

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
RURAL WATER AUTHORITY OF DOUGLAS COUNTY
HELD
June 27, 2012**

A regular meeting of the Board of Directors of the Rural Water Authority of Douglas County (RWADC) was held at 7:00 p.m. on June 27, 2012 at the Miller Building, 100 Third St. Castle Rock, CO, Conference Room A & B.

Attendance

In attendance were Directors:

Christine Hashimoto
Jack McCormick
Charlotte Mirabella
Charles Bucknam
Ron Beane
Barry Gager
Geoff Withers

Director Kristen Dearborn was absent whose absence was excused.
Commissioner Steven A. Board was absent.

Also in attendance were:

David Carter, Circuit Rider of Colorado, LLC
Sandy Vossler, Planner, Town of Castle Rock
Heather Vidlock, Assistant Director, Castle Rock Planning
Gary Weaver, Resident & Douglas County Planning Commission
Terry Krow, Franktown Resident
Reve Bernhardt, Greenland Ranch Resident
Laura Grisham, Greenland Ranch Resident
Roger Grisham, Greenland Ranch Resident

Call to Order

Director Withers called the meeting to order at 7:00 p.m. and declared a quorum.

**Approval of
Agenda**

The Agenda was approved as amended by acclamation. Director Bucknam requested Douglas County Referrals be added.

**Disclosure of
Conflicts of
Interest**

Director Withers asked if any Board member had a conflict interest with any item on the Agenda. There were none.

Public

Mr. Bernhardt addressed the municipal-sized drilling rigs in Greenland Ranch Open Space, and requested the opportunity to discuss with the Board. Director Withers confirmed that a letter regarding the wells, from Mr. Bernhardt's wife, was in the Board packets and that the item was later in the agenda.

Upon comment, the Board discussed water source and piping to Chambers Reservoir, the monitoring program for which is over today.

**Approval of
May 23, 2012
Regular Meeting
Minutes**

Discussion followed. Upon a motion by Director McCormick with a second by Commissioner Beane, minutes of May 23, 2012 were approved, as amended. Amendments included corrections to the attendance list, as well as spelling corrections throughout.

Presentation

Partnership of Douglas County Governments' Collaborative Approach to Oil & Gas Regulations

Sandy Vossler, Planner, Town of Castle Rock, presented on an effort to take a collaborative regional approach to oil and gas regulation. Ms. Vossler noted that in relation to oil and gas extraction, local authority is largely preempted by state policy, and therefore local authority has a limited role in oil and gas regulation. Ms. Vossler presented the coalition approach to dialogue with the state in order to secure protections for local water resources. Ultimately, Ms. Vossler is seeking the support of the RWADC Board of Directors for the Douglas County regional coalition that would represent the interests of concerned Douglas County entities.

Ms. Vossler presented information on the Niobrara shale formation, which stretches into Douglas County. She noted that oil and gas extractors must drill through aquifers in order to access oil and gas. Trends in oil and gas extraction and permitting were presented. Ms. Vossler noted that there are currently no oil or gas permit applications, although there was a spacing order (first step prior to a permit application) issued for a well near Jordan Road and C-470. Director Withers asked why the RWADC, as a local government designee, was not informed of the spacing order. Ms. Vossler responded that the spacing order was issued before the RWADC signed up with the Colorado Oil and Gas Conservation Commission (COGCC) as a Local Government Designee. Any further steps will require that the RWADC be notified. Director McCormick asked if

the spacing order determined which direction the well would be drilled. Ms. Vossler responded no, however, a drilling permit does designate this.

Ms. Vossler presented a map of oil and gas leases in Douglas County that are identified by the Douglas County Clerk and Recorder website. Ms. Vossler and her colleagues found that several oil and gas leases in Douglas County, including some within Castle Rock town boundaries.

Ms. Vossler presented information on some technical aspects of oil and gas drilling operations. Well casings and casing requirements were discussed at length. The optimal casing length is a casing that begins on the surface and continues to the bottom of the deepest aquifer. However the rules that govern oil and gas operations, oil and gas operators can request waivers of exception of such standards. In reality, casing depth requirements vary depending on several variables, including location within the state.

