

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

Board members present at commencement: Mary Stone, Craig Smith, Blake Dorsett and Gary Franklin. Bob Larsen was absent. Staff present: John Dupnik, Dana Wilson, Brian Smith, Kendall Bell-Enders, Vanessa Escobar and Tammy Raymond. Bill Dugat of Bickerstaff, Heath, Delgado, and Acosta and Kirk Holland of Holland Groundwater Management Consultants 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 6:00 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 August 22, 2013, Regular Meeting.**
3. **Approval of amendments to the District's Purchasing Policy.**
4. **Approval of designating Kirk Holland as a District representative for the SOAH hearing on the Hill County PGMA as a task assigned by the General Manager under the existing contract.**
5. **Approval of an amendment to the contract between the District and Kirk Holland that changes the contracting party from "W.F. (Kirk) Holland" to "Holland Groundwater Management Consultants LLC."**

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

Mr. Franklin moved approval of the consent agenda items 3a. 1 through 5 as presented by staff noting invoices from Bickerstaff in the amount of \$7265.30, Schlumberger in the amount of \$30,114.90, and USGS in the amount of \$8289.00. Also, amendments to the District's Purchasing Policy, designating Kirk Holland to be included as one of the District representative for the PGMA hearing, and a name change to Kirk Holland's contract.

Mr. Smith seconded the motion and it passed with a vote of 4 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.**

**2. Discussion related to current staff work areas and specific activities of staff teams and directors.** 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 recent activities of teams and directors;**
- ii. Update on permitting and regulatory activities;**
- iii. Update on activities related to SH 45 Southwest;**
- iv. Update on *SOS Alliance v. City of Kyle, Goodman et al., and the Barton Springs/Edwards Aquifer Conservation District*, pending in the Austin Court of Appeals.**

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

**Public Hearing (6:15 PM)**

**The Board will hold a Public Hearing on an application filed on June 26, 2013, by Ski Quest Inc., 10815 FM 1625 Austin, TX 78669, for a Well Drilling Authorization application and a Historical Production Permit application to drill a new nonexempt commercial well and withdraw an annual permitted volume of approximately 2,000,000 gallons of groundwater from the Saline Edwards Aquifer Management Zone to be used to supply water to maintain a recreational water ski lake.**

Ms. Stone opened the Public Hearing at 6:17 p.m.

Mr. Dugat gave a brief overview of permitting elements that have to be met under the Texas Water Code. These include a properly completed application, fees paid, and other applicable statutory criteria related to the proposed use. Mr. Dugat also noted that the District can propose special conditions.

Ms. Vanessa Escobar explained that the application submitted by Ski Quest is for a new historical saline Edwards production permit for 2,000,000 gallons/year of authorized groundwater withdrawals.. She said that the well is off of the recharge zone, the application is administratively complete, and that the design of the well is in line with our well construction standards. Ski Quest is a recreational commercial business that needs additional volume to the existing ski lake due to high temperatures, evaporation, and frequent drought leading to low water levels. The volume requested is based on the anticipated evaporation estimates and the needs of Ski Quest to maintain safe lake levels.

Dr. Brian Smith gave a presentation on the science of the different aquifers and the interfaces between them. He explained that the well would be located outside of the three-mile buffer zone and should not affect wells in the freshwater Edwards.

Mr. William Vaubel and Jerry Taylor, the owners of Ski Quest, stated that they need the water to supplement during drought and would welcome the District to monitor the well.

Mr. Dennis Ivy asked the Board to deny the permit for recreational use.

Mr. Dupnik stated that the District received several comments by email after the September 2<sup>nd</sup> comment period deadline.

After staff answered questions by the Board, Ms. Stone closed the Public Hearing at 6:57 p.m.

## **5. Discussion and Possible Action.**

### **5a. Discussion and possible action related to an application filed on June 26, 2013, by Ski Quest Inc., 10815 FM 1625 Austin, TX 78669 for a Well Drilling Authorization application and a Historical Production Permit application to drill a new nonexempt commercial well and withdraw an annual permitted volume of approximately 2,000,000 gallons of groundwater from the Saline Edwards Aquifer Management Zone to be used to supply water to maintain a recreational water ski lake.**

Mr. Dupnik stated that staff recommended approval of the above-referenced well drilling authorization and a Historical Saline Edwards Production Permit to withdraw an annual permitted volume of 2,000,000 gallons/year from the Saline Edwards Aquifer with the following recommended special conditions:

1. After well completion, groundwater produced from the well that is representative of the target production zone shall be sampled and analyzed for total dissolved solids

(TDS) and major ions. At least one sample shall be collected after sufficient purging from a sampling point closest to the well head and prior to commingling with any other waters. The sampling and analysis costs for the one sample will be covered by the District as part of the routine post-construction sampling.

