

Minutes
Wintergarden Groundwater Conservation District
Board of Directors Meeting and Final Public Hearing on Permit Application
March 12, 2025

The Wintergarden Groundwater Conservation District (the "District") held a regular board of directors meeting that included a Final Public Hearing on Permit Application on Wednesday, March 12, 2025, at 12:00 p.m. at the District Office, 2881 Hwy. 277, Carrizo Springs, Texas.

1. President Bill Martin called the meeting to order at 12:03 p.m.
2. Directors present were President Martin; Secretary Chris Meyer; Director Martin Kruger; Director Travis Evins; Director Von Box; and Director Ed Ritchie. Vice-President J.R. Ramirez was absent. Staff present were General Manager Debbie Farmer and Field Technician Paula VanCleve. Peter Gregg, legal counsel for the District, and Dr. Ron Green, technical consultant for the District were present. Kristen Fancher, legal counsel for the Board, participated via telephone. Others present were Diana Nichols of Kelly Hart & Hallman, LLP; Mike Gershon and Jake Steen of Lloyd Gosslink, Attorneys-at-Law, legal counsel for SP Silica of Carrizo; Marisa Perales of Perales, Allmon & Ice, P.C., legal counsel for Brian and Tracy Marbury; Jo Jon Brown; Buck Benson of Barton Benson & Jones, PLLC; James Tullis; Gary and Beverly Box; Charles W. Wilson, Jr.; Jeffrey Grissom; and Cline Speer.
3. Public Comment: There was no public comment. President Martin stated that public comment could be made at the time an agenda item is addressed, but without debate.

President Martin recessed the regular meeting at 12:06 p.m.

- a. ***Final Public Hearing was convened at 12:07 p.m.*** President Martin called to order the Final Public Hearing on consideration of a Final Proposal for Decision on consideration of State Office of Administrative Hearing (SOAH) Docket No. 900-24-04051.WGCD – Application of SP Silica of Carrizo, LLC, 3693 FM 186, Carrizo Springs, Texas 78834; location of proposed well 28.481050 degrees north latitude, -99.888371 degrees west longitude in Dimmit County.
- b. Closing arguments were presented as follows:
Michael Gershon, on behalf of applicant, SP Silica of Carrizo, requested 3 min. to address the Board and 2 minutes to readdress the Board after other parties' comments. Jake Steen, on behalf of applicant, presented to the Board written "SP Silica of Carrizo, LLC's Closing Arguments." Mr. Gershon represented that the Application for a Water Well Production Permit as recommended in the Administrative Law Judge's Proposal for Decision be approved.

Marisa Perales, on behalf of the Marbury party, requested that the Board either deny the application or issue a continuance of their decision to consider findings made during the CMWW Partners' SOAH Hearing in order to consider all production requested to be used by SP Silica of Carrizo and CMWW Partners.

Mr. Gershon readdressed the Board stating that the only thing relevant today is SP Silica's application for 274 acre-feet of water. He stated that a continuance was inappropriate and the application should be approved.

President Martin recessed the Public Hearing to enter into Executive Session at 12:27 p.m. for the purpose of a private consultation with the Board's attorney on any and all subjects or matter authorized by law pursuant to Texas Government Code §551.071.

President Martin reconvened the Public Hearing at 1:08 p.m.

- c. President Martin asked the Board for action on consideration of the application by SP Silica of Carrizo. Director Box made a motion to approve the application as presented in the SOAH Proposal for Decision. Director Evins seconded the motion and the motion passed unanimously.*
- d. President Martin asked the Board for action on consideration of cost apportionment among the parties related to the SOAH Hearing costs of the evidentiary hearing as invoiced to the District. Director Evins made a motion to split the cost 50% to the Applicant, 30% to the District, and 20% to the protestants. Director Ritchie seconded the motion. Voting for the motion were Director Evins, Director Ritchie, and Director Box. Opposing the motion was Secretary Meyer, Director Kruger, and President Martin. President Martin stated that this item would be considered in a future meeting.*

Peter Gregg requested clarification from Ms. Fancher on the discussion leading up to the decision on the PFD if the payment is a prerequisite to the Order. Ms. Fancher stated that the Board would not consider payment as a prerequisite to the issuance of the permit.