Ms. Vossler discussed oil and gas drilling rigs. Once a site is drilled, the rig site consists of a wellhead, storage tanks, and a separator, which separates oil and gas from water. If the well is a gas well, the gas is pumped offsite. If the well is an oil well, the oil is stored and later trucked off site. The impacts of such trucking can be of concern for local governments.

Director McCormick mentioned that a well rig is being used for training purposes in the industrial complex at Titan Road and Santa Fe.

Ms. Vossler noted that the town of Castle Rock was beginning to look at several specific issues, notably the issue of well casing depth, as a concern for water and water quality. She presented a map that identified registered surface area water intake locations. She noted that no registered locations existed in Douglas County, which is of concern because special rules concerning water protection apply to these areas. Director McCormick asked if intake is the same as diversion. Ms. Vossler responded that this is a question that they are currently asking the state.

Discussion followed concerning policy and regulatory options. Ms. Vossler noted that the state is unlikely to change state-level policies or rules. This is the reason, she explained, that they are looking to take a regional approach. They would like to approach the state with requests and concerns from all interested Douglas County entities, as a “single voice” to increase their influence and make responding to

requests easier for the state, and therefore more likely to be successful.

Ms. Vossler next discussed varying levels of protections required based on geographic location. She presented a map displaying surface water area intake locations registered and certified by the Department of Health. She discussed the special rules and protections that apply to wells located close to such locations. No such locations on the map were in Douglas County, although such surface area intake locations do exist within the County. One of the tasks the coalition Ms. Vossler and others are mobilizing is to document these locations and petition the state for their inclusion in the special protections.

Ms. Vossler discussed COGCC rules 317A and 317B. These rules require a single-strain casing top-to-bottom casing. If such a casing is deemed uneconomical, however, the operator may employ intermittent strains at each aquifer horizon. Ms. Vossler presented a map that has exceptions to these rules. In a certain part of the eastern plains and a portion of Douglas County wells within 1 mile of active water well must place casing 50 feet from the deepest producing interval. Ms. Vossler stated that she does not know why the rules are written as they are. Another, larger, area on the map, outlined in purple, has highest level of protection. Within this area, surface casing must be set with single strain all the way to the Laramie-Fox protection line. The county coalition is asking for this area to be extended.

In response to a question of the age of the boundary lines, Ms. Vossler replied she did not know. Director Bucknam asked for clarification of some of the details pertaining to the boundaries outlined in the map. Discussion of some of the implications of different areas and relative protections ensued.

Ms. Vossler has previously presented the aforementioned information in front of the Douglas County Partnership of Governments Leadership Group, and it is under their direction that a regional (county) approach has been undertaken. They are also working with Jack Hilbert, the County Commissioner that is part of the Governor's Task Force. One of the tools they have identified is for local governments to take advantage of the Local Government Designee process as a manner of receiving information about drilling applications. Another lesson they have learned is that it is helpful to have a single point of contact for the state rather than have each local government jurisdiction contacting the state independently.

A third opportunity that they identified is the possibility of jurisdictions entering into agreements with the state. For example, Gunnison County has entered into Memorandum of Understanding (MOU) with state, under which Gunnison County is hiring its own county-wide oil and gas inspector. This is significant because there are 40,000 wells state-wide and only 14 active state inspectors, meaning each well, on average, receives one visit every three years from an inspector. Gunnison County is now entering into an Inter-governmental Agreement (IGA) that is specific about the authority of the County in regards to the MOU.

Ms. Vossler noted that what specific mechanisms will be requested by the Douglas County coalition will be product of sitting down with the state and discussing possibilities. Director Mirabella asked if they had approached Elbert County in order to leverage increased numbers of individuals and entities. Ms. Vossler said that they had, but for the time being they are focusing on the needs of Douglas County specifically. Director Mirabella noted that they may have greater influence by approaching the state with multiple counties who have the same concerns and needs.

Ms. Vidlock, Assistant Director of Castle Rock Planning was introduced and described her role as bringing a coalition together. She said they are currently working with: Douglas County Planning, Castle Rock, Parker, Lone Tree, Larkspur, and districts: Centennial WSD, Parker WSD, Pinery WSD, Stonegate WSD, and Cottonwood WSD. She then stated that reaching out to the RWADC is very important, as they represent many small providers.