2. At the expense of the permittee water samples shall be collected from the following locations and according to the following schedule. The permittee is responsible for notifying the District in writing of when comingling with any other waters is initiated. The samples should be analyzed for water quality parameters that include total dissolved solids and other constituents to be specified by the District based on the results of the initial sampling. The results shall be submitted to the District within 30-days of sample collection.

<b>Sampling Location</b>	<b>Sampling Schedule</b>	<b>Sampling Frequency</b>
From the freshwater ski lake	<b>Baseline Sampling:</b> Prior to pumping commencing and before groundwater has comingled with any other waters.	Once (Before comingling and within 30-days of permit issuance)
From the freshwater comingled ski lake	<b>Initial Sampling:</b> After pumping has commenced, and after groundwater has co-mingled with the freshwater ski lake for a period of 60days	Once (60 days after comingling has commenced)
From the freshwater comingled ski lake	<b>Monitor Sampling:</b> After pumping has commenced, and after groundwater has co-mingled with the freshwater ski lake for a period of 180days	Once (180 days after comingling has commenced)

3. Applicant shall submit a detailed plugging plan consistent with District rules at least 10 days prior to the date that drilling is anticipated to commence.
4. Should the groundwater produced be of such quality that would 1) constitute waste as defined in District Rules 3-3 or 2) have the potential to degrade groundwater or surface water quality or be detrimental to human health and safety as determined by the Texas Commission on Environmental Quality (TCEQ), the well shall be plugged in accordance with the submitted plugging plan within 30-days of notification provided by the District.
5. All drilling fluids and cuttings produced during drilling and well development shall be contained on-site in a manner sufficient to prevent the discharge or percolation of produced water into or adjacent to waters of the state.
6. Once the well is brought into production, the produced water shall first be blended with fresh ski lake water prior to discharge from the lake directly into waters of the state as a result of a storm event. If required by TCEQ, any discharges either from the lake or directly into or adjacent to water of the state shall be authorized in accordance with all applicable rules and statutes.

Mr. Smith stated that some people from the public viewed this application with alarm, but doesn't feel that they understood or know the facts.

After Board discussion, Mr. Franklin moved approval of the well drilling authorization and Historical Saline Edwards Production Permit request from Ski Quest to withdraw an annual permitted volume of 2,000,000 gallons/year from the Saline Edwards Aquifer with the recommended special conditions referenced above.

Mr. Dorsett seconded the motion and it passed with a vote of 4 to 0.

Ms. Stone stated that the Board would take a short break at 7:06 p.m.

The Board re-convened at 7:09 p.m

**5b. Discussion and possible action related to consideration of an agreed order with Justin Foster allowing temporary authorization for pumping for a proposed commercial use from a freshwater Edwards Aquifer well that was previously permitted for non-exempt domestic use only.**

Ms. Stone noted for the record that this item was on a previous agenda, but that the situation has changed and that the Board will not be considering the same information, but will consider the new information provided in the backup of this agenda.

Ms. Kendall Bell-Enders stated that the Foster's have come a long way since they first came to the District in April. She explained that they have hired an engineer to design and install a 100% water haul system that has been approved by TCEQ as a public water system. It will include a storage tank that holds 24,000 gallons and will be utilized until the Fosters can integrate, and develop, a rainwater collection system that can be approved by TCEQ. She said that they are requesting to pump 6,000 gallons per month for six months, which is less than a normal NDU permit, while the water haul system is being constructed. The District has confirmed that the well has been used for incidental amounts of pumping that would technically constitute a violation of District rules.

Mr. Dorsett asked the Foster's if the tank installation had been started.

Mr. Foster said that they had just received funding and would place the order on Friday.

Mrs. Foster said that they were also installing low flow fixtures, and a rainwater collection system. In fact, they would be the first small commercial public water source solely on rainwater harvesting in the area.

Mr. Dorsett asked what would happen if it's not built in six months.

Mr. Foster gave a timeline from his engineer that was well within six months.

Mr. Smith said the agenda item mentions an agreed order.

