

# Texana Groundwater Conservation District

411 N. Wells, Room 118, Edna, Texas 77957

P.O. Box 1098, Edna, Texas 77957

Phone (361) 781-0624 | Fax (361) 781-0453 | www.texanagcd.org

The meeting of the Texana Groundwater Conservation District Board of Directors convened at 411 N. Wells, Edna, Texas 77957 on Thursday, July 20, 2023, at 8:30 AM.

The following representatives of Texana Groundwater Conservation District attended the meeting:

Precinct 1:	Kenneth Koop	Absent
Precinct 2:	Michael Skalicky	Present
Precinct 3:	Clifford Born	Present
Precinct 4:	Robert Gendke Jr.	Present
At Large:	Jim Revel	Present
At Large:	Johnny Dugger	Absent
At Large:	Fredrick Woodland	Present
General Manager:	Tim Andruss	Present
Legal Counsel:	Jim Allison of Allison, Bass & Magee, LLP	Present

## Agenda Item 1: Call the meeting to order and welcome guests.

**Meeting Discussion:** Mr. Skalicky called the meeting to order at approximately 8:30 AM.

**Board Action:** None.

## Agenda Item 2: Receive public comments.

**Meeting Discussion:** Mr. Skalicky offered to accept public comment from attendees.

No comments were made at this time.

**Board Action:** None.

**Agenda Item 3: Consideration of and possible action on matters related to groundwater management including the efforts and activities of the District regarding permitting, complaints, investigations, violations, and enforcement cases associated with permitting.**

### 3.0 – Report regarding Groundwater Management

**Meeting Discussion:** Mr. Andruss explained as of July 13, 2023, staff had received 91 well registration applications (ARWs) since October 1, 2022.

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As of July 13, 2023, staff had received 26 Notices of Intent to Drill a Well (NIDWs) since October 1, 2022.

As of July 13, 2023, staff had received 5 production permit renewal requests (ARPPs) since October 1, 2022.

As of July 13, 2023, staff calculated the volume of groundwater production authorized under 144 active or approved production permits totals 164,680 acre-feet per year.

As of July 13, 2023, staff had initiated 96 permitting request cases (PRCs) since October 1, 2022.

As of July 13, 2023, staff have processed 217 groundwater production reports for calendar year 2022.

As of July 13, 2023, staff had 4 active investigations related to groundwater management (i.e., permitting).

1. INV-20141015-01 - Failure to Obtain Permit - Non-Exempt Uses from Non-Grandfathered Well - Active
2. INV-20150410-01 - Failure to Obtain Permit - Non-Exempt Uses from Non-Grandfathered Well - Active
3. INV-20160525-02 - Failure to Obtain Permit - Non-Exempt Uses from Non-Grandfathered Well - Active
4. INV-20221012.1423 - Failure to Obtain Production Permit – Active

As of July 13, 2023, staff had 2 unresolved enforcement cases violations related to groundwater management (i.e., permitting):

- Enforcement Case Violation - ECV-20230421-01 - SAENZ CANDIDO (Candido Saenz) - Failure to Report Groundwater Production CY2022 for Well - GW-00547 - Unresolved
- Enforcement Case Violation - ECV-20230421-02 - THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) - Failure to Report Groundwater Production CY2022 for Well - GW-00569 - Unresolved
- Enforcement Case Violation - ECV-20230421-07 - COMBS ALICE M (Alice Combs) - Failure to Report Groundwater Production CY2022 for Well - GW-00363 - Unresolved
- Enforcement Case Violation - ECV-20230421-08 - COMBS ALICE M (Alice Combs) - Failure to Report Groundwater Production CY2022 for Well - GW-00357 - GW-00359 - GW-00360 - GW-00361 - Unresolved

**Board Action:** None.

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## 3.0.1 – Review of Permitting Request Cases

**Meeting Discussion:** Mr. Andruss explained as of July 13, 2023, the District has initiated 11 permitting request cases (PRCs) since April 1, 2023.

As of July 13, 2023, the District has 20 permitting request cases pending.

**Board Action:** None.

## 3.1 – Groundwater Production Reporting for CY2022

**Meeting Discussion:** Mr. Andruss explained as of July 13, 2023, staff have processed 217 groundwater production reports for calendar year 2022 reporting 32,625 acre-feet of groundwater production. (TWDB estimated the volume of groundwater produced for rural domestic, livestock, mining, and rig supply exempt uses in Jackson County in Year 2020 was 1,581 acre-feet.

**Board Action:** None.

## 3.2 – Production Permit Renewals for FY2023

**Meeting Discussion:** Mr. Andruss explained on January 19, 2023, staff notified the board that the following permits were scheduled to expire in July 2023:

- OPW-20191119-01 - Morales Baptist Church
- OPW-20180618-01 - Russell Johnson
- OPW-20190429-01 - Donald Lewis Leach, Jr.
- OPW-20190315-01 - Mirage Industrial Group, LLC
- OPW-20190715-01 - Donald Lewis Leach, Jr.
- OPW-20180419-01 - Formosa Plastics Corporation, Texas
- OPW-20190124-01 - L and S Land
- OPW-20190124-02 - L and S Ellis Land

As of July 14, 2023, staff had received administratively complete application seeking the renewal of production permit scheduled to expire in July 2023:

1. PRC-20230714-01 - ARPP-20230302-01 - OPW-20180419-01 - Formosa Plastic Corporation - Pending
2. PRC-20230714-02 - ARPP-20230315-01 - OPW-20191119-01 - Morales Baptist Church - Pending
3. PRC-20230714-03 - ARPP-20230221-01 - OPW-20180618-01 - Russell Johnson - Pending
4. PRC-20230714-04 - ARPP-20230214-01 - OPW-20190429-01 - Donald Lewis Leach - Pending

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5. PRC-20230714-05 - ARPP-20230214-02 - OPW-20190715-01 - Donald Lewis Leach - Pending

On July 14, 2023, staff transmitted additional courtesy notices regarding the pending expiration of production permits to the permittees associated with OPW-20190315-01, OPW-20190124-01, and OPW-20190124-02. If administratively complete applications are submitted by the permittees prior to the permit expiration date (July 31, 2023), the associated permitting request cases will be presented to the board for consideration at the meeting scheduled for October 19, 2023.

