
MINUTES

SECOND QUARTERLY MEETING COLORADO GROUND WATER COMMISSION

MAY 15, 1998

(Amended at August 20, 1998, Commission Meeting)

The Second Quarterly Meeting of the Colorado Ground Water Commission took place on May 15, 1998, at 1313 Sherman Street, Room 318, Denver, Colorado. Chairman Fred Hefley called the meeting to order at 9:05 a.m. Marta Ahrens called the roll and determined that a quorum was present. Commission members present were Eugene Bauerle, Jon Brownell, Anne Castle, Dennis Coryell, Michael Gross, Richard Huwa, Earnest Mikita, and Peter Evans. Commissioner Bill Kerksiek and Ex-Officio Members Hal Simpson and Doug Robotham were absent.

Approval of Minutes - Chairman Hefley asked if there were any corrections or additions to the Minutes of the February 13, 1998, meeting. Commissioner Gross moved to accept the Minutes. The motion was seconded by Commissioner Coryell and carried unanimously.

Executive Director's Report - Mr. Hal Simpson was in California testifying in the on-going Kansas v. Colorado trial and was not present for this meeting. The Executive Director's report, was in a memorandum from Mr. Simpson to the Commission Members and included a follow-up to HB-1151.

Per Commissioner Gross' request, Dr. Dass summarized the status of HB-1151 and stated that the most current version of the bill was included in the Commissioner's folders. Dr. Dass stated that before the next meeting the Commission is requested to seek volunteers and be prepared to establish a Study Group Committee per Mr. Simpson's memo.

Commissioner Gross requested Mr. Mike Shimmin, attorney, to summarize the amendments to HB-1151. Mr. Shimmin also provided a summary of the hearing that was held before the Senate Ag Committee. Mr. Shimmin reported that following the hearing, he recommended to Mr. Simpson that an alternative be developed to the Rules regarding the half-mile and the 300-foot limitation on change of use. He also suggested developing a methodology, based on the principles of the 1965 Act, that the staff can apply, in a consistent manner, when these applications are received. He said that Mr. Simpson agreed and suggested setting up a study committee to work on this issue.

Commissioner Castle reported that she was in favor of having a study group address this issue since it will come up again in the future. She suggested that those who are interested in participating be identified, that the efforts start out with a study group of interested parties not involving the whole Commission, and a meeting be convened prior

to the August meeting. Mr. Peter Evans agreed and stated that the Commission take an active role in organizing this process and to discuss how this study group should be composed.

Commissioner Gross moved that the Commission ask the Executive Director to convene a group of interested stakeholders regarding the issues that came to light surrounding the final debate on HB-1151, and that the Executive Director consider having that group provide recommendations to the Commission which they might consider at a special meeting if appropriate. Commissioner Castle seconded the motion, and included a suggestion to identify some people today who would be interested in participating. The motion carried unanimously. A sign-up sheet was circulated at the meeting and notices will be mailed to identify other interest groups prior to the August meeting.

Report on the High Plains Water Quality Monitoring Study by Bradford Austin - Mr. Austin, from the Colorado Department of Public Health and Environment, Water Quality Control Division, reported that he has been involved for seven years in a joint program on the Agricultural Chemical and Ground Water Protection Act. He has sampled over 600 wells throughout the state over the past six years. He stated there was considerable local interest in ground water monitoring of the High Plains Ogallala aquifer, which included private domestic or stock wells. He presented a comparison of the nitrate and atrazine levels in ground water on 23 irrigation wells which were sampled in the Northern High Plains in Yuma County in 1989, 1990, and 1997. In 1989, nitrate was present in 21 wells, but did not exceed the drinking water standard. In 1997, seven wells had nitrate levels that exceeded the drinking water standard.

Kevin Dennehy, of the USGS, reported on the long-term study which will be undertaken by USGS of the High Plains aquifer from Texas to South Dakota. It will start in 1999 and will take about 6 years. The objective of the study is to characterize the water quality of the aquifer, which includes the Ogallala aquifer. They will do a retrospective analysis of existing water quality data using samples collected by Brad Austin, perform a historical review of the aquifer, and then do site-specific sampling in areas where there has not been sampling.

Status report on Water Quality and Well Capping Project in Northeast Colorado by Mahdi Al-Kaisi - Mr. J. D. Wulfhorst, of the East Central Colorado Resource Conservation and Development Council, presented the report on behalf of Mahdi Al-Kaisi. Mr. Wulfhorst provided an overview of the program and the efforts by a number of organizations on a local level to address, in a preventative manner, some of the issues that could be potential hazards to the water resources of the high plains region. The main focus is to address water wells as potential contamination sources. The program's goal is to educate landowners about water quality, human health and safety issues related to abandoned water wells. A Well-Plugging Workshop/Demonstration will be held on June 2 at the Harley Ernst Farm in Washington County.

Report on Ground Water Level Measurements by George Van Slyke - Mr. Van Slyke reported that the measurements for the year are completed and the findings are published in reports, which are available through the Records Section. Mr. Van Slyke stated that about 1,100 wells were measured. He gave the average water level declines in the Northern High Plains, the Kiowa Bijou Basin, and the Upper Black Squirrel, and he stated that the water levels rose in the Lost Creek and the Upper Big Sandy Basins.

