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**MINUTES**  
**FIRST QUARTERLY MEETING**  
**COLORADO GROUND WATER COMMISSION**  
**FEBRUARY 17, 2006**

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The First Quarterly Meeting of the Colorado Ground Water Commission took place on February 17, 2006, at the Parker Water and Sanitation District Facilities, 18100 E. Woodman Drive, Parker, Colorado. Chairman Max Smith called the meeting to order at 10:00 a.m. Marta Ahrens called the roll and determined that a quorum was present. Commission members present were Grant Bledsoe, Larry Clever, Dennis Coryell, Corey Huwa, Robert Loose, Max Smith, Ted Kowalski, and Russell George. Commissioners Ralph Curtis, Frank Jaeger, Earnest Mikita and Ex-Officio Member Hal Simpson were absent.

Chairman Smith reported that Commissioner Curtis had a heart attack a week ago (on February 10) and was airlifted to the hospital. He underwent surgery and has two stints placed; there is no apparent damage and he has normal heart function and is on the road to recovery.

**Review and Approval of Agenda Items** - Commissioner Coryell moved, and Commissioner Clever seconded, approval of the agenda.

**Approval of Minutes for Meeting of August 19, 2005** - Chairman Smith asked if there were any corrections or additions to the Minutes of the November 18, 2005 meeting. After some corrections were noted, Commissioner Clever moved to accept the Minutes; the motion was seconded by Commissioner Coryell and carried unanimously.

**Report of the Executive Director by Jack Byers** – Mr. Jack Byers, Deputy State Engineer, provided the Executive Director's report on behalf of Hal Simpson, who was in Alamosa attending and testifying at the Water Court proceedings with respect to the confined aquifer rules in the San Luis Valley. Mr. Byers reported on the following topics:

Legislation: House Bill 1124 – the rotational crop bill that provides another tool for the agricultural community and municipalities to work together to solve some water supply and transfer issues. House Bill 1293 - increase in gravel pit substitute water supply plan fees to review water supply plans to make up evaporation losses; this fee hasn't been increased since 1993; the provision is for a \$250 fee increase for plan review and a \$40 increase for renewals for administrative costs. Senate Bill 173 - mileage reimbursement bill; this ties the mileage reimbursement to the federal rate; this bill affects the approximately 40 field staff who use their own personal vehicles to accomplish their jobs and are required to have a 4-wheel drive.

Budget issues: The Joint Budget Committee, OSPB and the Legislature, passed an amendment for additional funding for litigation in the San Luis Valley. It appears there may be some relief on some of the mileage costs on leased state vehicles with additional operating funds. The JBC has approved next year's budget and some Decision Items have also been approved.

Miscellaneous items: Dick Wolfe, Assistant State Engineer, has been working on the Coal-Bed Methane Study which is almost complete and deals with depletions and issues associated with

coal-bed methane development in the San Juan Basin. Regarding the Republican River Basin, the State Engineer's office is trying to fill a position and should make a selection within the next week.

Snowpack: With regard to snowpack, the northern part of the state is in pretty good shape. The southern and southwestern parts are suffering and tracking similar to the 2002 snowpack conditions, at approximately 42 and 52 percent of average. Statewide, north of I-70, snowpack is about 120 to 125 percent; the Gunnison and Upper Arkansas are at 92 and 97 percent, respectively; and the southern portion of the Arkansas Basin is still very dry. Finally, as of yesterday, the San Miguel, Dolores and San Juan Basins were at 48 percent, and 38 percent in the Upper Rio Grande Basin.

**Discussion on future rulemaking on proposed changes to the Colorado Ground Water Commission Rules of Procedure for all Adjudicatory Hearings by Joseph Grantham** – Mr. Jody Grantham, Hearing Officer, reported that he reviewed the existing adjudicatory rules that have been around since 1981 and are out of date. He did not review every rule, but wanted the Commission's approval to move forward with updating the rules. The rules would include procedures for dealing with rules and regulations that come before the Commission. Mr. Grantham asked that the Commission and other interested parties submit comments to him within the next three weeks, then he will coordinate with Mr. Simpson to draft a final set, and move forward with publication of the rules and the rulemaking process which will start at the August meeting.