The RULE 4.8: PERMIT RENEWAL of the Rules of the District prohibit the renewal of permits if the applicant or authorized operator a. is delinquent in paying a fee required by the district; b. is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or c. has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

**Board Action:** Mr. Born moved to authorize the general manager to issue production permit renewals for the permits associated with the following renewal requests in accordance with the Rules of the District:

1. PRC-20230714-01 - ARPP-20230302-01 - OPW-20180419-01 - Formosa Plastic Corporation - Pending
2. PRC-20230714-02 - ARPP-20230315-01 - OPW-20191119-01 - Morales Baptist Church - Pending
3. PRC-20230714-03 - ARPP-20230221-01 - OPW-20180618-01 - Russell Johnson - Pending
4. PRC-20230714-04 - ARPP-20230214-01 - OPW-20190429-01 - Donald Lewis Leach - Pending
5. PRC-20230714-05 - ARPP-20230214-02 - OPW-20190715-01 - Donald Lewis Leach - Pending

Mr. Skalicky seconded the motion. The motion passed unanimously.

### 3.3 – Permit Hearing for PRC-20230928-01 – Ranches at Mustang Creek LLC

**Meeting Discussion:** Mr. Andruss explained Mr. Darryl R. Hammond for The Ranches at Mustang Creek, LLC seeks, under permitting request case PRC-20220928-01, a historic use production permit authorizing production of groundwater for irrigation of crops and lake maintenance at rates not to exceed 2,500 gallons per minute or 945 acre-feet per year from grandfathered well GW-00569. The subject well is located on a 322.65-acre tract of land near the intersection of U.S. Highway 59 North and County Road 202 in Jackson County, Texas.

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The applications and supplemental information associated with this permitting request case are considered administratively complete and contain sufficient information to evaluate the request relative to the Rules of the District. Provided the resulting permit is properly conditioned, the operation of the existing well would satisfy the requirements as established within the Rules of the District without a waiver or variance.

The application states that the "[w]ell has been used for at least 28 years." The application indicates groundwater produced from well GW-00569 was used for irrigation of crops and maintaining water level in a lake. The volume of historic use from well GW-00569 is estimated to be 945 acre-feet per year. The volume of historic use for grass irrigation is estimated to be 933 acre-feet per year. The volume of historic use for maintaining lake levels is estimated to be 12 acre-feet per year. The application includes affidavits from Mr. Darryl R. Hammond and Mr. Karl Reckaway. The District confirmed the existence of the pond on aerial imagery dated 1/23/1996 and 4/11/2007 from Google Earth.

On October 5, 2022, the public notice related to the consideration of the permit case was completed.

As of October 18, 2022, the District had not received notice of intent to contest the permitting request.

On February 20, 2023, the District received an affidavit from affiant Karl Reckaway regarding historic use of groundwater for irrigation and pond maintenance purposes on the J-Bar Ranch. The affidavit appears to:

1. revise the annual period of time the well was historically operated for irrigation uses from "to October" to "through October",
2. specify that the well was used to "fill the pond that is located on the Property.", and
3. specify that the pond was "used for various purposes on the property."

On March 3, 2023, the District completed the process of publishing the public notice for the hearing scheduled at this meeting.

On April 13, 2023, the district requested confirmation of the boundaries of the contiguous tracts of groundwater ownership and landownership.

On April 13, 2023, Mr. Bridges of Urban Engineering provided to documents representing the boundary surveys of the tracts that comprise The Ranches at Mustang Creek Subdivision.

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On March 18, 2023, staff reviewed the submitted information and revised the associated boundary for PRC-20220928-01 and the boundaries of the boundaries of the contiguous tracts of groundwater ownership and landownership.

On March 18, 2023, staff compared the list of parcels within the boundaries associated with the PRC to the information available on the JCAD website. All of the parcels are shown to be owned by The Ranches at Mustang Creek.

On April 20, 2023, the Board passes a motion to leave the hearing open.

**Board Action:** Mr. Revel moved to close the hearing and deny the application. Mr. Skalicky seconded the motion. The motion passed with a vote of 4 to 1, with Mr. Gendke being opposed.

## 3.4 – Permit Hearing for PRC-20230321-01 – Bowers and Saha LLC

**Meeting Discussion:** Mr. Andruss explained on March 21, 2023, Mr. Kubecka submitted an application to the district seeking to amend permit AP-201203-14 on behalf of Bowers and Saha Aquaculture LLC. The application has been assigned the following identification number: AAPC-20230321-01. The application is being processed under permitting request case PRC-20230321-01.

Although the application is administratively complete (i.e., contains adequate information to evaluate the request relative to the rules of the district), staff determined that the request is logically inconsistent and therefore contested the request. The request, as specified in application AAPC-20230321-01, seeks to alter permit AP-20121203-14 by eliminating "weekly groundwater testing requirements" and "curtailment requirements". However, the permit does not contain 1) "weekly groundwater testing requirements", or 2) "curtailment requirements".

On March 24, 2023, staff notified Mr. Kubecka of the identified issues with the application and the District's intent to contest the application as submitted. The notice of intent to contest the application was sent to Bowers and Saha Aquaculture LLC by certified mail.

On March 30, 2023, the general manager reviewed the application submitted on March 29, 2023, and issued a notice of intent to contest the application.

On April 20, 2023, the Board passed a motion to:

1. designate the permitting request case contested;
2. authorize the general manager to engage and pay for services rendered by a qualified technical consultant for the review of application and

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supporting documentation for the purposes of expressing an opinion regarding the validity of the technical statements within the application and degree to which the "DiSorbo Report" and monitoring data supports technical claims by Bower and Saha; and

3. schedule a meeting for the purpose of receiving a report from the technical consultant and continue the contested case proceedings.