Mr. Dupnik said that typical protocol under the enforcement plan before initiating an enforcement action is to have staff bring the investigation report and staff recommendations to the Board and if the Board directs staff to, an NOAV with an early resolution offer that will lay out the elements of an agreed order is sent. He said that staff is requesting that the Board directs staff to send the NOAV with a draft agreed order to incorporate the recommended provisions, without having to come back to the Board. The recommend provisions include:

- Temporary pumping authorization for a compliance period not to exceed six (6) months.
- Interim pumping limits not to exceed 6,000 gallons/month.
- Prior to commencement of pumping under and Agreed Order, Respondent shall record and submit the initial meter reading to the District.
- Once pumping commences, Respondent shall keep accurate records and meter readings, on a monthly basis, of the amount of groundwater withdrawn.
- Meter readings must be read within two days of the end of the reporting month, and submitted to the District on or before the 5<sup>th</sup> day of the following month, even if there is zero pumpage for the time period.
- After the interim period has expired, Respondent shall cease all pumping from the well unless a Conditional Production Permit has been approved for non-exempt use.
- If a Conditional Production Permit is not issued, Mr. and Mrs. Foster shall submit quarterly meter readings to verify the cessation of pumpage.

Mr. Smith so moved.

Mr. Franklin seconded the motion.

Mr. Dugat asked who would sign the Agreed Order on behalf of the District.

Mr. Dupnik said that he would like authorization to sign it.

Mr. Smith included that into the motion by a friendly amendment.

Mr. Franklin seconded the amendment.

Ms. Stone called for a vote and the motion passed with a vote of 4 to 0.

**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 Sunset Valley Council Meeting  
 Participated in the Parks Department Conservation Effort on Davis Lane  
 Attended the TAGD Groundwater Summit  
 Attended the 2013 Texas Desal Conference

**Mr. Dorsett reported the following:**

Attended the TAGD Groundwater Summit  
 Attended the 2013 Texas Desal Conference  
 Met with Earl Burkund  
 Met with Mary Stone and John Dupnik and Hays County Commissioner  
 Attended two meetings with Bob Larsen, staff and TDS  
 Talked with the Mayor of Creedmoor by phone

**Mr. Smith reported the following:**

Attended a Hill Country Conservancy Board meeting

**Ms. Stone reported the following:**

Met with Mark Jones on water re-use issue  
 Attended the 2013 Texas Desal Conference

**5. Discussion and Possible Action**

**5c. Discussion and possible action related to the status of efforts to characterize the Edwards saline zone and the negotiation of a cooperative agreement with Texas Disposal Systems for hydrologic investigations pursuant to brackish groundwater development.**

Dr. Smith informed the Board of a recent meeting where it became apparent that TDS and the District were too far apart to agree to the language of the draft agreement approved by the Board in a previous meeting. He also informed the Board that both the District and TDS agreed to begin again by providing a simple description of the project and key objectives of importance to the respective parties. Then once agreed to, the project description and objectives would serve as a basis for a legal agreement.

No action was taken by the Board.

**5d. Discussion and possible action related to assessment of District Goals and Objectives for FY13.**

Mr. Dupnik reported that staff achieved goals 1, 3, 4, and 6, and used all due diligence toward making substantial progress on goals 2 and 5.

Mr. Smith moved that the Board finds that the District has achieved goals 1, 3, 4, and 6 of the FY 2013 goals, and made substantial progress on goals 2 and 5.

Mr. Franklin seconded the motion and it passed with a vote of 4 to 0.

**5f. Discussion and possible action related to the SOAH Hearing on the Hill Country PGMA including but not limited to progress towards developing a position statement by the prescribed deadline.**

Ms. Stone stated that the Board would adjourn into Executive Session at 7:52 p.m. under Texas Government Code 551.071 Consultation with Attorney. She stated that no actions or decisions would be made in Executive Session.

The Board re-convened into Open Session at 8:24 p.m. Ms. Stone stated that no actions or decisions were made in Executive Session.

No action was taken.

**5e. Discussion and possible action related to evaluation of the performance of the General Manager's office in FY13 including assessment of incentive compensation.**

The Board reviewed the noted progress on the FY13 objectives established for John Dupnik and Kirk Holland, as the then AGM and GM respectively.

Mr. Smith moved that the Board finds that Kirk Holland met his individual objectives in FY as General Manager in FY 2013 and should be awarded his full 7.5% incentive compensation.

Mr. Dorsett seconded the motion and it passed with a vote of 4 to 0.

Mr. Franklin moved that the Board recognizes that the current General Manager, John Dupnik, initially the Assistant GM, has met his FY 2013 goals and is to be awarded his 7.5% compensation.

**6. Adjournment.**



Without objection, Ms. Stone adjourned the meeting at 8:36 p.m.

Approved by the Board on September 26, 2013:

By: Mary Stone  
Mary Stone, President

Attest: Craig Smith  
Craig Smith, Secretary