Mr. Kowalski expressed appreciation to Mr. Grantham for updating the old rules because some no longer apply, particularly concerning rulemaking. He also recommended working with the Attorney General's Office so that they can offer input in the process. Mr. Dave Taussig, from the audience, echoed Mr. Kowalski's comments and suggested a separate process for the hearings, one just for the adjudicatory hearings and another for rulemaking hearing procedures, because they raise different issues.

Commissioner Huwa made a motion to proceed with the process for rulemaking; Commissioner Loose seconded the motion, and was approved unanimously.

**Staff Report by Suzanne Sellers** - Ms. Suzanne Sellers presented the Staff Activity Report for the last quarter, the written report of which was included in the Commissioners' packets. She reported on the small capacity and large capacity well permit applications, changes of water rights, final permitting activities, hearings, and enforcement actions. She reported that Rick Nielsen is collecting Statements of Beneficial Use for the Southern High Plains Ground Water Basin, and Melissa Peterson is collecting from the Upper Big Sandy Designated Basin. In addition, five staff members went to the Northern portion of the Kiowa Bijou Basin in February and collected a number of Statements of Beneficial Use during the two trips. Another trip will be planned to the southern portion of the Kiowa Bijou Basin in mid-March.

Regarding hearings, Ms. Sellers reported that the Gallegos matter has been appealed to the Supreme Court. The Booker case and Upper Black Squirrel Creek Ground Water Management

District Rules are in El Paso County District Court. Staff have completed the Ruben Richardson case over the last quarter. They are continuing to work with the Republican River Water Conservation District on their water conservation programs and staff are migrating data to a GIS system for permit processing. Staff performed several field inspections for large capacity changes of water right. Finally, several staff gave presentations at the El Paso County Planning Commission to explain the review and referral process on subdivisions in the county.

**Report of the Attorney General by Ginny Brannon** – Ms. Brannon stated that the report that provides a summary of the matters that the Attorney General's Office was involved in is included in the packets. Regarding the Pioneer Irrigation District, the petition has been filed and the accuracy of the current boundaries of the Northern High Plains Designated Ground Water Basin is being challenged. They want to de-designate ground water, which will require a number of wells to curtail or cease pumping. Today, the AG's Office is filing a motion to dismiss based on the fact that these issues have been heard before, and filed a motion to re-refer this to the Commission, which was granted. In addition, Pioneer filed a Motion for Summary Judgment requesting determination on a number of issues which are outlined in the summary report.

**Management District and Conservation District Reports** - Chairman Smith called for the Management District reports.

Mr. Aaron Nein reported from the **Frenchman, Sandhills, Marks Butte and Central Yuma Ground Water Management Districts**. Mr. Nein stated that the biggest issue they are dealing with is the Pioneer case. In December, in Wray, the four districts met and agreed to team up and hire Mike Shimmin to defend them and oppose a petition filed by Pioneer. Mr. Shimmin recently provided Mr. Nein a motion to dismiss the case. Mr. Nein reported that he completed static water level measurements and has about 25 wells that are not yet completed. In February, Marks Butte held an election to "De-Bruce" and get out from the spending portion of the Tabor Amendment and it passed.

Mr. Stan Murphy reported on behalf of Mr. Jack Dowell, from the **W-Y Ground Water Management District**. He reported that seven of the 307 chemigation inspections did not pass, however, the check valves had been replaced and passed. They performed major static measurements on 73 wells, and in the 2005-06 measurements, 49 wells went down an average of 8.14 feet, with 22 wells that went up an average of 12.65 feet this year.

There was no report from the **Arikaree Ground Water Management District**.

