

# **Rural Water Authority (RWADC)**

## **2011 Community Meetings**

### **Audience Questions & Answers**

**June 2011**

(Note: The following Questions and Answers are divided into four sections: Groundwater in general; Water Well issues, p.4; Douglas County policies, p. 9; and questions about the Rural Water Authority of Douglas County (RWADC), p. 12.)

## **Groundwater**

### **1. Does the State Engineer really own all our water?**

No, the Constitution of the State of Colorado provides that water of every natural stream (including tributary groundwater) is the property of the public. Simply stated, the diversion of unappropriated water cannot be denied and water used for domestic purposes has the preference over any other purpose. The application of the water preference though has rarely been applied except in cases of extreme drought. A tributary water right entitles the owner to the use of water for a specific type of and amount of use, place of use and time of use. The water right may not be changed without the approval of a Colorado Water Court.

Groundwater in the Denver basin aquifer is allocated based upon overlying land ownership. The State of Colorado has developed regulations which allow for an estimate of the amount of water available in each aquifer beneath the surface. A water right for this groundwater may be obtained from the Water Court. Use of the upper Denver basin aquifers may require a Plan for Augmentation.

### **2. Will the RWADC/USGS well-monitoring project show recharge-ability of aquifers?**

The objective of the well monitoring program is to study the water levels in wells in the Denver Basin aquifers in Douglas County. That information may be useful to estimate the volume of aquifers available for recharging. The most important use of the data will be to help determine that rate of decline of water levels in the aquifer(s).

### **3. Will the RWADC/USGS well-monitoring project result in filling of Reuter-Hess?**

No, the objective of the water monitoring program is not to fill Reuter-Hess, but to evaluate trends in water level of the aquifers to be used for long-term planning of water supplies. The monitor is unrelated to the Reuter-Hess Reservoir project.

**4. What are other counties that use Denver Basin doing to conserve?**

Water conservation in Douglas County is coordinated by the Douglas County Water Resource Authority, members coordinate efforts on a regional basis, including reduction in outdoor water use, Xeriscape guidance, education and outreach, see <http://www.dewater.org/>

A number of water providers (water districts) in Colorado have an approved water conservation plan. To date, no counties have an approved plan. Douglas County is attempting to be the first county to receive an approved plan. Douglas County is requiring subdivisions and water districts that obtain rights under the roads in their subdivision from the County to obtain an approved water conservation plan before using the water.

**5. Can a developer create well-fields?**

Yes, under C.R.S. 37-90-137(10) and the Statewide Nontributary Groundwater Rules 2 CCR 402-7 (“Rules”), additional Denver Basin wells can be obtained in the same source. Such wells must be on the same property considered as part of the evaluation for the Denver Basin well permit or decree. In addition, such properties must be physically or legally contiguous. The well field/additional well provision is allowed for decrees and well permits that were approved after the adoption of the Rules which were effective March 2, 1986. For decrees that were approved by the water court prior to adoption of the Rules, well fields and additional wells are only allowed if specifically approved in the decree from the same aquifer, on a continuous parcel of land. If the parcels are non-contiguous, a well field may be formed if the cylinders of appropriation of the wells overlap. See <http://water.state.co.us/DWRIPub/Documents/nontributary.pdf>

**6. Where do golf courses get water?**

Several Douglas County golf courses use water from the Denver basin aquifers which is a naturally non-renewable source. Several courses use a mixture of renewable and nonrenewable groundwater. Several golf courses use treated wastewater effluent (“gray water”) as their source of supply. There are no county regulations that specify the source of water to be used for golf course irrigation. If you would like information regarding a specific course, contact the course manager or Douglas County Planning.

**7. What will be the effects of Reuter-Hess reservoir? Will it be filled from aquifers?**

Reuter-Hess reservoir will be filled by diversions from Cherry Creek under high flow conditions, alluvial wells and deep aquifer wells. An important source of water for the reservoir will be reusable groundwater processed through local wastewater treatment plants and then exchanged for storage in the reservoir.