Mr. Gershon asked if the General Manager would be providing a production permit to the applicant. Ms. Fancher stated that the Final Order would be issued with instructions on issuing the permit.

- e. President Martin adjourned the Public Hearing at 1:16 p.m.*

President Martin reconvened the regular meeting at 1:16 p.m.

- 4. The minutes of the February 12, 2025 meeting were reviewed. Director Kruger made a motion to approve the minutes as reviewed. Director Evins seconded the motion and the motion passed unanimously.*
- 5. The Bills for Payment and Financial Statements for all accounts for the month of February 2025 were reviewed. Director Kruger made a motion to approve the bills for payment and financial statements as reviewed. Secretary Meyer seconded the motion and the motion passed unanimously.*
- 6. GM Farmer presented the February 2025 Manager's Report.*
- 7. Director Ritchie nominated Director Evins as Treasurer for the Board. Director Box seconded the motion with the recommendation that he accept it after approving an audit. Motion to nominate Director Evins as Treasurer passed unanimously.*
- 8. **President Martin recessed the regular meeting at 1:27 p.m. to go into Executive Session to receive legal advice from its attorney and to discuss contemplated litigation, and/or settlement offers, as permitted by Section 551.071 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.***

President Martin reconvened regular meeting at 1:56 p.m. with no action from Executive Session.

9. The compliance issue relating to Atlas Petroleum Company relating to its ownership or operation of groundwater wells in Dimmit County was discussed by Buck Benson, legal counsel for Atlas Petroleum Company. Mr. Benson stated that he will assist Atlas Petroleum to get all wells in compliance with the District rules, and he asked that the Board not take enforcement action. President Martin asked if Atlas Petroleum will voluntarily cease operation, and Mr. Benson responded, "We can do that, sir." Director Evins asked if the applications will be filed with the District within 30 days, and Mr. Benson responded they would be filed in that timeframe. President Martin gave GM Farmer a directive to work with Mr. Benson to get the applications in place.
10. Regarding District Rule 16.3 that states that costs can be assessed to parties associated with a SOAH hearing. Secretary Meyer made a motion to table the item. Director Kruger seconded the motion and the motion passed with Director Evins and Director Box opposing the motion. Secretary Meyer, Director Kruger, President Martin, and Director Ritchie voted for the motion.
11. Ron Green addressed the Board regarding public comments submitted to Groundwater Management Area 13's (GMA 13's) Groundwater Availability Model (GAM) noting concerns in the recalibrated GAM.

Secretary Meyer stated that if you take all wells drilled within the District and, if the pump rate is not known for a well, give these wells a pump rate to be used in the model rather than "ghost wells".

Dr. Green noted that Dr. Hutchison was never asked to re-conceptualize the GMA model, but to recalibrate the model. He noted that ghost wells are considered in areas where there is evidence of pumping.

Director Evins asked, if they put all wells drilled in the model. Dr. Green explained that the location of the ghost well is a secondary impact compared to not knowing the amount of water being pumped. Because our aquifer is a uniform aquifer, the quantity is the important impact.

12. Dr. Green updated the Board on the Westwind Ranch Recharge Class V AR Project. Information was supplied to the Texas Commission on Environmental Quality (TCEQ) for the amendment process on 2/28/25.

Secretary Meyer gave a brief history of the Westwind Recharge project.

13. A discussion was held on whether to conduct virtual meetings. No action was taken.
14. GM Farmer discussed quotes received to add audio/visual capabilities to the District. Director Evins made a motion to table the item, and Director Kruger seconded the motion. The motion passed unanimously.
15. Discussion was held regarding hiring one (1) additional staff member. GM Farmer discussed the need to digitize the well registration and permit files, and she summarized information received from Richard Dockery with Tierra Title on performing the

scanning/digitizing the files for the District. GM Farmer also noted other duties that could be performed by an additional staff member and what could be offered to the proposed staff member. Director Box and Secretary Meyer discussed the different needs of the District. President Martin asked GM Farmer to visit with Mr. Dockery again. Director Evins made a motion to table the item and Director Box seconded the motion. The motion passed unanimously.