Request for variance or hearing on the staff determination of the water right for the irrigation well with Permit No. 16789-F located within the East Cheyenne Ground Water Management District, by Michael K. Grinnan, attorney for the well owner Patrick R. Hornung - Chairman Hefley called the hearing to order, which is recorded on separate record. Mr. Mike Shimmin, attorney, represented Mr. Hornung; and Lee Miller, First Assistant Attorney General, was counsel for the hearing. Mr. Miller stated that he would be present at all future hearings of the Ground Water Commission to provide continuity to the proceedings.

The following persons addressed the Commission: Mike Shimmin summarized the essential facts. Mr. Stan Murphy, of the East Cheyenne Ground Water Management District, responded to questions by the Commission. Mr. Ted Kowalski, from the Attorney General's Office, represented the staff of the Ground Water Commission. Mr. Bill Fronczak, of the staff, responded to questions from the Commission members.

After discussion by Commission members, Commissioner Mikita made a motion for the Commission to interpret the permit as it is written on its face, that they will direct the State Engineer to make findings and issue an order that reflects that, and place it in the permit file. The motion was seconded by Commissioner Castle, and passed. Chairman Hefley requested that Mr. Shimmin prepare the proposed findings.

Continuation of discussion on the role of the Commission and the management districts and the staff processing of the applications by Pat Kowaleski and Purushottam Dass - Mr. Kowaleski reviewed the discussions held at the previous Commission meeting for the benefit of Commissioners Huwa and Brownell who were not present at that meeting. He stated that subsequent to the meeting, the analysis was sent to all management districts for their comments. Mr. Kowaleski gave an overview of the analysis and the comments received, discussed the amendment to the statute, what the Commission was going to do with the analysis, the role of the State Engineer with regard to small capacity permits, and language with regard to large capacity replacement wells where it specifically referred to District rules and regulations. The analysis will be amended to reflect the statutory changes, the state's position, the role of the State Engineer, and the responsibilities that the Commission has delegated to the State Engineer.

Staff Report - Mr. Bill Fronczak presented the Staff Activity Report for the last quarter. He stated that John Bilisoly will be transferring from the Designated Basins Branch to

Team 237. Mr. Fronczak also reported on the injunction that was issued for non-compliance with a cease and desist order, on the meetings with two ground water management districts, and the compliance with the small capacity well permits.

Report of the Attorney General - Mr. Pat Kowaleski presented the report of the Attorney General. Mr. Kowaleski introduced Britt Haley who will be handling some of the hearings that have been assigned to the Hearing Officer. He reported on the new format for reporting pending issues, which will be updated and provided to the Commissioners in their packets. Per Chairman Hefley's request, Mr. Kowaleski will make sure that the definition of unreasonable impairment and material injury, which the Commission authorized as a public document, is mailed to the ground water management districts for comments.

Management District Reports - Chairman Hefley called for the Management District reports.

Mr. Ben Saunders reported for the **Frenchman, Sandhills, Marks Butte and Central Yuma Districts**. Mr. Saunders expressed his regrets for losing John Bilisoly. He stated that chemigation inspections have taken a lot of their time. With regard to the Holyoke co-op matter, Mr. Saunders is anticipating the transcript and will report on it at the August meeting.

There were no reports from the **W-Y Ground Water Management District** or the **Arikaree Ground Water Management District**.

Mr. Stan Murphy, from the **Plains and East Cheyenne Management Districts** thanked John Bilisoly for a job well done.

Mr. Doug Melcher reported for the **Southern High Plains Ground Water Management District**. He stated that they held a natural resource seminar last February and Chuck Roberts, from the State Engineer's Office, gave a presentation on confined and unconfined aquifers. He stated that Brad Austin is doing water quality samples in their area and they will do follow-up tests to confirm some findings. Mr. Peter Evans reported that the CWCB secured funding to lay out a study of the ground water resources per the District's request and has asked the Department to obtain money for the following year for any additional investigation. Per Mr. Melcher's request, Dr. Dass provided a clarification of the depletion criteria that the staff follows to process requests for new appropriations. Mr. Melcher introduced J.R. Paxton who distributed and reported on a letter of complaint addressed to the Commission regarding the illegal use of a well in the District. Commissioner Castle stated that the Commission cannot resolve the issue at this time and requested that the staff be directed to look into it.

There were no reports from the **North Kiowa-Bijou Ground Water Management District**, the **Upper Black Squirrel Creek Ground Water Management District**, the **Upper Big Sandy Ground Water Management District**, or the **Lost Creek Ground Water Management District**.

Old Business - Chairman Hefley asked the Commission Members if they had any comments to provide regarding the letter from the staff to the Upper Black Squirrel Ground Water Management District concerning their rules. There were no comments.

Next Meeting - The next meeting is scheduled for **August 14, 1998**, at the Inn at Silver Creek in Silvercreek, Colorado. A tour will be provided by the Northern Colorado Water Conservancy District of the Farr Pumping Plant at Lake Granby on August 13.

The meeting adjourned at 3:35 p.m.

Respectfully submitted,

Marta Ahrens
Secretary to the Ground Water Commission