen, and Blake Dorsett. Staff present: John Dupnik, Brian Smith, Dana Wilson, Vanessa Escobar and Tammy Raymond. Bill Dugat of Bickerstaff, Heath, Delgado, and Acosta, and Kirk Holland of Holland Groundwater Management, also participated in the meeting. Also present were those on the attached sign-in sheet. These minutes represent a summarized version of the meeting; the complete discussion of the following items is recorded digitally.

1. Call to Order.

Ms. Stone called the meeting to order at 6:02 p.m., noting that a quorum of the Board was present.

2. Citizen Communications (Public Comments).

There were no comments of a general nature.

3. Routine Business.

a. **Consent Agenda** Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.

1. **Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**
2. **Approval of minutes of the Board's November 14, 2013, Regular Meeting.**
3. **Approval of the effectiveness of Directors' communications with stakeholders and constituents for the 1st Quarter FY 2014 per the collective judgment of the Board, as required by the District's Management Plan.**

Mr. Dupnik briefed the Board on the consent agenda items above.

Mr. Smith moved approval of consent agenda items 3a. 1 through 3, noting an invoice from Holland Groundwater Management in the amount of \$6000.00.

Dr. Larsen seconded the motion and it passed with a vote of 5 to 0.

3b. General Manager's Report. Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Standing Topics.

- i. Personnel matters and utilization;**
- ii. Upcoming public events of possible interest;**
- iii. Aquifer conditions and status of drought indicators.**

Mr. Dupnik and staff updated the Board and answered directors' questions on the items listed above.

4. Public Hearing (6:15 PM)

The Board will hold a Public Hearing on an application filed by Industrial Asphalt L.P., 6025 FM 967, Buda, Texas 78610, for a Historical Production Permit to withdraw an annual permitted volume not to exceed 2,000,000 gallons of groundwater from the Middle Trinity Aquifer to be used to supply water to a quarry for dust suppression.

Ms. Stone opened the Public Hearing at 6:19 p.m.

Mr. Dupnik stated that a hearing is not automatically scheduled for a permit of this volume, but felt the need to bring it before the Board considering the history of this site and the public interest on the first application.

Ms. Escobar stated that on April 15th Industrial Asphalt submitted an application for a production permit to withdraw 2,000,000 gallons from the Middle Trinity aquifer for industrial use for dust depression at the quarry. She explained that in 2006 the Board issued an Agreed Order to KDBJ who owned and operated the quarry at that time, under the Order they drilled a production well and an observation well. A production permit was never issued. In May of 2012 Industrial Asphalt purchased the quarry and filed an application requesting to withdraw 2,000,000 gallons from the observation well, and not the production well, due to the better water quality. She said that currently 100% of the water supplied for dust control is purchased and trucked in from off-site sources, and that the permit would provide more than one source of water for operational and compliance needs.

Mr. Tommy Mathews, Industrial Asphalt's Consultant, informed the Board of their intent to use the smaller volume and testing requirements as a first small step towards assessing the potential impacts of using Trinity Aquifer water for dust suppression over the recharge zone, and reiterated their desire to produce from the smaller observation well because of the better water quality.

Mr. Smith explained that he was on the Board in 2006 and the quarry endangering the Edwards Aquifer was a huge concern. He asked if there has been any evidence of any influence or pollution of the creek or to any of the aquifers.

Mr. Dupnik stated that one of the provisions of the agreed order speaks exactly to that concern.

Mr. Matthews stated that the wells have shown no measurable impact from the quarry operations on site. He went on to say that the original amount of water requested was far greater, but that they decided to take a small step in order to allow the operator and the District to collect data.

Ms. Stone asked about the dry process and asked if they would continue it.

Mr. Charles Romero of Industrial Asphalt stated that the process is working very well and that they intended to continue it.

There were no members of the public in attendance, but an email was received from Mr. Olmstead of Ruby Ranch WSC requesting additional ongoing monitoring of the Trinity water as a special condition.

Mr. Dupnik read the email into the record.

Ms. Stone closed the Public Hearing at 6:41 p.m.

