

MINUTES

***CAPITAL AREA GROUND WATER
CONSERVATION COMMISSION***

March 19, 2013

The Capital Area Ground Water Conservation Commission met at 9:30 a.m. on March 19, 2013 in the U.S. Geological Survey conference room at 3535 S. Sherwood Forest Blvd., Baton Rouge, Louisiana. The meeting was called to order by the Chairman, Mr. Joey Hebert.

The following members were present: John Adams, Trey Argrave, Dale Aucoin, John Cadenhead, Brian Chustz, Joey Hebert, Barry Hughhins, John Jennings, Amelia Kent, Dennis McGehee, Julius Metz, Mark Walton and John Westra.

Others attending the meeting were: Tony Duplechin and Shawn Scallan, Capital Area Ground Water Conservation District; Jason Griffith, U.S. Geological Survey; Megan Terrell, Louisiana Office of the Attorney General; Amy Wold and Bill Fig, The Advocate; Roy Waggenpack, Owen & White, Willie Fontenot, Sierra Club; Bruce Duhe, Layne Christensen Company; Bill McHie; Henry Graham, Louisiana Chemical Association; Hays Town, Baton Rouge Citizens to Save Our Water; Elizabeth Caldwin & Steven Rothermal, Tulane Environmental Law Clinic; Liz Cooke, Baton Rouge Area Chamber; Bryan Harmon, East Baton Rouge, Dept. of Public Works; Dr. Frank Tsai, LSU; and Luci Silva, Brown and Caldwell.

Mr. Adams made a motion that the minutes of the December 11, 2012 be approved. Mr. Walton seconded the motion and it passed unanimously.

I. Report from the Administrative Committee

At the request of the Chairman, Joey Hebert, Mr. Dennis McGehee reported on the meeting that was held March 19, 2013 at 8:30 a.m. Following is a summary of items discussed at the meeting and further discussion and action at the regular Commission meeting at 9:30 a.m.

1. Copies of the Financial Conditions as of February 28, 2013 were distributed for review and comment. Mr. McGehee noted that the Commission has a certificate of deposit that will mature on April 12, 2013 in the amount of \$42,201. Mr. Adams made a motion authorizing the staff to renew the certificate of deposit. Mr. Jennings seconded the motion and it passed unanimously.

2. Copies of the proposed budget for fiscal year 2013-2014 were distributed for review. Mr. McGehee reported that expenditures for fiscal year 2013-2014 were \$282,600. Included in the budget is \$85,000 for USGS modeling. The budget reflects the increase in water well pumpage fees that go into effect April 1, 2013. Ms. Kent made a motion to accept the budget for fiscal year 2013-2014. Mr. Walton seconded this motion and it passed unanimously.

3. Mr. McGehee reported that Bill Gaines, CPA, gave a brief presentation to the Administrative Committee on the Commission's financial statements as of June 30, 2012. Mr. Gaines reported that the Commission is financially sound. The Commissioners were given copies of the report for their review.

4. Mr. McGehee reported that a hearing was held on January 29, 2013 for the fee increase. There was one favorable comment made at the hearing. The pumpage fee increase will

be published as a rule in the March 20, 2013 Louisiana Register. The increase will go into effect April 1, 2013.

5. Mr. McGehee reported that the Administrative Committee discussed the Memorandum of Understanding and Interagency Transfer Agreement between Louisiana DNR-OC and Capital Area Ground Water Conservation Commission. The Administrative Committee made a motion to bring this Memorandum before the full Commission with one modification to the document. The revision would read, "Upon receipt of the request for services as well as a cost estimate, and not later than 15 days of receipt, the Secretary or Commissioner shall notify the CAGWCC chair in writing to confirm acceptance of the work request or provide a plausible explanation as to why the request cannot be fulfilled." Mr. Adams stated that this memorandum is a document that sets up the framework between the two agencies in the event the Office of Conservation needs to provide the Commission a service that the Commission does not ordinarily have the staff to perform. Mr. Adams stated that the Memorandum outlines the authority of both organizations. A question brought up during the Administrative Committee was, does this give DNR the authority to bill the CAGWCC whenever DNR does something consistent with the needs of the Commission? Mr. Adams stated that this would not be the case. In fact, Mr. Adams stated that the modification to add "as well as a cost estimate" would clear up this concern. Mr. Adams stated that if and when the CAGWCC decides to exercise the Memorandum of Understanding, it will be completely at the discretion of the Board. Mr. Adams stated that the Commission can send a request to DNR-OC listing the services that they would like to have performed. DNR would then send a cost estimate to the Commission. If the Commission agrees with the cost, then the services would be performed. Mr. Adams stated that the document is a tool for the Commission to take advantage of some of the expertise and services of DNR and DNR-OC. Mr. Adams made a motion to accept the Memorandum of Understanding as revised and to authorize the Chairman to sign the agreement. Mr. Chustz seconded this motion and it passed unanimously.