**8. What about effects of pumping by the Town of Castle Rock?**

All groundwater pumping from the Denver basin aquifers affects the water levels in the aquifers. Groundwater use with the aquifers far exceeds the small amount of natural recharge that occurs. These aquifers can be thought

of as an underground reservoir that does not naturally refill. This fact has led Colorado lawmakers to set rules that recognize that the aquifers are being drawn down by all users. Specifically, they have determined that the lowering of the level of the nontributary aquifers does not result in material injury. According to state statute 37-90-137 (4)(c) C.R.S. vested nontributary ground water rights will not be materially injured due to reduction of hydrostatic pressure or water level in the aquifer.

Each user of Denver basin aquifer water depletes the aquifers. Major groundwater users withdraw water under the same rules and laws that allow usage by domestic users. Large municipal production wells draw down the aquifers much more rapidly than rural domestic wells.

**9. Chambers Reservoir concerns:**

**a. Will they be recharging the alluvium with recycled water?**

The Arapahoe County Water and Wastewater Authority has applied for an amendment to their water rights applications to allow storage of treated wastewater in Chambers Reservoir and to infiltrate water into the Happy Creek Canyon at the base of the dam. They will have the burden of proof to demonstrate to the Water Referee that their plans will not cause material injury to other users of the alluvial and Lower Dawson aquifers.

**b. What can RWADC monitor?**

The RWADC has a grant to monitor water levels in the Denver Basin aquifers in Douglas County, which will supplement the water level monitoring program already underway in Grandview Estates by the Grandview Estates Rural Water Conservation District. The Grandview Estates RWACD is a member of the RWADC and was the first party to officially adopt the RWADC charter with the County.

**c. Will this affect Grandview Estates and other parts of Douglas County?**

Yes, the amended application will allow diversion of renewable water from Happy Canyon Creek in Douglas County into Chambers Reservoir for use in Arapahoe County, in effect potentially exporting renewable water resources from Douglas County to Arapahoe County.

**d. What is role of RWADC in this case?**

The RWADC supported the development of a monitoring program for the reservoir when the application went before the Planning Commission.

**e. What ability does RWADC have to require anything regarding this reservoir?**

The RWADC has no authority over the development of Chambers Reservoir.

## **Water Wells**

### **10. Define ‘household,’ ‘domestic,’ and ‘agricultural’ wells.**

Household well – A private well that produces drinking water for inside an individual household. Household wells may not be used for any outside uses, such as landscape irrigation and domestic livestock watering.

Domestic well - Domestic wells are those used for drinking and other household purposes and may include a variety of exterior uses including irrigation and livestock watering. There are a wide variety of domestic well uses permitted in Douglas County. Please review your well permit for allowed uses.

An exempt domestic well permit is issued as the only well on a parcel of 35 acres or more. Exempt domestic well permit uses currently include water use in up to three residential structures (subject to Douglas County zoning code limitations), the irrigation of up to one acre of home lawns and gardens, and domestic livestock watering.

Agricultural well – wells providing water for agricultural irrigation systems.

### **11. Why should my well be registered with the Colorado Division of Water Resources (DWR)?**

Legislation that went into effect on January 1, 2009 requires an application for a well permit to be submitted to the State Engineer prior to or within 60 days of the closing of the sale of residential real property, to register or permit those residential wells not of record with the State Engineer. If the residential property on which the well is located is not being sold the state statutes currently do not require that the well be registered. However, even in situations where registration of the well is not required by statute, there are benefits to registering the well. Most notably, if the well is not of record when a property with a domestic, exempt water well is sold, the prior landowner generally retains no rights to the well once a new owner has taken possession of the property. A new owner of the property becomes the owner of the well. Aside from complying with the State Engineer’s Office (not registered) the well owner will not be notified, as laws and rules require. The most common reason for such notification is in situations where a party is proposing to construct a nonexempt well (such as a new municipal, commercial, industrial, or agricultural well) within 600 feet of the subject well. If the well is not registered the well owner would miss the opportunity to be heard if he or she objected to the approval of the new well permit. There is no penalty for refusing to comply with the law on this matter, however recent legislation requires the transfer of the well at closing. Information on properly registering your water well can be found on the RWADC web site at [www.rwadc.org](http://www.rwadc.org).