There are five central issues that the Partnership of Local Governments has raised that need to be addressed: surface water; ground water and water quality (El Paso County is working on entering into an MOU with the state around water quality, which the coalition is watching closely.); setback requirements (A Governor's sub-committee is working on this issue, however, the Douglas County coalition would prefer to be involved primarily with water issues and is therefore simply tracking the progress of the sub-committee), and; inspection. Ms. Vidlock stated that while the inspection issue is not urgent, as drilling increases throughout Douglas County, it may be beneficial for the different jurisdictions to come together and hire one inspector for the county, to "have eyes and ears on the ground" that is accountable to the county. Ms. Vidlock stated that thus far, they have been pleased with the attentiveness and responsiveness of oil and gas industry representatives.

Director Mirabella asked Ms. Vidlock if she could talk more about the efforts of El Paso County. El Paso County is looking to ensure, through a currently unapproved MOU, that water testing standards be set at County recommendations. Currently, Douglas County is looking to focus on MOUs as opposed to changing state-level policies. The hope is by forming a well-coordinated coalition, the state will have to pay attention to the coalition's requests.

Director McCormick inquired about the options for individual wells. Ms. Vidlock replied that the individual wells' and their interests are the rationale for the presentation at the RWADC meeting. They would like input from the Board on what individual well operators' concerns and interests are.

Director Beane asked if there has been any discussion of production water, and water demands of oil and gas operations. Ms. Vossler answered that oil and gas operations have to purchase water from a provider, a land owner, or truck it in. She noted that 50-80 percent of water used in hydraulic fracturing processes flows back immediately. Operators then can dispose of the water, they can treat it and reuse it (for example, for dust mitigation), or it may be injected back into wells. In these instances, a well similar to a production well is contracted and produced water is forced back into vacant spaces underground. Such injection wells must be permitted and approved by state. Local government designees will be informed of any injection wells. The state is fairly vigilant of such applications, and a permit for an injection well in Colorado was recently rejected. Produced water can also be collected in evaporative pits.

Director Bucknam asked if there is regulation regarding what happens with evaporative pits, and the volatile organic which may exist in produced water. The response was indeterminate.

Director Withers asked if the objective tonight was for the RWADC Board to decide whether or not to participate in the regional (county) effort. Ms. Vidlock responded "yes." Their objectives are: to get everybody up to speed on current efforts; to outline the issues and concerns and; to ask if there is support for the regional (county) approach and if there is support for the issues as outlined.

Withers – when do you hope to go to the state?

Ms. Vidlock said they are starting by getting surface water location maps to the state health department, and begin outreach to the oil and gas industry within next couple months. They would like to approach the COGCC in a matter of months.

Director Withers asked when they need to get a response from the RWADC Board. For example, would a response after the next meeting of the RWADC be okay?

Ms. Vidlock replied that a response by the next meeting of the RWADC be okay.

Director McCormick proposed to adopt a resolution for next meeting.

Director Mirabella asked if the RWADC could see the letter before it is sent. The answer was in the affirmative.

Director Withers asked the Board if it agreed to prepare a resolution for the next meeting after seeing letter.

Director Bucknam asked if they were seeking small water providers' support directly. The answer was in the affirmative. They could be represented individually or by a larger, umbrella entity.

There were a number of questions from citizens in attendance.

Director Mirabella asked about the surface water update and if it solely applies to drinking water. Ms. Vidlock replied yes, the rule only applies to domestic drinking water. Director Mirabella asked if there is any protection for surface water used for agricultural purposes. The answer was "no." Director Mirabella suggested that protections for agricultural-use surface water is something that would be relevant for the constituency of the RWADC.

The Board thanked Ms. Vossler and Ms. Vidlock for the presentation.

Officer Reports

Chairman & Vice-Chair, and Secretary

Director Withers noted that the Board of Commissioners received a note from the County Manager stating that the South Metro Water Supply Authority has requested that the County be engaged in discussions regarding the financing of water supply infrastructure and structuring. The County is seeking the services of a law firm to assist in the analysis of various structuring options for a regional water entity. Status of the project is unknown.