On May 18, 2023, Dr. Uddameri agreed to review the information provided in the amendment request (AAPC-20230329-01) and to provide a report regarding his review at the meeting. The District requested Dr. Uddameri prepare a memorandum/report documenting 1) his review the request to amend the waiver (i.e., AAPC-20230329-01), 2) his assessment of relevant reports and data gathered by the District, and 3) his expert opinion whether:

1. the reports titled Associated Permitting Applications to the report Assessment of Proposed Groundwater Production at Ekstrom Aquaculture LLC Expansion Project authored by Venkatesh Uddameri, Ph.D., P.E., and Assessment of Proposed Groundwater Production at Ekstrom Aquaculture LLC Expansion Project - Additional Simulations and Water Quality Analysis authored by Venkatesh Uddameri, Ph.D., P.E. include or represent scientifically credible evidence to support the applicant's justification for finding good cause to approve the amendment request;
2. the information provided within the AAPC includes or represents scientifically credible evidence to support the applicant's justification for finding good cause to approve the amendment request;
3. the monitoring data and pumping data submitted by the fish farm includes or represents scientifically credible evidence to support the applicant's justification for finding good cause to approve the amendment request;
4. the underlying premise of the applicant that the upper brackish zone is sufficiently isolated from the lower brackish zone to justify the authorization to transfer historic groundwater production (up to 5,884 AFY or 9,210 GPM) from the lower fresh zone to the upper brackish zone without performance criteria or performance responses associated with the lower freshwater zone;
5. the requested amendment of the waiver (as represented in the redlined, draft waiver attached to the AAPC) will or is likely to produce data that demonstrates, over the long term (i.e., over the next 30 years) in the vicinity of the fish farm, water levels in the upper brackish zone have not declined by more than 20' as compared to the initial conditions in the upper brackish zone; and
6. any recommendations regarding revisions to the requested amendment (as represented in the redlined, draft waiver attached to the AAPC) that would be appropriate if you determine that scientifically credible evidence exists to support the premise that the upper brackish zone is sufficiently

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isolated from the lower brackish zone to justify the authorization to transfer historic groundwater production from the lower fresh zone to the upper brackish zone without performance criteria or performance responses associated with the lower freshwater zone.

**Board Action:** Mr. Uddameri was not present to give his report. The board moved to pass until we get a technical review.

### **3.5 – Permit Hearing for PRC-20230620-01 – M. Skalicky**

**Meeting Discussion:** Mr. Andruss explained Mr. Michael Skalicky seeks, under permitting request case PRC-20230620-01, a production permit authorizing the production of groundwater for commercial uses at rates not to exceed 20 gallons per minute or 0.168 acre-feet per year. The subject well of the production permit will be located on a 463.58-acre tract of land near the intersection of FM 710 and FM 260 in Jackson County, Texas.

The permitting request case involves land owned by Ganado Solar and groundwater resources owned by Mr. Skalicky.

The District issued historic use protection permits VPW-20170216-07 (756 AFY) for grandfathered, non-exempt-use well GW-00351 and VPW-20170216-08 (1,332.5 AFY) for grandfathered, non-exempt-use well GW-00304. Permits VPW-20170216-07 and VPW-20170216-08 are associated with 158 acres associated with permitting request case PRC-20230620-01. A significant portion of the subject property (approximately 305 acres) is available for non-historic use production permitting.

The application and supplemental information associated with this permitting request case are considered administratively complete and contain sufficient information to evaluate the request relative to the Rules of the District.

Provided the resulting permit is properly conditioned, the operation of the proposed well would satisfy the requirements as established within the Rules of the District without a waiver or variance.

On June 28, 2023, the public notice related to the consideration of the permit case was completed.

As of July 14, 2023, the District had not received notice of intent to contest the permitting request.

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**Board Action:** Mr. Revel moved to close the permit hearing. Mr. Born seconded the motion. The motion passed unanimously.

Mr. Revel moved to:

1. cancel the permit hearing and proceed with the permitting case as an uncontested matter;
2. authorize the general manager to issue a production permit to Mr. Skalicky under application AOW-20230609-01 with the following conditions in accordance with the Rules of the District:
  1. Authorized Purpose of Use: commercial uses,
  2. Authorized Maximum Rate of Production per Minute: 20 gallons per minute,
  3. Authorized Maximum Rate of Production per Year: 0.168 acre-feet per year, and
  4. Expiration Date: July 31, 2027.

Mr. Gendke seconded the motion. The motion passed unanimously.

Mr. Skalicky abstained from the vote.

## **3.6 – Enforcement Hearing re ECV-20230421-01 – Candido Saenz – Failure to Report Groundwater Production CY2022**

**Meeting Discussion:** Mr. Andruss explained on April 20, 2023, the Board passed a motion to:

1. find that SAENZ CANDIDO (Candido Saenz) violated RULE 2.6: REPORTING REQUIREMENT RELATED TO NON-EXEMPTUSE WELLS of the Rules of the District related to well GW-00547 unless evidence to the contrary or evidence of relevant extenuating circumstances is submitted to the District;
2. authorize the General Manager to initiate an enforcement case regarding the violation;
3. set a \$100.00 penalty for the violation per RULE 9.6: Rule Enforcement of the Rules of the District; and
4. offer to settle the violation if SAENZ CANDIDO (Candido Saenz) consents to the following conditions:
  1. acknowledges the violation by June 30, 2023;
  2. pays a settlement fee of \$0.00 by June 30, 2023; and
  3. submits a administratively complete groundwater production report for calendar year 2022 by June 30, 2023.

In response to the action taken by the Board, staff recorded violation ECV-20230421-01.

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On May 2, 2023, staff attempted to provide notice of violation ECV-20230421-01 to SAENZ CANDIDO (Candido Saenz) by certified mail (CMRRR 7021 0350 0000 2790 7829).

On June 1, 2023, staff attempted to provide notice of violation ECV-20230421-01 to SAENZ CANDIDO (Candido Saenz) by certified mail (CMRRR 7021 0350 0000 2790 9007).