**12. Who monitors water quality? Especially regarding recent gas and oil issues.**

- a. Surface water quality is covered under the Clean Water Act, which is administered by the USEPA. See <http://www.epa.gov/lawsregs/laws/cwa.html>
- b. Drinking water is covered under the Safe Drinking Water Act regulating community wells (generally less than 25 households). See <http://water.epa.gov/lawsregs/rulesregs/sdwa/index.cfm>
- c. The Colorado Department of Public Health and Environment administers these programs in Colorado. See <http://www.cdph.state.co.us/wq/PermitsUnit/index.html>
- d. USEPA is conducting a study on hydraulic fracturing potential impacts on drinking water. See <http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/index.cfm>
- e. In Douglas County, Tri-County Health serves local communities and individual well owners. See <http://www.tchd.org/>
- f. Owners of individual wells are responsible for monitoring their own water quality. For assistance contact the Tri-County Health Department at: 720-200-1583

**13. Who do we call if we have questions about our well?**

The State of Colorado – Division of Water Resources maintains a groundwater information hotline. The hotline is an excellent resource for groundwater well permit questions. The telephone number is 303-866-3587.

In addition, a complete copy of your well permit file can be obtained from the Colorado Division of Water Resources web site at <http://www.dwr.state.co.us/WellPermitSearch/default.aspx> . The web site also includes search tools to help you find your well permit number, if necessary.

**14. If a well goes dry, can we just drill deeper?**

Perhaps. In order to drill a well deeper within the same hole or drill a replacement well at a different location a Well Permit is required. Well permit applications are available from the Office of the State Engineer, see <http://water.state.co.us/DWRDocs/Forms/Pages/WellPermittingForms.aspx>. To be considered a replacement well the well must be constructed into the same source (aquifer) and be used for the same purposes. If the well will be deepened so that the well is completed in a different aquifer than the original well, or if the well be used for expanded uses, it will be considered a new well and be subject to current statutes and rules. This could result in a change in the allowed uses of the well from that allowed for the original well. The ability to obtain a replacement well permit, or a new well permit into a different source, will be evaluated at the time the well permit application is submitted. If you have any questions, you should talk with the Colorado Division of Water Resources staff to determine what your well permit options are. After looking at your well records, they can advise you of the permitting options.

**15. Who has the authority to dictate water use?**

Water in Colorado belongs to the people of the state and uses are controlled by the Colorado Constitution and a number of state laws. The Colorado Division of Water Resources - Office of the State Engineer administers water through a network of local Water Commissioners and administrative staff in the Denver office. The uses of your well will be specified on the well permit or in your adjudicated water right decree.

**16. Can the State of Colorado monitor my well?**

The State Division of Water Resources has the authority to monitor the use of all wells. Typically, a rural water user can utilize groundwater via an exempt well permit. Such well permits are generally limited to a flow rate of fifteen gallons per minute and specific domestic uses. Exempt well permits typically do not require a totalizing flow meter to monitor water production but do have specific use limitations. Non-exempt wells normally require that a totalizing flow meter be installed on the well and maintained in good working order. The well owner is required to keep records of the quantity of water withdrawn and provide such records to the Water Commissioner upon request. In addition to a metering requirement, non-exempt wells also have use restrictions. A property owner (or potential purchaser) needs to carefully review the conditions of the well permit associated with a given parcel to determine the flow rate, annual withdrawal limitation and use restrictions of the well.

**17. What is the 100-year rule?**

Non-exempt wells and certain exempt wells permitted after July 6, 1973 that allow withdrawal of nontributary groundwater, or any ground water in the Denver Basin aquifers, are limited to an annual appropriation (pumping) of groundwater water not to exceed 1% of the total volume of water available for use from any particular aquifer underlying the land. The rules allow the groundwater beneath a parcel to be withdrawn over 100 years if the groundwater is pumped at the maximum rate of 1% per year. There is no guarantee that the groundwater is actually available or that a given well (or well field) can produce the 1% annual appropriation.

**18. What is the 1% rule?**

The 1% rule is the same as the 100-year rule described in item 16 above.

