
MINUTES

FIRST QUARTERLY MEETING **COLORADO GROUND WATER COMMISSION** **FEBRUARY 19, 2010**

The First Quarterly Meeting of the Colorado Ground Water Commission took place on February 19, 2010, at the Centennial Building, 1313 Sherman St, Room 318, Denver, Colorado. Chairman Dennis Coryell called the meeting to order at 10:00 a.m. Mr. Rick Nielsen called the roll and determined that a quorum was present. Commission members present were Grant Bledsoe, Carolyn Burr, Dennis Coryell, Douglas Shriver, Max Smith, Jim Martin and Scott Cuthbertson. Staff members present were Keith Vander Horst, Rick Nielsen, Chris Grimes, Sandy Johnson, David Keeler and Jay Bloomfield. Also present were Jody Grantham, Hearing Officer, Pat Kowaleski, A.G. for the Commission and Jennifer Mele, A.G. for staff. Members of the public were also present.

Review and Approval of Agenda Items – Chairman Coryell suggested amending the agenda to move item no. 5, hearing on petitions by Upper Big Sandy GWMD to precede item no. 3, approval of minutes of November 20, 2009.

Commissioner Smith moved to approve the agenda as amended.
Commissioner Shriver seconded the motion which passed unanimously.

Agenda item no. 5, Hearing on petitions by the Upper Big Sandy Ground Water Management District to correct errors in the Final Order and Decree forming the Upper Big Sandy Ground Water Management District, to issue an order approving the expansion of the District, and to change the name of the District.

For ease of discussion, this item was divided into two presentations. It was noted that the portion of the petition requesting an order approving the expansion of the District had been withdrawn.

Mr. Scott Krob, Attorney for the District, provided a short history regarding the establishment of the District boundaries and the boundaries of the local divisions within the District. He stressed that no changes to the constituency or tax rolls will occur because of this action. Mr. Krob distributed, to the Commission a proposed Amended Final Order and Decree and a map of the district including its local divisions for use as a visual aide as he described the problem and the proposed solution. There were no questions for Mr. Krob and there were no public comments on the matter.

Mr. Krob next addressed the Commission on the matter of the change in name of the District. He stated that during a review of the historic records it was discovered that the official name of the District is Big Sandy District. The district would like to change the name to the Upper Big Sandy Ground Water Management District, the name historically in use throughout the Basin. There were no questions for Mr. Krob and there were no public comments on the matter.

Mr. Keith Vander Horst, representing staff, advised the Commission that staff had no objections to correcting the record as presented by Mr. Krob. He did identify an error in the Range portion of the legal description for Division IV on page 2 of the order as presented. Upon review, Mr. Krob agreed with Mr. Vander Horst and said that he would bring a corrected copy to the next meeting.

Commissioner Burr moved to approve both petitions and enter the orders as prepared by petitioner subject to correction of the typographical error in the description of Division IV on page 2.

Commissioner Shriver seconded the motion which passed unanimously on a roll call vote.

Approval of Minutes for Meeting of November 20, 2009 Chairman Coryell asked if there were any corrections or additions to the minutes. There being none:

Commissioner Shriver moved to approve the minutes as presented.
Commissioner Burr seconded the motion which carried unanimously.

Report of the Executive Director by Scott Cuthbertson

Mr. Cuthbertson explained that Mr. Wolfe was unable to be present because he was in Pueblo. He then provided the commission with an overview of the bills before the legislature:

HB-1006 affords the Division of Water Resources the ability to access the severance tax funds as a funding source providing the Division some flexibility during economic downturns.

HB-1086 would have limited the liability to owners of water rights that incurred injuries due to recreational uses.

HB-1159 required mitigation associated with water import projects was lost in the house.

SB-27 will allow for financial penalties (not to exceed \$500.00 per day) to be assessed against surface water user's that violate the terms and conditions of their water rights. Currently, statutes only allow for penalties against ground water users'.

SB-52 which addresses Designated Ground Water Basin boundaries has passed out of the Senate Ag. Committee and is before the full Senate.

SB 78 dealing the use of reusable effluent has been pulled by its sponsors.

SB-165, affords the State Engineer an extra three months to process the thousands of permit applications and substitute water supply plans submitted by the oil and gas industry across the state.

HB-1327 will transfer money from cash funds to the general fund to help balance the budget. The section of this bill that would have transferred money from the CWCB Conservation fund was withdrawn after opposition by the water community.

In Water Division 2, the Arkansas River Basin, Mr. Cuthbertson advised the Commission that Mr. Wolfe was in Pueblo meeting with participants of the Irrigation Improvement Rules on the Arkansas River. They are attempting to reach settlement on the implementation of those rules.

In Water Division 3, the Rio Grande Basin, he reported good progress on the Well Compliance Rules and significant headway in defining sustainability, the last remaining issue.

The Republican River Basin is maintaining the status quo. The arbitration hearing on the pipeline has been set for July.

There were no questions for Mr. Cuthbertson.

Chairman Coryell called for agenda item no. 6, the staff report.

Mr. Keith Vander Horst reviewed the staff activity report as submitted. He pointed out that staff has begun working on final permits again, as time allows. He advised the Commission that a number of the pending hearings are awaiting action by the applicant and that the Mildred Duncan hearing has been vacated because the application has been withdrawn. The Craig Kroskob and Richard Uhrick matter is not a pending hearing but actually under appeal to the Morgan County District Court.