On July 6, 2023, staff attempted to provide notice of this enforcement hearing and intent to seek authorization to pursue enforcement of the rules by filing a civil suit against SAENZ CANDIDO (Candido Saenz) at the next regularly scheduled meeting of the board of directors to SAENZ CANDIDO (Candido Saenz) by certified mail (CMRRR 7021 0350 0000 2790 9311).

On July 14, 2023, Mr. Allison, Legal Counsel for the District, provided a draft enforcement order regarding this matter. If adopted, the order would record the finds of the board including:

1. impose penalties established by the Board,
2. cancel any permits associated with the subject well,
3. prohibit production from the subject well until a production permit were reinstated,
4. order staff to seal the subject well to prevent further production, and
5. instruct Legal Counsel to file suit if necessary to enforce the order.

**Board Action:** Enforcement hearing was open and recorded at approximately 9:22 AM.

Mr. Revel moved to close the hearing at approximately 9:31 AM. Mr. Skalicky seconded the motion. The motion passed unanimously.

Mr. Revel moved to adopt the order and assess the penalties as written. Mr. Skalicky seconded the motion. The motion passed unanimously.

### **3.7 – Enforcement Hearing re ECV-20230421-02 – The Ranches at Mustang Creek – Failure to Report Groundwater Production CY2022**

**Meeting Discussion:** Mr. Andruss explained on April 20, 2023, the Board passed a motion to:

1. find that THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) violated RULE 2.6: REPORTING REQUIREMENT RELATED TO NON-EXEMPTUSE WELLS of the Rules of the District

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- related to well GW-00569 unless evidence to the contrary or evidence of relevant extenuating circumstances is submitted to the District;
2. authorize the General Manager to initiate an enforcement case regarding the violation;
  3. set a \$100.00 penalty for the violation per RULE 9.6: Rule Enforcement of the Rules of the District; and
  4. offer to settle the violation if THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) consents to the following conditions:
    1. acknowledges the violation by June 30, 2023;
    2. pays a settlement fee of \$0.00 by June 30, 2023; and
    3. submits a administratively complete groundwater production report for calendar year 2022 by June 30, 2023.

In response to the action taken by the Board, staff recorded violation ECV-20230421-02.

On May 2, 2023, staff attempted to provide notice of violation ECV-20230421-02 to THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) by certified mail (CMRRR 7021 0350 0000 2790 7812).

On June 1, 2023, staff attempted to provide notice of violation ECV-20230421-02 to THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) by certified mail (CMRRR 7021 0350 0000 2790 9014).

On July 6, 2023, the staff attempted to provide notice of this enforcement hearing and intent to seek authorization to pursue enforcement of the rules by filing a civil suit against THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) at the next regularly scheduled meeting of the board of directors to THE RANCHES AT MUSTANG CREEK, LLC (The Ranches at Mustang Creek, LLC) by certified mail (CMRRR 7021 0350 0000 2790 9304).

On July 14, 2023, Mr. Allison, Legal Counsel for the District, provided a draft enforcement order regarding this matter. If adopted, the order would record the finds of the board including:

1. impose penalties established by the Board,
2. cancel any permits associated with the subject well,
3. prohibit production from the subject well until a production permit were reinstated,
4. order staff to seal the subject well to prevent further production, and
5. instruct Legal Counsel to file suit if necessary to enforce the order.

**Board Action:** Enforcement Hearing was opened and recorded at approximately 9:49 AM.

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Public Hearing was closed at approximately 9:51 AM.

Mr. Gendke moved to recess the hearing to review the submittal. Mr. Woodland seconded the motion. The motion passed unanimously.

## **3.8 – Enforcement Hearing re ECV-20230421-07 – Alice M. Combs – Failure to Report Groundwater Production CY2022**

**Meeting Discussion:** Mr. Andruss explained on April 20, 2023, the Board passed a motion to:

1. find that COMBS ALICE M (Alice Combs) violated RULE 2.6: REPORTING REQUIREMENT RELATED TO NON-EXEMPTUSE WELLS of the Rules of the District related to well GW-00363 unless evidence to the contrary or evidence of relevant extenuating circumstances is submitted to the District;
2. authorize the General Manager to initiate an enforcement case regarding the violation;
3. set a \$100.00 penalty for the violation per RULE 9.6: Rule Enforcement of the Rules of the District; and
4. offer to settle the violation if COMBS ALICE M (Alice Combs) consents to the following conditions:
  1. acknowledges the violation by June 30, 2023;
  2. pays a settlement fee of \$00.00 by June 30, 2023; and
  3. submits a administratively complete groundwater production report for calendar year 2022 by June 30, 2023.

In response to the action taken by the Board, staff recorded violation ECV-20230421-07.

On May 2, 2023, staff attempted to provide notice of violation ECV-20230421-07 to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 7836).

On June 1, 2023, staff attempted to provide notice of violation ECV-20230421-07 to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 9069).

On July 6, 2023, the staff attempted to provide notice of this enforcement hearing and intent to seek authorization to pursue enforcement of the rules by filing a civil suit against COMBS ALICE M (Alice Combs) at the next regularly scheduled meeting of the board of directors to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 9328).

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On July 14, 2023, Mr. Allison, Legal Counsel for the District, provided a draft enforcement order regarding this matter. If adopted, the order would record the finds of the board including:

1. impose penalties established by the Board,
2. cancel any permits associated with the subject well,
3. prohibit production from the subject well until a production permit were reinstated,
4. order staff to seal the subject well to prevent further production, and
5. instruct Legal Counsel to file suit if necessary to enforce the order.

**Board Action:** Enforcement Hearing was opened and recorded at approximately 10:00 AM.

Mr. Skalicky moved to close the hearing at approximately 10:07 AM. Mr. Woodland seconded the motion. The motion passed unanimously.

Mr. Revel moved to adopt the order and assess the penalties as written. Mr. Skalicky seconded the motion. The motion passed unanimously.