Mr. Shawn Shulte, from the **Plains and East Cheyenne Management Districts**, stated that he completed static well measurements and didn't see any rise in their district, but are six to nine inches down. The Plains District is working on updating their rules to limit withdrawals on residential wells to two acre-feet if they are located on parcels less than 35 acres. Mr. Shulte announced that he will be resigning from his position as Manager with the Districts and they are searching for a replacement.

There was no report from the **Southern High Plains Ground Water Management District**.

Commissioner Loose, reported for the **North Kiowa-Bijou Ground Water Management District**, and stated that he is excited that staff is enjoying their modern facilities.

There was no report from the **Upper Black Squirrel Creek Ground Water Management District**

Mr. Dave Taussig, from the **Upper Big Sandy Ground Water Management District**, reported that they appreciate staff's efforts on final permitting, it is going well, and will get into publication fairly soon. They have completed Phases 1 through 3 of a study of the availability of water in the basin and are talking to engineers about doing Phase 4 to take the data and put the numbers of the final permits into this study. They were disappointed with the water balance feature of the report. He also reported that some of their water users complained about paying a \$480 fee to fix their permits that they've been using since the 1950s and 1960s. They are also concerned about how high the fees are and questioned Mr. Byers about the sunset provision in the bill. Mr. Byers responded that currently the JBC is looking at options and they will have a better feel for what the fees will be as the Legislature moves forward.

There was no report from the **Lost Creek Ground Water Management District**.

Mr. Stan Murphy, from the **Republican River Water Conservation District**, reported that the EQIP program is back again and they have approximately 75 firm contracts from applicants for permanent retirement. They started fee collection for this year, and the fees were the same as in 2005 for water use. The District is starting to see money coming in for the irrigation fee. Funds will be collected directly through the Water District. The District is checking into getting a 3-year water lease agreement to help with compact compliance. They are working with their engineers who are providing aerial photos and maps of irrigated acres to determine illegal irrigation. The District will make a public notice in the next few weeks that they are doing this inspection before crops are planted to avoid hardships and disputes over shutting down.

Mr. Scott Richrath, from the State Engineer's Office, reported on the CREP program. He stated that since the last meeting, they have had up to 20 meetings with FSA and it has become apparent that retiring acres through CREP in 2006 is no longer an option. June 12, 2006 is the target sign-up date and 2007 will be the first year of a 15-year CREP permanent retirement program with the Republican River Water Conservation District. Mr. Richrath stated that all indications are that 30,000 acres will be permanently retired in this program.

**Old Business** – Mr. Russ George reported on HB-1177 from last year, which is also called the Interbasin Compact process. Since June 2005, every major river basin, plus the metro area basin, has formed roundtables. Each of those basin roundtables met several times and most are completing their own bylaws. One of the first tasks for each roundtable was to decide who would be their two representatives on the State Interbasin Compact Committee. This Committee met for the first time two weeks ago in Denver, and the main task for this Committee is to follow the statutory requirement of developing a Charter, which is the rules of play for future negotiations between the basin roundtables and set out the guiding principles for how decisions will be made for water use in the future. Senator Isgar and Representative Penry introduced a bill this year to bring some meaningful monetary resources into play. That money would be

available for basins to look at feasibility studies on certain sites or projects. Mr. George stated that there is an enormous willingness to participate, and the nature of the debate on water decisions across the state has changed. There is potential for a new bill this year to also focus on ground water.

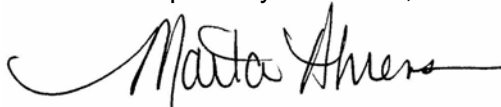
**New Business** – There was no new business.

**Next Meeting** – May 19, 2006, in the Centennial Building, at 1313 Sherman Street, Room 318, Denver, Colorado.

The meeting adjourned at 11:25 a.m.

*Following the meeting, a training workshop on rulemaking procedures by Ginny Brannon was held for the Colorado Ground Water Commission Members.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marta Ahrens', with a long horizontal flourish extending to the right.

Marta Ahrens  
Secretary to the Ground Water Commission