6. Mr. McGehee reported that the Administrative Committee discussed the vacancy on the Board for public supply. Mr. McGehee stated that he will talk with Jake Causey to inquire if anyone at DHH would be interested. Mr. Hebert commented that it is vital that the Commission have a diversity of representation on the Board.

II. Report from the Technical Committee

At the request of Mr. Hebert, the report of the Technical Committee was made by Committee Chairman, John Jennings, and minutes of the meeting were distributed (attached). Following is a summary of topics discussed at the meeting on March 13, 2013 and further discussion and action at the regular Commission meeting on March 19, 2013.

1. The Committee discussed the draft, "Summary Plan for the Management of Salt Water Migration in the "1,500-Foot" and "2,000-Foot" Sands of the Baton Rouge Aquifer System." Numerous changes were suggested and adopted. Joey Hebert moved, and Brian Chustz seconded that the Technical Committee present the amended draft to the regular Commission

meeting. Mr. Walton requested that the following revision be made to the document. Under “2,000-Foot” Sand, item 1, the last sentence should be modified to read, “Users have complied with these limits.” Mr. Jennings made a motion to accept the summary plan as revised. Mr. Aucoin seconded this motion and it passed unanimously.

Mr. Hebert asked for comments from the Board members. Mr. Adams stated that it his understanding that this plan complies with item 10 on the agenda which is recognition of unsustainable pumping centers at the Lula Street pumping station and the industrial district requiring corrective action and general discussion of management actions available and what solutions does the CAGWCC propose to resolve the issue. Mr. Hebert stated yes, but he does not want to limit discussion on this item. Mr. Hebert reported that the Commission worked hard on this plan to come up with these new limits. Mr. Hebert stated that this document is not the end of the work. He stated that the Commission still has 10 years of modeling planned for the different aquifers. He stated that as the Commission learns more with this modeling that the Board will react as the data becomes available. Mr. Hebert stated that if adjustments to the current limits are needed in the future or if other remedial steps need to be taken that the Commission will propose those when needed. Mr. Hebert stated that this is a good first step.

Mr. Hebert asked for comments from the public. Mr. Hays Town stated that his interest is sustainability of the aquifer for the people. Mr. Town stated that the plan does not even approach sustainability. Mr. Town stated that geologically, saltwater is rushing towards Lula Street. Mr. Town stated that a decrease of 2 mgd in the “2,000-foot” sand is less than 10 percent of the total. Mr. Town said that this is not a big change in water well pumpage. He stated that in his opinion there needs to be a bigger reduction. Mr. Town stated that Exxon has plans to install a water well in the “1,200-foot” sand which shows that they are making no sacrifices. Mr. Aucoin stated that Exxon has no plans to drill a well in the “1,200-foot” sand. Mr. Aucoin stated that Exxon’s plans are to reduce pumpage out of the “2,000-foot” sand by 2 mgd as recognized by the plan and use alternative sands to do that. Mr. Town stated that in the plan for the “1,500-foot” sand that in his opinion it basically states that users can keep pumping and blend water. Mr. Town reported that the plan requires users to move wells northward away from the Baton Rouge fault which is just common sense and would be done anyway. Mr. Town stated that the scavenger well that Baton Rouge Water Company will be installing will help saltwater intrusion for 50 years. He stated that 50 years is not a long time. Mr. Town stated that the Commission needs to be serious about sustainability and address this problem. He stated that the Commission is not doing enough.

2. Gary Snellgrove, Director of the Office of Conservation’s Environmental Division, gave a short presentation on Conservation’s proposed “Memorandum of Understanding and Interagency Transfer Agreement between Louisiana Department of Natural Resources Office of Conservation and Capital Area Groundwater Conservation Commission.” (Mr. Jennings reported that this item was already discussed in the Administrative Committee report.)

3. It was generally agreed that USGS model results need to be considered before a definitive position on using the 1,200-foot sand can be given. It was also discussed that an adjustment to the USGS work schedule needed to be done. The Commission decided to move the flow component of the “1,200-foot” sand ahead of the “1,500-foot” sand saltwater simulation. Mr. Griffith, USGS, stated that by moving these two items the original delivery date of 12 months may need to be extended. Mr. Hebert stated that the benefit of moving the “1,200-foot” first would be to see what effect moving some pumpage from the “2,000-foot” sand to the “1,200-foot” sand would have. He stated that this would help the Commission to better manage the overall aquifer. Mr. Walton added that the Commission wants the “1,200-foot” report first because there are currently two reports on the “1,500-foot” sand that are available which are Dr. Frank Tsai’s report and Layne Hydro’s report.