## **3.9 – Enforcement Hearing re ECV-20230421-08 – Alice M. Combs – Failure to Report Groundwater Production CY2022**

**Meeting Discussion:** Mr. Andruss explained on April 20, 2023, the Board passed a motion to:

1. find that COMBS ALICE M (Alice Combs) violated RULE 2.6: REPORTING REQUIREMENT RELATED TO NON-EXEMPTUSE WELLS of the Rules of the District related to well GW-00357, GW-00359, GW-00360, GW-00361 unless evidence to the contrary or evidence of relevant extenuating circumstances is submitted to the District;
2. authorize the General Manager to initiate an enforcement case regarding the violation;
3. set a \$250.00 penalty for the violation per RULE 9.6: Rule Enforcement of the Rules of the District; and
4. offer to settle the violation if COMBS ALICE M (Alice Combs) consents to the following conditions:
  1. acknowledges the violation by June 30, 2023;
  2. pays a settlement fee of \$20.00 by June 30, 2023; and
  3. submits a administratively complete groundwater production report for calendar year 2022 by June 30, 2023.

In response to the action taken by the Board, staff recorded violation ECV-20230421-08

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On May 2, 2023, staff attempted to provide notice of violation ECV-20230421-08 to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 7751).

On June 1, 2023, staff attempted to provide notice of violation ECV-20230421-08 to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 9052).

On July 6, 2023, the staff attempted to provide notice of this enforcement hearing and intent to seek authorization to pursue enforcement of the rules by filing a civil suit against COMBS ALICE M (Alice Combs) at the next regularly scheduled meeting of the board of directors to COMBS ALICE M (Alice Combs) by certified mail (CMRRR 7021 0350 0000 2790 9298).

On July 14, 2023, Mr. Allison, Legal Counsel for the District, provided a draft enforcement order regarding this matter. If adopted, the order would record the finds of the board including:

1. impose penalties established by the Board,
2. cancel any permits associated with the subject well,
3. prohibit production from the subject well until a production permit were reinstated,
4. order staff to seal the subject well to prevent further production, and
5. instruct Legal Counsel to file suit if necessary to enforce the order.

**Board Action:** Enforcement Hearing was opened and recorded at approximately 10:09 AM.

Mr. Skalicky moved to close the hearing at approximately 10:15 AM. Mr. Gendke seconded the motion. The motion passed unanimously.

Mr. Revel moved to adopt the order and asses the penalties as written. Mr. Born seconded the motion. The motion passed unanimously.

### **3.10 – Investigation INV-20221012.1423 related to Failures to Obtain Production Permits**

**Meeting Discussion:** Mr. Andruss explained on October 12, 2022, staff initiated an investigation to gather information regarding active utilities within Jackson County that obtain water from groundwater-based public water systems that do not have valid groundwater production permits issued by the District.

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The relevant provisions of the rules of the district associated with the investigations are:

- Item 2 of RULE 4.9: PRODUCTION RELATED VIOLATIONS of the Rules of the District states "[a] person violates these rules by producing any amount of groundwater for non-exempt uses from a well, well field, or well system without a valid production permit issued by the Board."

As of July 14, 2023, staff had an open investigation related to groundwater management associated with 9 entities that had not submitted administratively complete permitting applications. The entities are:

1. Cape Shores Subdivision/ Undine Texas LLC;
2. City of Edna;
3. City of Ganado;
4. City of La Ward;
5. Jackson County WCID 1 (Lolita);
6. Jackson County WCID 2 (Vanderbilt);
7. Jackson Electric Cooperative;
8. Tri County Point Water Systems;
9. Village Lolita;

In each instance, staff have contacted representatives of the entities to notify the entity of the permitting requirements of the District and attempted to assist the entities with submitting production permit applications since January 2023.

**Board Action:** None.

**Agenda Item 4: Consideration of and possible action on matters related to groundwater protection including complaints, investigations, violations, and enforcement cases related to groundwater contamination and waste.**

## **4.0 – Report regarding Groundwater Protection**

**Meeting Discussion:** Mr. Andruss explained as of July 14, 2023, staff had recorded 22 well inspections since October 1, 2023.

As of July 14, 2023, the District has 1 active investigation related to possible groundwater protection: INV-20220708.1129 - Confirmed Contamination of Groundwater at 629 South Well St. - Edna - Texas - 77957 - 7-Eleven - Active. On January 17, 2023, the District emailed Corbin Reyes with TCEQ to inquire about an update concerning the groundwater contamination site. Per Corbin Reyes:

"The last document I reviewed from this site was the Drinking Water Survey Report, dated 5/17/2022. The site was referred to both our Toxicology and Remediation Division Impact Evaluation Team 6/9/2022. It was assessed and

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afterwards Toxicology sent out the following notifications to private drinking water well owners in the area, dated 7/6/2022 (see attached). and requested Groundwater Monitoring Report by 9/18/2023."

As of July 14, 2023, staff had received 11 Notices of Intent to Place Casing in new wells and completed no site visits since October 1, 2022. Project PRJ-20236100.03 - Observation of Casing Placement for FY2023 (MG2:O1) - Active is no longer actively managed as notices of intent to place casing are no longer submitted to the district under the recently adopted rules of the district.

As of July 14, 2023, staff had no open enforcement cases related to groundwater protection.

**Board Action:** None.

## **Agenda Item 5: Consideration of and possible action on matters related to groundwater monitoring.**

### **5.1 – Report regarding Groundwater Monitoring**

**Meeting Discussion:** Mr. Andruss explained according to the National Integrated Drought Information System, the U.S. Drought Monitor (USDM) is updated each Thursday to show the location and intensity of drought across the country using a five-category system, from Abnormally Dry (D0) conditions to Exceptional Drought (D4). The USDM is a joint effort of the National Drought Mitigation Center, USDA, and NOAA.

The U.S. Drought Monitor (<https://www.drought.gov/states/texas/county/jackson>) indicates that 86% of Jackson County was experiencing abnormally dry conditions while 14% of Jackson County was experiencing moderate drought as of July 16, 2023.

Drought condition information related to the district and the surrounding region of Texas collected from the Water Data for Texas website (<https://www.waterdatafortexas.org/drought/>) indicates that all of Jackson County is experiencing abnormally dry or moderate drought conditions as of July 16, 2023.