5. Discussion and Possible Action.

5a. Discussion and possible action related to an application filed by Industrial Asphalt L.P., 6025 FM 967, Buda, Texas 78610, for a Historical Production Permit to withdraw an annual permitted volume not to exceed 2,000,000 gallons of groundwater from the Middle Trinity Aquifer to be used to supply water to a quarry for dust suppression.

Mr. Dupnik stated that the staff recommends approval of a production permit for a Historical Trinity Permit to withdraw an annual permitted volume of 2,000,000 gallons per year from the Middle Trinity Aquifer. He said that staff also recommended approval with the continuation of appropriate special conditions from the agreed order.

Special provisions are as follows:

General Provisions

1. Industrial Asphalt LP shall comply with and submit to the District in a timely manner copies of any and all water quality sampling plans or reports as identified in Industrial Asphalt's Texas Commission on Environmental Quality's (TCEQ) approved Water Pollution and Abatement Plan (WPAP) and shall submit to the District copies of all water quality, Storm Water Pollution Protection Plan (SWPPP) reports, including any all other related assessment reports filed with the TCEQ. All applicable reports shall be submitted to the District by August 1st of each permit term.
2. Industrial Asphalt LP shall allow District staff to enter facility property during normal business hours to investigate and inspect conditions relating, but not limited to, the withdrawal, waste, water quality, pollution, or contamination of groundwater or other acts covered by the District's Rules or Texas Water Code. For the purposes of this special

condition, reasonable notification to the owner or operator shall constitute District staff contacting a responsible individual present on the property, a representative of Industrial Asphalt LP, or an authorized agent thereof, one (1) hour prior to District staff accessing the property.

3. Prior to the initiation of a dye trace study, Industrial Asphalt LP will participate in a technical meeting with District Staff and appropriate technical stakeholders as part of a preplanning effort to discuss methods of evaluating groundwater flow paths in the vicinity of the Industrial Asphalt quarry site.
4. To ensure that Industrial Asphalt fully complies with District Rule 3-3.3, relating to subsurface pollution, and District Rule 3-3.4, relating to surface pollution, at the expense of Industrial Asphalt LP, water quality samples shall be collected from at least two (2) nearby (within a 1/2 mile) Edwards aquifer wells, one (1) up gradient and one (1) down gradient of quarry operations (preferably the same wells sampled in accordance with TCEQ WPAP sampling requirements; 58-57-204, 58-57-5JR, 58-57-1(5)K2).
 - One sample from each well shall be collected from each well prior to the application of Middle Trinity aquifer water for dust suppression. The samples should be analyzed for water quality parameters that include *nitrate-nitrogen (NO₃-N)*, *sulfates*, *fluorides*, *strontium*, *total dissolved solids*, and *total suspended solids*. The results shall be compiled and submitted within 45-days of the sampling event.
 - Subsequent samples shall be collected twice a year from each well after pumping from the Trinity has commenced. The samples should be analyzed for water quality parameters that include *nitrate-nitrogen (NO₃-N)*, *sulfates*, *fluorides*, *strontium*, *total dissolved solids*, and *total suspended solids*. The results shall be compiled and submitted by August 1st of each permit term.
 - District staff may contact Industrial Asphalt to request that an additional sample from an Edwards well be taken in the event of a significant 24hr rainfall event of 3inches or greater.

Sampling Location	Sampling Type	Sampling Interval
From one up gradient Edwards well Accompanied by BSEACD staff	Baseline Sampling of Edwards well: Prior to pumping commencing from the Trinity production well	One time sample (Before pumping has commenced and within 30-days of permit issuance)
From one down gradient Edwards well Accompanied by BSEACD staff	Baseline Sampling of Edwards well: Prior to pumping commencing from the Trinity production well	One time sample (Before pumping has commenced and within 30-days of permit issuance)
From one up gradient Edwards well	Biannual Sampling of Edwards well: After pumping has commenced from the Trinity production well	Sample should be collected biannually before 7/1 each year so that results can be analyzed prior to the District's annual review of permits.