Director Withers announced a COGCC training in August for local government designees. Thus far, Director Withers has been the

contact for the RWADC as a local government designee. Director Withers requested that any of the other Board members let him know if they wish to take over as the contact person.

Director Mirabella asked what the County means by “regional.” She asked if the RWADC should send a letter asking to be informed of such efforts. Director Withers noted that the County cannot do any of the suggested actions without an election.

Treasurer - Financial Statements & Claims

Mr. Carter provided the Board with the list of Claims and presented the Financial Statements for the period ending June 27, 2012. An error in the verbal reporting of claims by Mr. Carter was clarified by Director Mirabella. **Upon a motion by Director Mirabella with a second by Bucknam, the Board ratified the Claims in the total amount of \$1,399.79.** Mr. Carter reported that the fund balance of the Authority as of June 27, 2012 was \$133,109.16. **Upon a motion by Director Gager with a second by Director McCormick, the Financial Statements were accepted.**

Project Updates

IGA (Rural Water Supply Act) Committee Update

Director Withers reported that the IGA Committee met on May 24. During the meeting it was decided that the feasibility study needs to change direction and they will ask the contractor, URS Engineering, about some of the IGA Committee ideas, and associated costs. Another meeting was cancelled, and rescheduled for July 30.

USGS Well Monitoring Program

Director Withers reported that the USGS Well Monitoring Program data is currently online, and can be accessed through the RWADC website. Director Withers has asked Rhett Butler to report before the Board in September.

Outreach Committee

Director Withers addressed the final evaluation of the May 2nd Well & Septic Workshop Final. Another workshop is being planned for October, likely on water conservation. The Committee will update the Board further at the July meeting.

Old Business

Scheduled Board Work Sessions

May 9: Temporal Water Needs by Subdivision

Director Mirabella noted that the Temporal Water Needs by Subdivision data was in and Director Commissioner Board was going to incorporate it with existing maps. Discussion ensued regarding current water supplies and build-out. The Board decided to keep the Temporal Water Needs by Subdivision topic on the agenda for July.

June 6: County Fair Booth & Fall 2012 Workshop

The RWADC has paid for a 20x10 space, to be occupied by two 10x10 tents. Director Hashimoto is working on a staffing schedule by Board members. The Board discussed topics for the Fall Workshop. Director Mirabella advocated talking about water conservation, xeriscaping, and irrigation systems to conserve. Director Beane mentioned receiving notices from the “Water Wise” group and suggested it might be a good organization to contact about the potential for including in such a Workshop.

June 20: Communications Plan

Directors Mirabella, Withers, and Dearborn attended the meeting with two volunteers. They are working on a proposal and should have one soon. The Board discussed the suggestion to regularly prepare a report for the Board of County Commissioners (BOCC) to stay “on their radar.” After discussion, the Board decided that the benefit of doing so did not justify the cost.

New Business:

Greenland Ranch Open Space Water Wells – request for assistance

Director Withers introduced a letter to the RWADC from Greenland Ranch Resident Trisha Bernhardt regarding water wells that have gone in behind the Bernhardt property. Mrs. Bernhardt’s husband Reeve Bernhardt was present to present the issue to the Board. Generally speaking, two wells have recently gone in behind the Bernhardt’s property, capable of withdrawing 14, 000 acre feet a year. There is the potential for eight additional wells to be installed. Per Mr. Bernhardt’s understanding, the well owners have 180,000 acre feet in “the bank” and available to for immediate withdrawal. Mr. Bernhardt’s concerns include where the water is going, what impacts the wells will have on his well, and if there is anything he and Mrs. Bernhardt can do to protect their wells from negative impacts.

Roger and Laura Grisham, also Greenland Ranch Residents, introduced themselves. Mr. and Mrs. Grisham expressed similar concerns. Mr. Grisham stated that he recently put in a new well and is concerned that the new wells will be pulling a lot of water from deeper depths.

Director Mirabella explained that when the original owner bought the land, he received the rights to the water, and that the water rights are not tied to land, or the open space. The owner was within his rights to sell the water rights. Director Gager expressed that the Board is not endorsing the system of water rights or the ability of someone to pull copious water out of the aquifers, but that it is simply the ugly fact of the law.