**Board Action:** None.

### **5.1 – Groundwater Level Measurements for Calendar Year 2022**

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**Meeting Discussion:** Mr. Andruss explained staff have collected water level measurements from 22 wells during year 2023. The chart below compares the water levels by well over time.

Generally, the depth to water has increased from year 2022 to year 2023 while water levels in wells measured in year 2000 and year 2023 demonstrate a recovery in excess of 11 feet.

**Board Action:** None.

## 5.3 – Groundwater Monitoring near West Ranch

**Meeting Discussion:** Mr. Andruss explained on January 20, 2022, the Board authorized staff to obtain water samples from all of the previously sampled wells associated with past West Ranch monitoring efforts as well as 5 of the candidates for future monitoring at a cost not to exceed \$1,250.00. Staff scheduled the monitoring event for June 2022.

On July 12, 2022, staff collected water samples from the following wells located within West Ranch: NW-00270, NW-00383, NW-00272, GW-00180, and GW-00183.

On July 22, 2022, staff received the lab report for the samples collected from wells located on West Ranch.

Well GW-00180 appears to have exceeded the detection limit (0.900 mg/L) for total petroleum hydrocarbons for C6-C35 chains with a measurement of 1.55 mg/L. Well GW-00183 appears to have exceeded the detection limit (0.900 mg/L) for total petroleum hydrocarbons for C6-C12 chains with a measurement of 1.12 mg/L and C6-C35 chains with a measurement of 1.12 mg/L.

**Board Action:** Mr. Revel moved to instruct the General Manager to request analytical and production data from WCID2, check back records for a base line, and speak to Mr. Wickam for information on changes. Mr. Skalicky seconded the motion. The motion passed unanimously.

Mr. Gendke exited the meeting before the vote.

## 5.4 – WellIntell Service for Continuous Aquifer Monitoring

**Meeting Discussion:** Mr. Andruss explained on June 21, 2023, staff participated in a virtual meeting with representatives of WellIntel (Dawna Urlakis, Director of Business Development and Charles Dunning) in connection with project PRJ-

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20234100.03 - Continuous Water Level Monitoring for FY2023 (MG7:O1) - Active for the purposes of learning more about products (water level sensor and telemetry equipment) and services (analytics dashboard) offered by WellIntel. The WellIntel offerings could potentially improve the monitoring program of the district by 1) increasing the amount of data collected regarding water levels and water quality in terms of measurement frequency (continuous measurements versus synoptic/ad hoc measurements) with the use of the WellIntel Water Level Sensor, 2) increasing operational efficiency by reducing data processing labor and transportation costs associate with monitoring efforts (e.g., eliminate post-processing of sensor data, reducing travel cost to well sites, etc.), and 3) increasing access and use of monitoring data for assessing aquifer conditions and regulatory compliance with permitting. A two-year pilot project with 4 monitoring wells is estimated to cost \$23,500 in Year 1 and \$2,500 in Year 2 for a estimated total of \$26,000. Integration of 3rd party instruments would result in additional costs.

**Board Action:** Mr. Revel moved to authorize the general manager to budget for and execute a short-term pilot project in FY2024 with a cost not to exceed \$7,500.00. Mr. Woodland seconded the motion. The motion did not pass due to a vote of 2 yays, and 2 nays (Mr. Skalicky and Mr. Born).

## 5.5 – Intera Proposal for Update of Water Level Assessment Report

**Meeting Discussion:** Mr. Andruss explained on July 14, 2023, Dr. Young of Intera submitted a proposal to Victoria County GCD to apply geostatistical techniques to interpret measured 2022 water level in Calhoun County GCD, Refugio GCD, Texana GCD and Victoria County GCD. The proposed work will expand the analysis of measured water levels performed by Young and others (2021) [Application of Geostatistical Techniques to Quantify Changes in Water Levels] and INTERA (2022) [memorandum :Application of Geostatistical Techniques to Interpret Measured 2021 Water Levels, dated June 29, 2022] to include measured water levels in 2022.

The cost for performing the completing the work is \$15,000. The project will be fixed priced. The presentations and the memorandum will be completed by December 4, 2023. The memorandum will be similar in its content and figures to the INTERA (2022) memorandum that provided an analysis of the 2021 water level data.

The proposal will be presented to the boards of Refugio GCD, Victoria GCD, and Calhoun County GCD with a recommendation to approve the proposal and share in the costs equally at a fixed cost of \$3,750.00.

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**Board Action:** Mr. Revel moved to approve the proposal and share in the costs equally at a fixed cost of \$3,750.00. Mr. Skalicky seconded the motion. The motion passed unanimously.

## **Agenda Item 6: Consideration of and possible action on matters related to groundwater conservation.**

### **6.0 – Report regarding Groundwater Conservation**

**Meeting Discussion:** Mr. Andruss explained on April 20, 2023, the board authorized the expenditure of up to \$5,000.00 for sponsorship of field trips by 4th and 5th grade students from Jackson County to the Wetland Education Center located in the INVISTA Victoria Plant Wetland for the purposes of promoting water conservation.

On May 8, 2023, staff notified Edna ISD, Ganado ISD, Industrial ISD, and Palacios ISD of the sponsorship opportunity.

On May 23, 2023, staff notified Edna Christian Academy of the sponsorship opportunity.

As of July 14, 2023, staff had awarded a sponsorship to Palacios ISD in the amount \$700.00 for a September 2023 field trip for 93 students to Wetland Education Center located in the INVISTA Victoria Plant Wetland. Industrial ISD had expressed interest in reserving 4 field trips but failed to submit the application for funding.

**Board Action:** None.

## **Agenda Item 7: Consideration of and possible action on matters related to groundwater resource planning including Groundwater Management Area 15 Joint Planning and regional water planning.**

**Meeting Discussion:** Mr. Andruss explained the representatives of Region P met on May 15, 2023, to continue efforts to develop the 2026 Regional Water Plan. The next meeting of Region P is scheduled for July 24, 2023, at 12:00 PM at LNRA Main Office Building C 4631 FM 3131.