From one down gradient Edwards well	Biannual Sampling of Edwards well: After pumping has commenced from the Trinity production well	<p>Sample should be collected biannually before 7/1 each year so that results can be analyzed prior to the District's annual review of permits.</p> <p>When possible one of these down gradients samples should be collected within 3days of a rain event of 1 inch or greater.</p>
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Provisions for Edwards Monitor Well

1. Industrial Asphalt LP shall not install a permanent mounted production pump within or at the surface of the above referenced well.
2. Industrial Asphalt LP shall not withdraw water for use inconsistent with and in amounts exceeding that which is only necessary for the sole purpose of collecting water quality samples.
3. Industrial Asphalt LP shall not modify, or seek to modify, the well for any use other than as a well to monitor Edwards Aquifer water quality for the duration of any and all Production Permits that may be active for industrial use production wells located on the same property.
4. Industrial Asphalt LP shall install, at its own expense, a multi-parameter probe capable of collecting data related to pH, conductivity, turbidity, water depth, and temperature of groundwater collected or present in the above referenced well; the multi-parameter probe shall also be capable of collecting the above referenced water quality data at an interval not less than every ten (10) minutes for use in assessing the potential up-gradient impacts of the quarry operation to the Edwards Aquifer, or other aquifer formations; Industrial Asphalt LP shall provide said data to the District upon request and in a format specified and approved by the District; the above referenced multi-parameter probe shall be in continuous operation for the duration of a Production Permit for any and all industrial use production wells located on the same property as the above referenced water quality monitoring well; Industrial Asphalt LP shall bear all responsibilities and expenses associated with the routine maintenance, replacement, or repair of the multi-parameter probe consistent with the equipment manufacturers' repair and/or calibration guidance documents; Industrial Asphalt LP shall maintain and submit upon request by the District copies of any or all calibration or repair logs.

Provisions for Trinity Production Well (former Trinity Observation Well)

1. Once the well is brought into production, the produced water shall first be blended with water in a storage tank prior to use for dust suppression.
2. At the expense of Industrial Asphalt LP, water samples shall be collected from the following locations and according to the following intervals. The Permittee is responsible for notifying the District in writing of when pumping and comingling with any other waters is initiated. The samples should be analyzed for water quality parameters that include *major ions, sulfates, fluorides, strontium, total suspended solids, total dissolved solids, alkalinity, hardness, nitrate-nitrogen(NO3-N)s, and pH*. The results shall be submitted to the District within 45-days of each sampling event.

Sampling Location	Sampling Type	Sampling Interval
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From the storage tank for hauled water Accompanied by BSEACD staff	Baseline Sampling of Storage Tank: Prior to pumping commencing and before groundwater has comingled with any water in the hauled storage tank.	One time sample (Before comingling and within 30-days of permit issuance)
From the storage tank of comingled groundwater and hauled water	Initial Sampling of Comingled Water in Storage Tank: After pumping has commenced, and after groundwater has comingled with the water in the storage tank for a period of at least 180days	One time sample (180 days after comingling has commenced)
From the storage tank of comingled groundwater and hauled water	Annual Monitoring Sampling of Comingled Water in Storage Tank: After pumping has commenced, and after groundwater has comingled with water in the storage tank.	Sample should be collected annually between the timeframe of 6/1 - 7/1 each year so that the results can be analyzed prior to the District's annual review of permits.

3. At the expense of Industrial Asphalt LP, water samples shall be collected from the following locations and according to the following intervals. The samples should be analyzed for water quality parameters that include *nitrate-nitrogen (NO3-N), sulfates, fluorides, strontium, total dissolved solids, total suspended solids, and iron*. The results shall be submitted to the District within 45-days of each sampling event.

Sampling Location	Sampling Type	Sampling Interval
From the producing Trinity well	Biannual Sampling: After pumping has commenced.	Sample should be collected biannually before 7/1 each year so that the results can be analyzed prior to the District's annual review of permits.

Provisions for Capped Trinity Production Well (original Trinity Production well)

1. Industrial Asphalt LP shall not install a permanent mounted production pump within or at the surface of the above referenced well without prior approval from the District; this well shall be properly capped. Alternatively, the well shall be made available and accessible to the District to be utilized as a Scientific Monitoring well upon request by the District.
2. Industrial Asphalt LP shall not withdraw water for use inconsistent with and in amounts exceeding that which is only necessary for the sole purpose of collecting water quality samples.

