

**Barton Springs/Edwards Aquifer Conservation District
Board of Directors Meeting Minutes
Regular Meeting & Public Hearing
Videoconference & In-person
January 13, 2022**

Board members present at commencement: Blayne Stansberry, Christy Williams, Lily Lucas, and Craig Smith. Dan Pickens arrived at 5:02 p.m. Staff present included: Brian Smith, Dana Wilson, Michael Redman, Erin Swanson, David Marino, Jeff Watson, and Tammy Raymond. These minutes represent a summarized version of the meeting; the complete discussion of the following items is recorded digitally.

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

1. Call to Order.

President Stansberry called the meeting to order at 5:00, noting that a quorum of the Board was present.

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

There were no public comments of a general nature.

3. Consent Agenda.

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

b. Approval of minutes of the Board's December 2, 2021 Special Called Meeting and December 9, 2021 Regular Meeting.

Director Smith moved approval of consent agenda items 3a. and 3b.

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

4. Public Hearing.

Aqua Texas – Bliss Spillar, (2611 FM 2325 Wimberley, Texas 78676) filed a Production Permit application on June 24, 2021, with the Barton Springs/Edwards Aquifer Conservation District (District) to withdraw up to 6,000,000 gallons of water annually from a new Lower Trinity well that was drilled in June 2021. The well will be used to provide water supply to

the Bliss Spillar Water Supply System. The requested pumpage volume is commensurate with an estimate of reasonable demand for the intended use and upon approval, would be required to comply with drought curtailments and provisions for a Historic Trinity Production Permit. The well is located in Hays County at Copperleaf Drive, Manchaca, TX (30°8'34.15" N 97°52'48.74"W).

President Stansberry opened the Public Hearing at 5:04 p.m.

Mr. Redman explained that the applicant stated that the well will be used as a public water supply well, to supply water to the Chaparral and Bliss Spiller systems. If approved, the well will produce 6,000,000 gallons of water from the Lower Trinity Aquifer. He also said that Aqua Texas has submitted a permit reduction application for their Middle Trinity well for the same amount; therefore, their aggregate amount will remain the same. He went on to explain the well design and casing to 1,110 ft. He said that due to the Hammett geologic formation which acts as an aquitard separating the Lower Trinity Aquifer hydraulically from shallower Aquifers, this well is not likely to affect Edwards wells. They conducted an aquifer test according to the District rules. The nearby Gragg tract wells were used as monitor wells during the test. The staff has reviewed the application and has determined that it is complete and recommends approval.

President Stansberry stated that long term data shows a decline in the Middle Trinity Aquifer and asked for more information regarding the Lower Trinity Aquifer.

Mr. Watson explained that the Lower Trinity is the deeper aquifer and we do not have nearly as much data as we do on the Middle Trinity. The Gragg Tract wells have been drilled in the Lower Trinity, but the only production permit we have now is the St. Andrews well, located to the north off of Southwest Parkway. He said that wells with the longest period-of-record in the Lower Trinity go back to 2008. This limited data shows that the Lower Trinity has different trends depending on location. Wells in Southwest Travis County and northeastern Hays County have shown downward trends, but this downward trend is not observed in other areas, suggesting that the Lower Trinity has different behavior depending on location. The wells that we are looking at today are far away from the available Lower Trinity monitoring wells, and show a very different chemistry, transmissivity, and storativity. Because of this, the available monitoring well data are not necessarily representative of Lower Trinity conditions at this new location. Data from the aquifer tests that were conducted on the Gragg tract, and this well proves that this aquifer will produce significant volumes of water.

President Stansberry asked about the recharge in the Lower Trinity.

Mr. Watson said that we know relatively very little about the recharge but given that it is the deepest aquifer you would think that it would receive less than the overlying units. The Lower Trinity shows fresher water than the Middle Trinity which may be an indicator that it has a different recharge source than the overlying Middle Trinity Aquifer.

President Stansberry said that 6,000,000 gallons a year seems like a lot of water but that it's not a lot, is that correct?

Mr. Watson answered yes, it is not a lot of water.

Dr. Smith explained as a comparison, that an exempt well which we cannot regulate is allowed to pump 10,000 gallons of water a day, so two exempt wells would pump 7,000,000 gallons of water annually.

Director Pickens asked, in determining recharge do we do any carbon dating on the water to see how old it is?

Mr. Watson answered yes, we have conducted carbon dating and other tests on one of the Gragg Tract wells and the data suggested that the water is very old.

Director Pickens asked how that impacts our assessment of recharge?