Director McCormick noted that the owner of the new wells most likely bought the water rights to be sold for profit. He stressed that the board cannot influence the decisions that the owner makes. Everything the owner has the right to do comes from Colorado state law.

Director Mirabella asked if the Bernhardtts have contacted owner of the wells. Mr. Bernhardt replied that they did not have access to the owner. He said that when you add up all of the water rights that the owner has, and withdraw them from one area, it will have a very large impact on the water resources of the area. Director Mirabella said that this is unfortunately the same issue as municipal well fields being located next to residential areas. Mr. Bernhardt asked what has been done in such situations. Director Mirabella replied that some people are hauling water, or finding how to purchase from providers such as Denver Water. She said many individual well owners are trying to figure out what they are going to do when their wells begin displaying negative impacts, that it is an issue and becoming a bigger issue.

Director Bucknam suggested that one option is to started a water conservation district and get the USGS to come in and monitor water levels and well production. Mr. Bernhardt stated he had been unable to get through to the USGA. Mr. Grisham offered to have his USGS contact (who monitors every other month) connect with Mr. Bernhardt.

Director Mirabella inquired what the Bernhardtts wanted from the RWADC. Mr. Bernhardt replied that he was looking for some possible direction. He presented some of the implications of the new wells including plummeting house values, an endangered mouse that lives in the area, and a protected wetland that is at risk. He is trying to get through to the Fish and Wildlife Service, without success.

Director Beane suggested some possible avenues at the Service and other conservation groups that Mr. Bernhardt could pursue.

Mr. Grisham suggested that the Board might be reluctant to take a political stance on the wells. Director Mirabella stated that the issue was not really a political one, but rather a matter of law. Mr. Rogers asked where they might go from there, and if water court was an option. Director Bucknam replied that water court is only an option when someone applies for water rights. Once a permit has been issued, there is no real recourse in water court.

Director Mirabella made two suggestions. The first was that the residents begin discussing how they can be included in a water district before they begin having serious issues with their wells. They need to figure out how to get a water supply to the area from such a district. Two suggested districts were Perry Park and Castle Rock.

Director McCormick asked if they have any wells in the Arapahoe aquifer. He suggested that they would benefit from talking to a hydrologist. It was suggested that Commissioner Board might be able to offer some information and guidance. Director Gager offered two possible suggestions. The first suggestion was that the effected residents might approach the owner of the new wells to secure water from the owner. The second was that if the resident could get enough people together, they could pool water rights, create a water district, and drill their own deep well.

Director Withers noted that eventually, the residents will need to organize and establish a community system to supply water anyway. Perhaps an intermediate step would be drilling a community well. When the well stops producing water, the community system would already be in place. Discussion over depletion and possible solutions continued, followed by discussion over the likelihood of industrial drilling in the Denver Aquifer. Director Beane then suggested number of ecological services to Reed.

Mr. and Mrs. Grisham and Mr. Bernhardt left the meeting after thanking the Board.

State & County
Permit Applications;
County Referrals

Colorado Oil & Gas Conservation Commission Applications
Referrals

Director Withers reported that there have not been any Colorado Oil & Gas Commission referrals.

SB2012-022 Castle Pines Village Filing No. 38

Director Bucknam reported that there is zoning regulation requiring documentation that Castle Pines Village does not have. Director Bucknam will bring this to their attention.

SP2012-031 6250 Statter Circle (aka Statter Ranch Tracts 3, 4, & 5)

Director Bucknam reported that he was out of town and did not have access to materials related to the referral at the time of its issuance. Director Hashimoto reported that she wrote a letter requesting more times as the Board only meets once a month and did not enough time to process referrals, and providing personal comments. Director Withers suggested having a backup who receives referrals in Director Bucknam's absence. The referral process was discussed.

Director Bucknam reported on the referrals that he had responded to already. Director Mirabella and others commented on the work Director Bucknam had done in reference to the referrals, and thanked him for his service.

Adjournment

Upon a motion by Director Mirabella with a second by Director Beane, the meeting was adjourned at 9:27 p.m.

The next regular meeting of the Rural Water Authority of Douglas County shall be held July 25, 2012 at the **Phillip S. Miller Library**, 100 S. Wilcox St., Castle Rock CO 80104
Castle Rock Bank Room West