The representatives of Management Area 15 met on July 13, 2023, to continue their joint planning efforts. The representatives of GMA 15 1) discussed the new groundwater availability model being developed by TWDB for the central and southern portions of the Gulf Coast Aquifer, and 2) reviewed the draft request for

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proposals for technical services to GMA 15. The next meeting of GMA 15 is scheduled for October 12, 2023.

**Board Action:** None.

## **7.1 – GMA 15 By-Laws, Cost Sharing Agreement, and RFP for Technical Services.**

**Meeting Discussion:** Mr. Andruss explained the representatives of Management Area 15 met on April 13, 2023, and approved for distribution draft revisions of bylaws and a cost sharing agreement, and 5) requested VCGCD serve as the GMA 15 Administrator for the purposes of a) holding the GMA 15 Joint Planning Funds, b) soliciting proposals from qualified entities to provide technical services to GMA 15 to support the development and adoption of desired future conditions and associated explanatory report for the 4th Joint Planning Cycle, and c) negotiating terms of an agreement for consulting services from the preferred respondent(s) identified by the GMA-15 Committee Members.

As of July 10, 2023, the representatives of GMA 15 have been provided the following documents related to the 4th Joint Planning Cycle:

- GMA 15 - By-Laws of the GMA-15 Committee - Rev 20230413 - Adopted 20230413.pdf
- GMA 15 - Interlocal Agreement for Cost-Sharing - Rev 20230413a - Adopted 20230413.pdf
- VCGCD - RFP for Technical Services for GMA 15 - 20230627.pdf

The interlocal agreement related to cost-sharing specifies the funding requirements necessary to be a member of the GMA-15 Committee. Member districts located solely within GMA 15, such as RGCD, are scheduled to pay \$7,500.00 under the agreement while member districts located in groundwater management areas in addition to GMA 15 are scheduled to pay \$3,750. If all member district agree to the cost-sharing agreement, the total funding for the 4th Joint Planning Cycle in GMA 15 will be reach \$82,500.00 by January 9, 2024.

**Board Action:** Mr. Skalicky moved to accept and approve:

1. the GMA 15 - By-Laws of the GMA-15 Committee - Rev 2023041, and
2. the GMA 15 - Interlocal Agreement for Cost-Sharing - Rev 20230413a, by resolution, and
3. the VCGCD - RFP for Technical Services for GMA 15 - 20230627, as presented.

Mr. Revel seconded the motion. The motion passed unanimously.

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**Agenda Item 8: Consideration of and possible action on matters related to groundwater policy including the Management Plan of the District and the Rules of the District.**

## **8.0 – Report regarding Groundwater Policy**

**Meeting Discussion:** Mr. Andruss explained on May 17, 2023, staff submitted the management plan approved at the meeting held on April 20, 2023, to the Texas Water Development Board and other entities are required by Chapter 36.

On July 10, 2023, staff identified the following bills on the Texas Legislature Online service that contain the phrase "groundwater" and have or will become law.

1. 88(R) HB 697 - Enrolled Version - Bill Text (relating to seller's disclosures)
2. 88(R) HB 1565 - Enrolled Version - Bill Text (relating to the functions of the Texas Water Development Board and continuation and functions of the State Water Implementation Fund for Texas Advisory Committee)
3. 88(R) HB 1699 - Enrolled Version - Bill Text (relating to the authority of the Evergreen Underground Water Conservation District to impose certain fees)
4. 88(R) HB 1971 - Enrolled Version - Bill Text (relating to the procedures for acting on a permit or permit amendment application by a Previous groundwater conservation district and the disqualification of board members of groundwater conservation districts)
5. 88(R) HB 2443 - Enrolled Version - Bill Text (relating to the authority of certain persons to petition a groundwater conservation district to change certain rules)
6. 88(R) HB 3059 - Enrolled Version - Bill Text (relating to the export fee charged for the transfer of groundwater from a groundwater conservation district)
7. 88(R) HB 3278 - Enrolled Version - Bill Text (relating to the joint planning of desired future conditions in groundwater management areas)
8. 88(R) HB 3731 - Enrolled Version - Bill Text (relating to the Bandera County River Authority and Groundwater District)
9. 88(R) HB 3744 - Enrolled Version - Bill Text (relating to the regulation of water well drillers and water well pump installers)
10. 88(R) HB 4559 - Enrolled Version - Bill Text (relating to the application of statutes that classify political subdivisions according to population)
11. 88(R) SB 317 - Enrolled Version - Bill Text (relating to appellate jurisdiction of the Public Utility Commission regarding certain water or sewer service fees)
12. 88(R) SB 785 - Enrolled Version - Bill Text (relating to the ownership of and certain insurance policy provisions regarding the geothermal energy and associated resources below the surface of land)

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13. 88(R) SB 1290 - Enrolled Version - Bill Text (relating to a study of the effects of the installation, operation, removal, and disposal of solar, wind turbine, and energy storage equipment)
14. 88(R) SB 1659 - Enrolled Version - Bill Text (relating to the sunset review process and certain governmental entities subject to that process)
15. 88(R) SB 1746 - Enrolled Version - Bill Text (relating to an exemption from the requirement to obtain a permit from a groundwater conservation district for certain temporary water wells)
16. 88(R) SB 2406 - Enrolled Version - Bill Text (relating to the authority of hospitals in certain counties to drill a water well for the purpose of producing water for use in the event of an emergency or natural disaster)
17. 88(R) SB 2440 - Enrolled Version - Bill Text (relating to a requirement that certain plats for the subdivision of land include evidence of groundwater supply)
18. 88(R) SB 2592 - Enrolled Version - Bill Text (relating to the Lavaca-Navidad River Authority, following the recommendations of the Sunset Advisory Commission; altering terms of the board of directors; specifying grounds for the removal of a member of the board of directors)

Staff will review the passed legislation and coordinate with legal counsel to develop proposed rule revisions and post the required rulemaking hearing notice for the meeting scheduled for October 16, 2023.