16. There was a discussion on whether to purchase iPads for director use. There was no action.
17. A discussion was held regarding purchasing additional filing cabinets. One used filing cabinet was located at Desk Galore for \$350. Director Meyer made a motion to table the agenda item, and Director Kruger seconded the motion. Motion to table passed unanimously.
18. Other Business: Director Box discussed SOAH hearings and evaluating removing this from the District rules. Peter Gregg discussed hearings with judges receiving evidence and evaluating the evidence against the applicable law. This allows parties to put all evidence forward. If conducted before the Board, an attorney would assist the Board in hearing and evaluating the evidence. If you have a third-party hearings examiner, the cost could be about the same. Director Evins asked if the time to complete a hearing with an examiner be quicker than going through SOAH. Mr. Gregg stated it could be about one-half the time. Most hearings are conducted either before the Board or SOAH than third-party hearings examiners.

Visitor Gary Box made statements regarding the different hearing options. Other directors and visitors engaged in an informal discussion regarding groundwater, delay in receiving permits, not registering/permitting water wells, and related concerns.

19. Secretary Meyer made a motion to adjourn, and Director Evins seconded the motion. President Martin adjourned the meeting at 3:10 p.m.



Bill Martin, President

4.16.25

Date



Chris Meyer, Secretary

4/16/2025

Date

BEFORE THE WINTERGARDEN GCD AND SOAH
(DOCKET NO. 900-24-04051)

APPLICATION BY SP SILICA OF CARRIZO, LLC
FOR A WATER WELL PERMIT

SP SILICA OF CARRIZO, LLC'S CLOSING ARGUMENTS

- Pursuant to Section 16 of the District's rules, this Board referred this application to SOAH, where the SOAH Judge tried the case and evaluated the all of the evidence to make her decision after a two-day evidentiary hearing
- **This is a clean proposal for decision** – the Judge determined in a thorough 28-page decision that SP Silica's application met each and every criteria for approval of the full production volume sought with no special conditions
- This application is for 274 acre-feet to be produced from a new well that has yet to be drilled. The SOAH Judge determined this production volume and rate of withdrawal would not unreasonably affect existing permit holders and groundwater resources in the area. Furthermore, SP Silica demonstrated a clear need for the water after reasonable intelligence and reasonable diligence were applied
- **Ripe for decision today** – the Judge's proposal for decision demonstrates SP Silica's clear and immediate demand for the water sought in this permit application. There is no basis for delay—there is little discretion for the Board other than to recognize the Judge's findings, logic and recommendation. If the Board needs more time to think about its decision, its rules and the Administrative Procedures Act only allows for a continuance from day to day—not for another week or month.
- Splitting transcript costs – we would propose that the Board apportion based on the amount of time each party spent during the hearing, and SP Silica proposes that a rough split of 60% and other parties split it 40%.

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Sign-in Sheet

Name	Company/Title
Debbie Farmer	GM/WGCD
Paula VanCleve	Field Technician
Peter Carey	Counsel
Bill Martin	
Christopher K. Myers	Director LASALLE
K. Randall	Self
Jasna Jalis	S&T
Brock Benson	Barton Benson Jones
Marisa Perales	
Jon Box	ZAVALA CO
Travis Evans	Dimit Co
Henry	" "
Brad	" "
Chris	
Diana Nichols	Kelly Hart
JAKE STEEN	Lloyd Gosselin - Sp Silica
Mike Gershon	SP Silica - Lloyd Gosselin
Martin Rugee	LASALLE

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Sign-in Sheet

Name	Company/Title
Debbie Farmer	GM/WGCD
Paula VanCleve	Field Technician
<i>John Brown</i>	
<i>Jeffrey Grissom</i>	
<i>Wendy Speer</i>	
<i>Ed Ritchie</i>	<i>member - 200 A/A</i>

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Public Comment

Name	Topic of Public Comment
JO JON BROWN	
Marisa Perales	3.2.
JO JON BROWN	3.2.