4. Information on the Leo Bankston Award was passed out to all Committee members, with nomination requirements and deadline for submittal highlighted. It was noted that May 15, 2013 is the deadline for the nominations. Mr. McGehee reported that last year there were some noted discrepancies in the guidelines for the award those being the deadline for the award and the review process. Mr. Jennings made a motion that the instructions for the Leo Bankston award be revised. Mr. Walton seconded this motion and it passed unanimously.

5. Jason Griffith (USGS) gave a short progress report on the Baton Rouge model (Simulation of Ground-Water Flow in the “1,500-foot” and “2,000-foot” Sands and Movement of Saltwater in the “2,000-foot” Sand of the Baton Rouge Area) that USGS has been working on. Mr. Griffith reported that the USGS is currently on step 4 of the 7 step review process. Mr. Griffith stated that they are updating the model through 2012. The model currently has data through 2007. Data after this time is simulated using the model. Plans for the next quarter include submitting the report for editorial review, publication and distribution.

III. Director’s Report

Mr. Duplechin stated in January he gave a presentation to the Louisiana Ground Water Association at their annual meeting in Marksville. He also attended the annual conference of the Groundwater Management Districts Association (GMDA) meeting, January 9-11, 2013 in Austin, Texas. Mr. Duplechin reported that he was elected as vice president for GMDA for the year. One of the duties as vice president is to make the arrangements for the conference for next year.

Mr. Duplechin reported that he along with Joey Hebert, Dale Aucoin and representatives from the Department of Natural Resources, Office of Conservation met with Baton Rouge Area Chamber to discuss water issues in Baton Rouge.

Mr. Duplechin gave a presentation to both the Louisiana Water Synergy Project in Baton Rouge and the Baton Rouge Landscape Association. He also attended a meeting of the Louisiana Water Management Advisory Task Force that DNR oversees.

Mr. Duplechin reported that letters will be sent out soon for the Leo Bankston Ground Water Award. Mr. Duplechin plans to meet with the Sparta Commission. He also plans to participate along with the Sparta Commission in their Water Fest. This program teaches grade school students about the importance of conserving ground water.

IV. Chairman's Report

Mr. Hebert reported that he attended a Metro Council meeting on February 13, 2013 to present an agreement proposal to the City of Baton Rouge, East Baton Rouge Parish for their participation in the upcoming project titled, "Development and Maintenance of a Computer Model to Simulate Groundwater Flow and Saltwater Encroachment in the Baton Rouge Sands, Louisiana". The total project cost over an 11 year period is \$2,019,000. The Commission requested that the City of Baton Rouge fund \$310,500. East Baton Rouge parish agreed to participate in the study.

Mr. Hebert thanked DNR for their public outreach work. Mr. Hebert reported that DNR presented a workshop for area teachers recently. Also, DNR has a new website with educational outreach and community affairs. It is called "Water-Wise in BR". The website provides detailed information on the Southern Hills Aquifer System, which supplies the Baton Rouge area with both drinking water and water used in industrial processes. The website address is www.dnr.la.gov.

Mr. Hebert commented on the memorandum dated June 5, 2012 sent by Megan Terrell, Attorney General's Office, regarding the powers and duties of CAGWCC and DNR-OC. In the conclusion of the memo, it states

"Those powers and duties with regard to ground water management that are specifically listed under DNR's authority, such as the designation of areas of concern, likely belong only to DNR. However, the statute requires DNR to consult to CAGWCC if any decision of DNR will impact ground water under CAGWCC jurisdiction. CAGWCC retains the authority to take any action that is specifically listed in its statutorily granted powers and duties, as provided in La. R.S. 38:3076. To the extent that any of these duties overlap with those of DNR, a reasonable interpretation of the two statutes would indicate that while DNR might set minimum standards for the management and conservation of groundwater resources, nothing would prohibit CAGWC from taking any action that meets or even exceeds those minimum standards."

Mr. Hebert stated that Ms. Terrell's memo is along the same lines as the recently approved Memorandum of Understanding and Interagency Agreement between DNR-OC and CAGWCC.

V. Other Business

Mr. Hebert reported on the two items that the Louisiana Office of Conservation requested to be added to the Commission's agenda. Those being:

a. Recognition of Unsustainable pumping Centers at the Lula Street Pumping Station and the Industrial District Requiring Corrective Action, and

b. General discussion of management actions available and what solutions does the Capital Area Groundwater Conservation Commission propose to resolve the issue.