Mr. Watson answered that it is hard to say, but just because the water is old does not mean that it does not get recharged. The water may be traveling underground very slowly for a long period of time and may not respond to short-term rainfall events like we see in the Wimberley area. However, on longer timescales, the Lower Trinity could still respond to seasonal changes in surface hydrology and longer-term dry periods or wet periods.

President Stansberry stated that presumably the Gragg Tract wells will have a permit request for water, how will this Bliss Spiller well further our knowledge and understanding of this aquifer?

Mr. Watson answered that there has been no production from wells in this area and monitoring this new well could provide valuable data on how the Lower Trinity water levels respond to longer-term pumping.

President Stansberry asked if Aqua Texas would be willing to give the District staff permission to monitor the well data.

Mr. Brent Rhee of Aqua Texas stated that yes, they would be willing to put in a transducer and work with the District in any way that they can.

Director Smith said that our agenda packet contains several letters protesting this well, what is the District's response to these people's objections.

Mr. Redman said that there were a lot of questions of whether this well would impact their wells. He said that he explained that this well will be sealed off from the Edwards and would not impact their wells. He also provided a stratigraphic column to demonstrate which aquifer this new well is completed in relative to the Edwards.

After further discussion, President Stansberry called for public comments.

Ms. Aedin Meagher stated that her first request as a potentially impacted well owner, is to ask for the Board to delay a decision for 30 days to give more time to evaluate the impact to her well. She said that she did submit a letter to Mr. Redman, and he was helpful in giving some information back. She said that as far as the letter that she received, it was a poor level of communication. It was not on letterhead, not signed, and was very vague. It contained information that a person who is not a

geologist could understand. She requested that the letter be submitted to each of the Board members so that it could be brought to their attention.

Mr. Bill Bunch, Executive Director of Save of Our Springs Alliance, thanked the Board for their service to the District. He said that they did receive notice on this application, but due to the holidays they did not file comments. He spoke to Ms. Meagher and her neighbors and agreed to look into this situation if the Board would grant more time. He also requested that in the future, permit notices not be sent out during holidays when they could be overlooked.

Director Williams questioned the notice requirements and timelines.

Mr. Rhee stated that they followed the District's rules and recommendations given by Mr. Redman.

President Stansberry closed the public hearing at 6:02 p.m.

5. Discussion and possible action,

5a. Discussion and possible action related to the application filed by Aqua Texas – Bliss Spiller for a Historic Trinity Production Permit to withdraw up to 6,000,000 gallons of water annually from a new Lower Trinity well as discussed in the Public Hearing.

President Stansberry stated that a postponement of 30 days is relevant and needed with the timing of the notice and the holidays.

Director Smith also agreed that a postponement is called for.

Director Smith moved to postpone action for at least 30 days and put it on a subsequent agenda.

Mr. Dugat stated that a date should be set to receive additional comments from the people who provided written comments by the deadline.

Director Smith amended his motion to postpone action tonight and re-set the item on our agenda for February 10th, and that those who previously filed timely comments or appeared tonight, be given until seven days before the next meeting which is February 3rd to supplement their comments.

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

5b. Discussion and possible action related to a Report of Investigation, Notice of Alleged Violation, and Draft Agreed Order for initiation and resolving enforcement proceedings concerning Aqua Texas -Bliss Spillar noncompliance with its permit and District Drought Rules.

Mr. Redman gave a chronology of events leading up to the Notice of Alleged Violation (NOAV).

He stated that the District has recorded violations of the following District rules:

- 3-1.11 Violation of permit term including pumping amounts in excess of authorized withdrawal punishable by civil penalties as provided by the Act and these Rules.
- 3-7.5 Implement User Drought Contingency Plans (UDCPs) consistent with these Rules.
- 3-7.6 Achieve individual monthly (prorate for partial months) target pumpage volumes for each drought stage by reducing established monthly baseline pumpage.

Mr. Redman then stated the following Compliance Requirements on updating UDCP documentation for their Bliss Spiller permits as follows:

- Provide proof of monthly leak detection
- Provide to the District photo proof of drought sign or posters
- Provide direct mailings of drought stage to customers
- Provide customers water use analysis
- Issue warnings to customers with excessive water use

Aqua Texas has agreed to and signed the UDCP Special Conditions and agreed to put the District on their alert system. He stated that the staff recommendation was to reduce the penalty by 75% equal to \$3919, forgo the NOAV and Agreed Order, defer the reduced penalty until the permittee has a first occurrence of non-compliance during the next District declared drought. Pre-enforcement for a future drought non-compliance offense will be waived and the District will immediately seek penalties per rules and regulations. At the November 18, 2021 Board meeting, President Stansberry appointed a two-director committee to work with the staff on this matter.

