
MINUTES

THIRD QUARTERLY MEETING COLORADO GROUND WATER COMMISSION

AUGUST 17, 2001

The Third Quarterly Meeting of the Colorado Ground Water Commission took place on August 17, 2001, at the Far View Lodge in Mesa Verde National Park, Colorado. Chairman Earnest Mikita called the meeting to order at 8:00 a.m. Marta Ahrens called the roll and determined that a quorum was present. Commission members present were Eugene Bauerle, Jon Brownell, Larry Clever, Richard Huwa, Max Smith, and Hal Simpson. Absent were Commissioners Anne Castle, Dennis Coryell, and Robert Loose, and Ex-Officio Members Kent Holsinger and Ted Kowalski.

Review and Approval of Agenda Items - There were no additions or corrections to the agenda.

Approval of Minutes - Chairman Mikita asked if there were any corrections or additions to the Minutes of the May 18, 2001, meeting. Mr. David Hayes, Conflicts Counsel, suggested that in the section concerning the hearing on the Bradbury Case on page 3, insert the wording that only one Commissioner, Larry Clever, voted in favor of the motion to affirm the Hearing Officer's determinations regarding the anti-speculation provisions. Commissioner Smith moved to accept the Minutes. The motion was seconded by Commissioner Huwa and carried unanimously.

Executive Director's Report - Mr. Hal Simpson thanked Marta Ahrens for arranging the tour of the Dolores River Project and the meeting site at Mesa Verde National Park. Mr. Simpson stated that he would send a thank you letter on behalf of the Commission to the Dolores Water Conservancy District for the excellent tour and luncheon on Thursday.

Mr. Simpson reported that Chairman Mikita, and Commissioners Bauerle and Huwa were all reappointed to the Commission by the Governor to serve another term. The Governor has not made a decision regarding the appointment of a Commissioner from the San Luis Valley. Mr. Simpson reported that he appointed Mr. Joseph Grantham as Hearing Officer for the Ground Water Commission and that he is employed half-time at the State Engineer's Office. He also stated that this is David Hayes' last meeting as he is leaving for private practice with Petros and White.

Mr. Simpson gave an update on the Kansas v. Colorado litigation. He stated that the U. S. Supreme Court issued a decision on the monetary awards that Kansas would be entitled to. The Court agreed with Colorado's position on when prejudgment interest should start, which was December 1985 when the litigation was first filed. The next step is to precisely determine the computations to reach an agreement on the exact amount of award. Trial preparations are still continuing for the last component of the litigation, dealing with the

rules that were promulgated in 1994 and 1996, which address future compact compliance. Approximately four to six weeks of trial are anticipated.

Mr. Simpson reported that this is Commissioner Jon Brownell's last meeting, he read a resolution for approval by the Commission and presented Commissioner Brownell with a plaque for his service to the Commission. Commissioner Huwa moved to approve the resolution. Commissioner Clever seconded the motion and it was approved unanimously.

Status of the Kansas v. Nebraska and Colorado litigation - Republican River Compact by Hal Simpson - Mr. Simpson reported that the State Engineer's Office is deeply involved in reviewing numerous documents and there are consultants working in a number of areas. They continue to have monthly status conference meetings and conference calls with the Special Master, and he is still pushing the stringent timeline for the trial in March 2003. Mr. Simpson reported that they took the Special Master and his assistant on a 3-day tour by airplane and bus over the Republican River basin. As a result of the tour, the Special Master realized the complexity of the issues. Colorado is working on responding to interrogatories from Kansas and Nebraska.

Discussion of potential rule or statute change for administration of wells in the Southern High Plains Designated Basin, by William Fronczak – Mr. Fronczak provided a brief summary of the events that have occurred regarding the project. He stated that McLaughlin Engineers will have the Phase II report completed by the close of this year. The staff recommended that the Commission delay a potential rulemaking until the November or February meeting. Final permitting could continue without a rule or statutory change, however, because the original water right associated with approximately 1,230 wells in the Southern High Plains Ground Water Management District has to occur. He stated that they propose to have a public meeting with the Southern High Plains District and the water users the end of August to discuss issues surrounding the final permitting of the original water rights. By the February meeting, a detailed synopsis of the Phase II report will be prepared for the Commission including a draft of the proposed rule change.

Staff Report by Suzanne Sellers and Megan Sullivan – Ms. Sellers reported that the activity report and an updated Directory of Officials are included in the Commissioner's packets and she gave a brief summary of the activities. Ms. Sellers recognized Rich Cooper for his promotion. She reported on the procedural memorandum by staff dealing with conditions that will be included on well permits; i.e., domestic animal watering on small capacity permits, and mentioned local ground water management district rules on large capacity permits.

Ms. Megan Sullivan reported that the final permitting activity has remained focused on the remaining Northern High Plains conditional permits. During the last quarter, 130 permit files have been reviewed and the well owners have been contacted as needed. Ms.

Sullivan stated that as noted in previous reports, well owners are slow to respond to requests for additional information.

Report of the Attorney General - Mr. David Hayes presented the report of the Attorney General. He stated that Mr. Pat Kowaleski will be representing the Commission and Matt Poznanovic will primarily be handling staff duties. Mr. Hayes stated that Mr. McClary filed an appeal on the Bradbury case. Mr. Hayes reported that there was a change at the last Legislative session regarding open meetings law and that Executive Sessions must be recorded and the statutory authority for holding the session must be announced.

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

Mr. Aron Nein reported from the **Frenchman, Sandhills, Marks Butte and Central Yuma Districts**. Mr. Nein reported that Ben Saunders continues to fight infection in both of his legs. His right leg was amputated above the knee and his left leg will be amputated in two weeks. Ben is in pretty good spirits and appreciates receiving telephone calls. Mr. Nein reported that all of his districts have experienced pretty good moisture. They are working on administration of under-appropriated wells in the Marks Butte and Frenchman Districts. He stated that as of August 1st, only 10 of 72 wells were pumping their appropriation.

Mr. Jack Adams from the **W-Y Ground Water Management District** reported that he brought three board members with him and they have had a better than average water year in their area.

There were no reports from the **Arikaree Ground Water Management District**.

Mr. Stan Murphy, from the **Plains and East Cheyenne Management Districts**, reported that he had to take an alternate route through New Mexico to come to the meeting due to Wolf Creek Pass being closed, but stated that there are no waiting lines at the hotel's registration desk at 11:30 p.m.

Commissioner Max Smith reported for the **Southern High Plains Ground Water Management District**. He expressed appreciation to the Records Section for extending their hours to accommodate McLaughlin Engineers' work on their project. Mr. Simpson added that he is working on obtaining a reduced rate for copying charges.

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 from the **Lost Creek Ground Water Management District**.

Old Business – none

New Business – Mr. Fronczak reported that the Ogallala Symposium is scheduled for Thursday, February 21, 2002. In conjunction with this meeting, the Ground Water Commission meeting will be held on Friday, February 22, at Northeastern Junior College in Sterling. The title of the symposium is “Economics of the Ogallala”, and will deal with power consumption, water use, etc.

Next meeting - Friday, November 16, 2001, in Denver, Colorado.

The meeting adjourned at 8:45 a.m.

Respectfully submitted,

Marta Ahrens
Secretary to the Ground Water Commission