**Board Action:** None.

**Agenda Item 9: Consideration of and possible action on matters related to administration and management including the minutes of previous meetings, the annual budget of the district, bank accounts, investments, financial reports of the district, bills and invoices of the district, management goals and objectives of the district, administrative policies, staffing, consultant agreements, interlocal cooperation agreements, and support services provided to and from other groundwater conservation districts.**

## **9.0 – Report regarding Administration and Management**

**Meeting Discussion:** Mr. Andruss explained on June 29, 2023, the new website of the District was released and made publicly available. The new website includes a feature for allowing individuals to subscribe to and unsubscribe from the District's email notification lists. The lists were originally populated with email addresses for the District's existing email lists. The new electronic mail list feature will be used to transmit public notices and other important messages to interested parties.

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The next meetings of the Board are scheduled for August 17, 2023 (Budget and Tax Rate Matters), and October 19, 2023, with each meeting to convene at 8:30 AM. Regular meetings will be rescheduled as necessary and special meeting may be scheduled to address unforeseen issues.

**Board Action:** None.

## **9.1 – Minutes of the Previous Meetings**

**Meeting Discussion:** Mr. Andruss explained the minutes for the meeting held on April 20, 2023, were sent to the board members prior to the meeting.

**Board Action:** Mr. Revel moved to accept and approve the meeting minutes for April 20, 2023, as drafted. Mr. Skalicky seconded the motion. The motion passed unanimously.

## **9.2 – Financial Reports of the District**

**Meeting Discussion:** Mr. Andruss explained the internal financial reports of the District for March 2023, April 2023, and May 2023, have been sent to the directors prior to the meeting.

**Board Action:** Mr. Born moved to accept and approve the financial reports for March 2023, April 2023, and May 2023. Mr. Skalicky seconded the motion. The motion passed unanimously.

### **9.2.1 – Financial Transaction Review**

**Meeting Discussion:** Mr. Andruss explained that there have been 27 accounts payable and 11 accounts receivable transactions since April 1, 2023, as of July 14, 2023.

**Board Action:** None.

## **9.3 – Investments of the District.**

**Meeting Discussion:** Mr. Andruss explained the investment reports for March, April, and May 2023, have been sent to the board prior to the meeting.

**Board Action:** Mr. Skalicky moved the accept the investment reports for March, April, and May 2023. Mr. Born seconded the motion. The motion passed unanimously.

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## 9.4 – Unpaid Accounts Payable.

**Meeting Discussion:** Mr. Andruss explained the District has outstanding accounts payable invoices that are not considered regular and routine for which the District has received the goods and services billed for under the invoices.

**Board Action:** Mr. Skalicky moved to authorize the general manager to pay the following items:

1. ACCTP-20230516-01 - \$1,627.13 - Allison, Bass and Magee, L.L.P Inv No. 6922
2. ACCTP-20230531-01 - \$9,266.54 - Goldman, Hunt and Notz, LLP Inv No. 713
3. ACCTP-20230706-01 - \$7,365.87 - VCGCD - District Invoice - April 2023
4. ACCTP-20230706-02 - \$7,332.93 - VCGCD - District Invoice - May 2023
5. ACCTP-20230706-03 - \$7,376.50 - VCGCD - District Invoice - June 2023

Mr. Revel seconded the motion. The motion passed unanimously.

## 9.5 – FY2024 Budget

**Meeting Discussion:** Mr. Andruss explained staff will develop and present a budget for the fiscal year ending September 30, 2024 at the meeting scheduled for August 17, 2023, that attempts to fund the operations of the District in a manner that should provide for 1) the accomplishment of the management plan goals and objectives and 2) the completion of certain projects and tasks associated with the administration of the district, groundwater conservation, groundwater management and permitting, groundwater monitoring, groundwater policy development, groundwater protection, groundwater research, and groundwater resource planning, and 3) avoid a budget deficit in Fiscal Year 2023-2024.

Staff will develop the proposed budget anticipating the continued cooperation with and support of the staff of the Victoria County Groundwater Conservation to be achieved through the approval of a revised interlocal cooperation agreement that may include an increase to the monthly fees for service less than or equal to 5%.

Staff will develop the proposed budget anticipating the commitment of the monies of the Reserve Fund in Fiscal Year 2023-2024 in accordance with the following schedule:

- Groundwater Conservation: 5%
- Groundwater Management: 10%
- Groundwater Monitoring: 25%
- Groundwater Protection: 25%
- Groundwater Research: 5%

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- Groundwater Resource Planning: 5%
- Legal Contingencies: 25%

Staff will develop the proposed budget anticipating the approval of a tax rate equal to the No-New-Revenue Tax Rate calculated by the Tax Assessor - Collector for Tax Year 2023.

**Board Action:** Mr. Revel moved to authorize the general manager to publish the required tax rate notices for the district based on the No-New-Revenue Tax Rate calculated by the Tax Assessor - Collector for Tax Year 2023. Mr. Born seconded the motion. The motion passed unanimously.

## **9.6 – Vacancy in Office of Director**

**Meeting Discussion:** Mr. Andruss explained on March 30, 2023, Mr. Dugger submitted a letter of resignation from board of directors of the Texana Groundwater Conservation District.

**Board Action:** None.

## **9.7 – Agreement with JCTAC**

**Meeting Discussion:** None.

**Board Action:** None.

**Agenda Item 10: Consideration of and possible action on matters related to legal counsel report.**

## **10.0 – Legal Counsel Report**

**Meeting Discussion:** None.

**Board Action:** None.

**Agenda Item 11: Adjourn**

## **11.0 – Adjourn Meeting**

**Meeting Discussion:** None.

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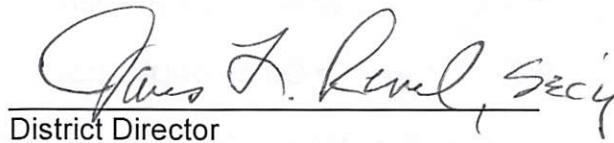
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**Board Action:** Mr. Born moved to adjourn the meeting at approximately 12:31 PM after concluding all business of the District. Mr. Skalicky seconded the motion. The motion passed unanimously.

The above and foregoing minutes were read and approved on this the 18<sup>TH</sup> day of JANUARY, 2024.

ATTEST:

  
District Director

  
District Director