The Board Committee recommended the following:

1. Direct staff to issue the NOAV and a proposed Agreed Order.
2. The Agreed Order, with a term of five years, would provide:
 1. A penalty of \$15,675 that is fully deferred if Aqua Texas complies with the Order and its UDCP.
 2. Technical requirements relating to the UDCP, which are the same as the requirements described above, that have been agreed to by the staff and Aqua Texas in its pending application.
 3. Aqua Texas must obtain a \$15,675 bond to guarantee payment in the event the terms of the Agreed Order are violated, and Aqua Texas fails to timely pay the \$15,675 deferred penalty.

President Stansberry thanked Mr. Redman for the presentation. She stated that this is the first time that Aqua Texas is seeing this recommendation and asked for a response from the applicant.

Mr. Rhee said that since this is the first time seeing the calculations, he will have to send the information to his president.

Mr. Dugat explained that staff will send all of the documentation to Aqua Texas giving them 30 days to reach a solution. If Aqua Texas agrees to the proposed Agreed Order it would be an early resolution. If the staff and Aqua Texas cannot come to an agreement, then it will go to a hearing. He added that 30 days falls after the next Board meeting pushing it to March.

Mr. Rhee stated that he believes that an agreement can be made in 30 days.

Director Pickens moved to accept the Board Committee's recommendation.

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

5c. Discussion and possible action on Initial Assessment regarding whether redistricting is required considering the new 2020 census data; and, if so, consider adoption of criteria to apply to development of new districting plans, and guidelines for public participation in the redistricting process.

Mr. Dugat gave a presentation on redistricting that is needed due to data from the 2020 census. In the presentation he explained the following:

- Federal Redistricting Legal Principles
- Provided state law and background information
- Reviewed demographic maps and charts
- Explained redistricting steps
- Identified timing of the project

He said that the next steps would be to prepare illustrative plans for review with the Board, review those plans, and determine the public comment process. He ended with saying that the Board would typically start with adopting the two resolutions included in the backup.

President Stansberry stated that they will take up 5d., then come back to 5c.

5d. Discussion and possible action on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the General Manager.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) and 551.074 (Personnel Matters) at 7:05 p.m.

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

The Board reconvened into open session at 7:15 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Directors Pickens moved that the Board President extend an offer to Tim Loftus for the General Manager position.

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

5c. Discussion and possible action on Initial Assessment regarding whether redistricting is required considering the new 2020 census data; and, if so, consider adoption of criteria to apply to development of new districting plans, and guidelines for public participation in the redistricting process.

President Stansberry stated that the Board would meet in Executive Session as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney) at 7:17 p.m.

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

The Board reconvened into open session at 7:52 p.m. President Stansberry stated that no final actions or decisions were made while in Executive Session.

Director Williams left the meeting during Executive Session at 7:30 p.m.

Director Smith moved approval of Resolutions #01132022-01 and 01132022-02.

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

5e. Discussion and possible action on an Agreement between the District and Wimberley Valley Watershed Association for access to drill and complete a groundwater monitor well and to conduct groundwater monitoring.

Dr. Brian Smith gave a presentation on a collaboration with Hays County, and Hays Trinity Groundwater Conservation District for the installation of two monitor wells. He explained that the agreed location for the wells would be close to Jacob's well located within the Wimberley Valley Watershed. He said that he is seeking approval of an agreement for access to drill and complete a monitor well and to conduct groundwater monitoring between the District and Wimberley Valley Watershed Association.

Director Smith moved approval of the Agreement between the District and Wimberley Valley Watershed Association for access to drill and complete a groundwater monitor well and to conduct groundwater modeling.

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

6. General Manager's Report.

Topics

- a. Review of Status Report and update on team activities/projects.**
- b. Update on development projects over the recharge zone.**
- c. Aquifer status update.**
- d. Upcoming events of possible interest.**

Staff gave updates on the items above.

7. Directors' Reports.

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

Meetings and conferences attended or that will be attended;

- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

Board members that had outside and Zoom meetings gave reports.

8. Adjournment.

With no objection, President Stansberry adjourned the meeting at 8:23 p.m.

Approved by the Board on February 10, 2022

By: Blayne Stansberry
Blayne Stansberry, Board President

Attest: Christy Williams
Christy Williams, Board Secretary