On enforcement matters he informed the Commission that over 400 letters of non-compliance had been mailed to well owners in the Republican River Basin that have failed to comply with the measurement rules. Mr. Vander Horst stated that a field inspection will be conducted to help clarify confusion over wells owned by Freund Investment in the North Kiowa Bijou Basin.

Mr. Vander Horst concluded his report by commenting on the stages of the Hay Gulch, Lost Creek Main Stem and Spring Creek rulemaking hearings that are in progress.

There were no questions for Mr. Vander Horst.

Chairman Coryell called for agenda item no. 8, the report of the Attorney General's Office.

Ms. Jennifer Mele reporting for the Attorney General's Office referred the Commission to her written report. She noted that she and Mr. Vander Horst have been spending a lot of time on depositions for the rulemaking hearings.

There were no questions for Ms. Mele.

Chairman Coryell called for agenda item no. 9, the Management District Reports.

Mr. Nate Midcap, reporting for the **Marks Butte, Frenchman, Sandhills and Central Yuma GWMD's**, reported that his districts have been dry and warm since Christmas. He has completed measuring the static water level of the wells in his districts network and found that for the most part there was no change from last year. Mr. Midcap closed his remarks by thanking Megan Sullivan and her team for their actions on compliance issues, his phone has been busy.

Mr. Jack Dowell, reporting for the **W-Y GWMD** advised the Commission that he too had completed measuring the static water levels in his district, finding a rise in water level on 55 of the 85 wells measured. He went on to say that this was his first year using an electronic sounding device and was pleased with the operation of it over the traditional tape measure. Mr. Dowell closed by saying that though the corn and beet harvest was good the wet fall slowed the drying.

There was no report for the **Arikaree GWMD**.

Mrs. Deb Daniel reporting for the **Plains and East Cheyenne GWMD's**, reported that on average, the Plains District received 30 inches of moisture in 2009 and that the East Cheyenne District had received 25-27 inches. She stated that the moisture allowed for a bumper crop of wheat but also affected the harvest timing and crop drying. Mrs. Daniel reported that review of the records of the third party administrators in the Plains District showed that all the moisture in 2009 resulted in the decreased pumping of wells, on average, by 30 to 50 acre-feet per well. She believes that this reduction helped raise the static water level of those wells in her districts network. Mrs. Daniel reported that the measurement rules for the East Cheyenne District have been published and a hearing set for March 8, 2010. She also informed the Commission that the hearing regarding the Town of Seibert's export request has been set for March 9, 2010. Mrs. Daniel expressed concern regarding the ongoing issues in the Republican River. She concluded her report by expressing her sympathies to the families in the water community that have experienced recent deaths.

Max Smith, reporting for the **Southern High Plains GWMD** stated that his district was a carbon copy of previous reports. The wet fall delayed the finish of the corn harvest until Christmas. Regarding the static water levels he reported that all wells had not been measured yet because they have received moisture once a week for the past month or so but that those that have been measured have shown a decline, smaller than in the past but a decline none the less.

Robert Loose reporting for the **North Kiowa Bijou GWMD** reported that the district has been busy. The static water levels have been found to be down one-half to a foot in the north end of the basin and fairly static in the south end. Mr. Loose stated that there is a new land owner in the basin that wants to place a decorative pond on his property in the creek bottom. He finished his report by informing the Commission that the district board has decided that a personal visit with new land owners to explain water concerns is better than objecting to their applications or writing them a letter.

There was no report for the **Upper Black Squirrel GWMD**.

Mr. Dave Tausig reporting for the **Upper Big Sandy GWMD** advised the Commission that there had been a small decline in the static water levels and that the district was in the process of updating their rules.

Mr. Andy Jones reporting for the **Lost Creek GWMD** said that the board is following the progress of SB-52 and that though the land is not within district boundaries, the district does support the petitions, Hay Gulch and the Main Stem, to close the basin. Mr. Jones advised the Commission that the district has imposed a 15 cent per acre-foot of permitted withdrawal for high capacity wells within the district, the first such assessment ever in the district.

Mr. Stan Murphy reporting for the **Republican River Water Conservation District** advised the Commission that the District hosted a meeting of local district managers, boards of directors and County Commissioner's. The purpose of the meeting was to allow staff to explain and answer questions on the procedures and policies that are in place to assure Colorado's compliance with the Republican River Compact. Mr. Murphy also informed the Commission that the District had purchased and leased additional surface water rights in the Republican basin. He concluded his comments by expressing the frustration of water user's and board members over the pace of compliance pipeline.

There were no questions of Mr. Murphy however, Chairman Coryell questioned Dave Keeler, Water Commissioner in the Republican River Basin, about the non-compliance letters that had been mailed out. Mr. Keeler responded saying that responses had been received for 100 of the 400 letters and that staff was addressing compliance issues one township at a time.

Chairman Coryell called for agenda item no. 10, old business. There was none.

Chairman Coryell called for agenda item no. 11, new business. There was none.

Chairman Coryell called for agenda item no. 12, public comment. There was none.

There being no further business the meeting adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Richard A Nielsen".

Richard A Nielsen, P.E.
Secretary to the Ground Water Commission