Dr. Larsen asked how long the special provisions would be enforced.

Mr. Dupnik said that there is no expiration date, but an amendment could change that.

Mr. Smith asked about the request from Ruby Ranch WSC.

Mr. Dupnik stated that it would add to the data set and thinks staff would support testing for Total Dissolved Solids, Iron, and Sulfates.

Mr. Matthews said that they would agree to the additional testing and all of the special provisions stated.

Ms. Stone asked if they come back in two years for an additional 2,000,000 how would that affect the Ruby Ranch well.

Mr. Dupnik answered that a required pump test would give us that information.

Mr. Dupnik also recommended that the permit include a special provision to reference the provisions of the 2006 Agreed Order. Mr. Dugat suggested that a provision could clarify that, in the event of a conflict or inconsistency in the provisions of the permit and the provisions of the Board's 2006 Agreed Order, the permit and special provisions prevail and supersede the 2006 Agreed Order.

After further discussion, Dr. Larsen moved approval of the application filed by Industrial Asphalt for a Historical Production Permit to withdraw up to 2,000,000 gallons of groundwater from the Middle Trinity Aquifer including all of the Special Provisions read in this meeting, the reference to the 2006 agreed order, and the additional testing of Total Dissolved Solids, Iron, and Sulfates.

Mr. Dorsett seconded the motion and it passed with a vote of 5 to 0.

5c. Presentation, discussion, and possible action related to receipt and approval of the FY 2013 Annual Financial Audit report by the District's financial auditor.

Ms. Kim McDonald of Figer and Company gave a brief presentation on the audit report and reported a "clean audit".

Ms. Stone expressed that a multi-year comparison would more fairly represent some of the reported items.

Mr. Smith moved to approve the FY 2013 Annual Financial Audit report as given by the District's financial auditor.

Mr. Franklin seconded the motion and it passed with a vote of 5 to 0.

5b. Discussion and possible action related to an application filed by Farmland Operating Company (David Trotter) for a Well Drilling Authorization application and a Historical Production Permit application to drill a new nonexempt irrigation well located at Kristi Drive, Rollingwood, Texas (legal: .6830 Acres of Lot 1, Shaw Acres) and withdraw an annual permitted volume of 750,000 gallons of groundwater from the Middle Trinity Aquifer to be used to fill a pool and irrigate a residential lot and a vegetable garden.

Ms. Escobar informed the Board of the meeting with Mr. Trotter and the agreed compromise with staff to accept the unadjusted irrigation rate for the existing residential lot, and a special

provision specifying use of the adjusted rate for the undeveloped lot, if requested under a future minor amendment.

Ms. Stone and Mr. Franklin reiterated that it is an outrageous amount of water for two people on a half acre with an additional water source.

After further discussion, Dr. Larsen moved approval of the well drilling authorization for a Multi-User well and the Historical Middle Trinity Production Permit for 490,000 gallons/year with the staff-recommended special provision.

Mr. Smith seconded the motion and it passed with a vote of 5 to 0.

5d. Discussion and possible action related to approving the FY 2013 Annual Report and submitting it to the TCEQ.

Mr. Smith moved approval the Annual Report with the inclusion of the auditor's report, and directed staff to submit it to TCEQ.

Dr. Larsen seconded the motion and it passed with a vote of 5 to 0.

5e. Discussion and possible action related to approving an interim methodology for calculating irrigation demand for residential landscape irrigation.

Mr. Dupnik presented an overview of the District's methodology for calculating irrigation demand. He informed the Board that the calculations were based on the TCEQ method used for land application of wastewater, with an adjustment for evapotranspiration (ET) to remove the skew produced from use of data from the Drought of Record years. He said that staff recommended using the adjusted ET data as the interim methodology, and seeking a third-party consultation on a methodology going forward.

Ms. Stone expressed concern on the amount of water that the District wants to give homeowners in the middle of Austin when her constituents are banned from outdoor watering, and asked if there are other things that we can consider in the calculations.

Mr. Dugat stated that the District could develop standards that the applicant has to satisfy, and the amount of water for beneficial use.