Mr. Hebert stated that the idea of unsustainability is now a term that is included in the rules and regulations of DNR, but not in the statute for the Commission. Mr. Hebert reported that when the Commission was established, it was recognized that if the users kept pumping at their current rate, the situation would not be favorable to any user so action was needed. Mr. Hebert stated that the Commission has now taken action with the approved plan for the management of salt water migration. Mr. Hebert mentioned DNR's press release titled, "Office of Conservation Applauds Capital Area Ground Water Conservation Commission Proposal". This release stated, "From the perspective of Conservation, the idea is to use what we already know about water withdrawal and the movement of salt water toward public supply pumping centers in Baton Rouge to take immediate actions that will have long-term positive impacts and that can be incorporated into the longer-range management effort and actions," Welsh said. "I had asked that the CAGWCC begin to discuss this with Conservation, and the members of the CAGWCC technical committee have responded by jumping on board with a very solid proposal for some positive immediate action." Mr. Hebert stated that in his reading of the press release that the Commission responded to the concerns of DNR's two items. Mr. Chustz agreed with Mr. Hebert. He stated that now that the Commission has the data and the model to take action. Mr. Chustz stated that Mr. Hays Town commented that the management plan was not enough. Mr. Chustz reported that the Commission will progress from here to protect our ground water. Mr. Hebert stated that the Commission will do what is best for the public interest. Mr. Walton reported that DNR's press release is not entirely correct. It states, "lowering the existing cap on East Baton Rouge Parish total withdrawal from the 2,000-foot aquifer sands by 1.5 million gallons a day and reducing industrial district withdrawal from the 2,000-foot aquifer sands from 17.5 million gallons a day to 15.5 million gallons a day – all by 2014." Mr. Walton reported that the 1.5 million gallons a day should read 2.0 million gallons a day. Mr. Jennings stated that the Commission's management plan is a living document. It is not set in stone and that based on science the document will be amended as needed. Mr. McGehee agreed with Mr. Jennings in that this is only a first step in the management of saltwater encroachment. Mr. Adams stated that the letter that was written asking for the items to be added to the agenda was sent to encourage communication between DNR and the Commission. Mr. Adams stated that the discussion that took place at the Technical Committee on March 13 and at this meeting addressed and satisfies Commissioner Jim Welsh's request. Mr. Adams agrees with the Board in that as they obtain more information from the ground water model then additional steps will need to be taken.

VI. Public Comment

Mr. Fontenot, Sierra Club, stated that the CAGWCC was established by the Louisiana Legislature in 1974 because there was a recognized problem with the ground water in the five parish area. He reported that basically the job of the Commission is to protect and restore the ground water resources of the Capital Area. In 1973 and 1974 there was an effort set up to rewrite the constitution of Louisiana. In 1974 the registered voters in Louisiana approved the new constitution. Article IX of the new constitution deals with Natural Resources including air, water, oil, natural gas and forest. Mr. Fontenot stated that Section one of Article IX stated, "The natural resources of the state, including air and water, and the healthful scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall enact laws to implement this policy." Mr. Fontenot reported that the Commission is just not bound by what was stated in the statute but they also have to take into consideration Article IX. Mr. Fontenot reported that the Louisiana Supreme Court gave a 9-0 court decision in a case in Ascension Parish dealing with a proposed hazardous waste facility. This decision gave the people their first interpretation of Article IX, section 1. The Supreme Court stated that all public officials must make sure that they are representing the public interest. All public officials must make sure that when they are making a decision which may adversely impact human health or the environment that the applicant has considered alternative sites, projects and processes and that the ones selected are the most protective of human health and environment. Mr. Fontenot reported that the Commissioners are representing the people of Louisiana not their appointed entity. Mr. Fontenot stated that the Commission's mission is to protect and restore the water resources of the district. Mr. Hebert thanked Mr. Fontenot and asked if he would like his written comments to be added to the Commission's minutes. Mr. Fontenot asked that they be included.

Mr. Hays Town stated that the Commissioner of Conservation was very straight forward in his letter to the Commission. Mr. Town stated that he found at least two particular areas to be unsustainable in their pumping regimes and requested that the Commission recognize that. Mr. Town stated that the Commission recognized the part about making suggestions to change things, but has not recognized that the pumping centers are unsustainable.

VI. Next Meeting

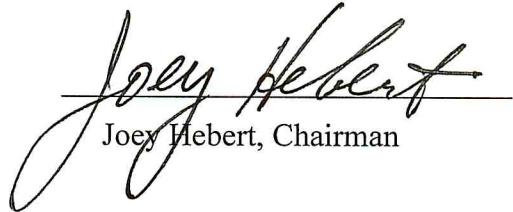
The Chairman reported that the next regular Commission meeting of the Capital Area Ground Water Conservation Commission will be scheduled on Tuesday, June 18, 2013 at 9:30 a.m. in the U.S. Geological Survey conference room. The next Technical Committee meeting will be Tuesday, June 11, 2013 at 1:30 p.m. in the U.S. Geological Survey conference room.

VII. Adjournment

There being no further business before the Commission, Mr. Walton made a motion that the meeting be adjourned. Mr. Huggins seconded this motion and it passed unanimously.



Dennis McGehee, Treasurer



Joey Hebert, Chairman