Dr. Larsen stated that we should do the study so that we have a basis for the calculation, and that he was not in favor of adopting anything on an interim basis that he has seen tonight.

Mr. Dupnik stated that the TCEQ method was well-developed and that we need direction on how to process current applications.

After further discussion, Mr. Smith moved that the Board ask staff to reset this item on a January Board meeting and bring some evidence on which the Board can make a decision on which data set is more appropriate, and that could include a consultant report and some interim rule language.

Dr. Larsen seconded the motion and it passed with a vote of 5 to 0.

5f. Discussion and possible action related to the District Habitat Conservation Plan including setting a Work Session of the Board and staff for discussions related to proposed HCP commitments.

Mr. Holland briefed the Board on the USFWS's public scoping meeting which is expected to be scheduled on 1/16/14 but has not been confirmed.

The Board set a work session to review the internally reviewed draft HCP at its regularly scheduled meeting on 1/23/14.

3b. General Manager's Report. Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

2. Special Topics. *(Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.)*

- i. **Update on Team activities and highlights**
- ii. **Update on activities related to GMA and regional water planning**
- iii. **Update on efforts to characterize the saline zone of the Edwards Aquifer**
- iv. **Update on the status of *SOS Alliance v. City of Kyle, Goodman et al., and the Barton Springs/Edwards Aquifer Conservation District***

Mr. Dupnik, staff, and Mr. Dugat updated the Board and answered directors' questions on the items listed above.

5g. Discussion and possible action related to the annual election of the officers of the BSEACD Board of Directors.

Mr. Smith nominated Mr. Franklin as Board President.

Dr. Larsen seconded the nomination and it passed with a vote 5 to 0.

Mr. Dorsett nominated Dr. Larsen as Vice President.

Mr. Smith seconded the nomination and it passed with a vote of 5 to 0.

Dr. Larsen nominated Mr. Smith as Secretary of the Board.

Mr. Dorsett seconded the nomination and it passed with a vote of 5 to 0.

The new officers are as follows:

Gary Franklin - President

Bob Larsen - Vice-President

Craig Smith - Secretary

At that time Ms. Stone stepped down as Chairman and turned over the gavel to Mr. Franklin.

3c. Directors' Reports. Note: Board Member comments in this part of the agenda cannot address any aspect of an agenda item posted elsewhere on this agenda, and no substantive discussion among the Board Members or action by the Board on these comments will be allowed in this meeting.

Individual Board Members may, on a voluntary basis, make a brief report to the entire Board on their personal involvement in activities and dialogue that are of likely interest to the rest of the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Conversations with public officials, permittees, other stakeholders, and private citizens;
- Kudos and recognition of people doing good things for groundwater management in the District;
- Concerns about specific issues or problems for groundwater management in the District.

Mr. Franklin reported the following:

Attended the SH45 SW meeting at Bowie High School
Attended a Technical meeting at TxDot

Dr. Larsen reported the following:

Attended the SH45 SW meeting at Bowie High School


Mr. Smith reported the following:


Attended a Central Texas Regional Mobility Authority meeting at TxDot

6. Adjournment.

Without objection, Mr. Franklin adjourned the meeting at 8:40 p.m.

Approved by the Board on January 9, 2014:

By: 
Gary Franklin, President

Attest: 
Craig Smith, Secretary

Quarterly Board Judgment of Effective Director Communications

(as required by the District Management Plan)

III.C.4. Objective 4. Demonstrate leadership in external communication, collaboration, coordination and joint planning with respect to groundwater and related resources.

Performance Standard 4-1: Cultivate and communicate effectively and routinely with stakeholders of all types that affect and are affected by the District's programs and policies.

Metric: Collective judgment of the Board once each quarter as to whether communications between the District and its stakeholder community, including constituents and other public officials, are providing an effective basis for District decision-making and for identifying any needed remedial actions.

Date of Meeting:

December 12, 2013

Assessing Preceding Quarter of:

FY 2014 1st Quarter

Collective Judgment:

Approved

Motion by:

Craig Smith

Second by:

Bob Jansen

Supporting documentation attached including:

- Minutes of this meeting
- Copies of Director Compensation forms for previous quarter
- Any other documentation provided by the Directors