**19. Please clarify what “Well Registration” and “Well Adjudication” are.**

- a. Well Registration is the process of recording for the records of the State Engineer’s Office a well that was constructed prior to May 8, 1972 and used for domestic purposes. Prior to May 8, 1972 well owners were not required to obtain a well permit prior to construction of a well used for domestic purposes. Since a well permit was not required, the Division of Water Resources has no record of these wells. Until the passage of recent legislation that requires that wells be registered upon sale of residential property, there was no requirement under the statute to obtain

a well permit for these wells. In order to register an existing domestic well a well permit application must be submitted to the Division of Water Resources. If approved, a document resembling a permit is issued that acknowledges the allowed uses and pumping rate of the well. A well registration permit also identifies the state statute under which the well permit is authorized. The permit also registers the well the State of Colorado. State statutes require that the title to the well be transferred to the new owner when the land is sold. It does not guarantee that the water is available or will remain available in the future. No state or local agency makes any determination as to the physical availability of water under a specific well permit. Douglas County does, in some instances, require that a well test be permitted prior to the issuance of a building permit.

- b. Adjudication of the well recognizes your legal right to use the well water according to the terms and conditions of the decree. You can usually obtain the legal right to the Denver Basin groundwater water under your property. You can also often adjudicate a water right for the water delivered by the well. The use of not-nontributary water will require development of an augmentation plan prior to use of the water, unless it is produced by an exempt well.

#### **20. What are the benefits of adjudication?**

Adjudication provides a method to obtain a water right to use of your well according to the terms and conditions of a Water Court decree. You may also be able to adjudicate all of the available water under your property not covered in your well permit if that water has not been previously adjudicated or claimed by other users. Adjudication of your water does not guarantee that the water will always be available. It merely defines your water right at the time of adjudication. Also, it is strongly recommended that you consult a water attorney before you adjudicate a water right. You may, or may not, wish to adjudicate the “right” associated with an exempt domestic well. You also may want to set aside some of the water in the “deep” aquifers on your property for use under an exempt well permit. There are advantages, and disadvantages, to each type of permit. A water attorney can explain them or call the Colorado Division of Water Resources for an informal consultation.

#### **21. Is there a trend towards restricting adjudication of water rights?**

No, but there have been some recent changes to the Water Court rules to streamline the adjudication process. For *pro-se* applicants (without an attorney), the Water Clerk is required to upload the documents into the electronic filing system and the Water Referee is required to draft the preliminary decree. Applications will automatically go to Water Court if, after one year before the referee, the case is not resolved. The Water Court also began enforcing the rule requiring individual applications for each property owner, eliminating the practice of group applications.

**22. Why is cost of adjudication going up?**

Court costs are higher as well as legal representation and an increased number of oppositions by water districts to individual well owner applications.

**23. How can our rural wells be protected? Can there be regulations on developments if impacts on wells can be shown?**

One potentially effective method for protection of wells is to oppose water rights applications which could cause injury to the wells. State law requires the applicant for water rights to provide the burden of proof that the conditions of water use under the decree will not injure the water rights of others. Water users of groundwater in the Denver basin aquifers generally have a right to use the water beneath their property as they see fit. There is little an adjacent property owner can do to restrict the rights of an adjacent landowner other than to negotiate adequate “setbacks” between wells to minimize well-to-well interference. The “first in time – first in right” doctrine does not apply to groundwater wells in the Denver Basin aquifers.

In general, regulations regarding the impact of development on local wells are under the purview of the Colorado Legislature. A local Board of County Commissioner may define, to some extent, water use and impact evaluation rules for use in the unincorporated portions of a County. Douglas County has some rules contained in Section 18A of the County Zoning Resolution. It is possible for the RWADC to propose state and local legislation to protect rural wells through our elected representatives.

**24. Can you provide information on various types of cisterns and legality of them?**

Cisterns, or water holding tanks, are regulated by the county under the Uniform Building Code. Please contact the Douglas County Building Department for specific information.

A permit to use rainwater that falls onto the roof of a residential property can be obtained if the owner has legal entitlement to a well and is not provided service by a district or municipality. Uses of the rainwater are specified in a permit issued by the Colorado Division of Water Resources – Office of the State Engineer – and will be limited to the same uses that are found on the well permit. See <http://rwadc.org/rainwatercollection.html>

The West Virginia University provides some information on cisterns, see <http://www.wvu.edu/~exten/infores/pubs/ageng/sw12.pdf>

**25. If the law maintains that water decline does not equal injury, then how can the law be changed?**

Regulations regarding the impact of development on wells is under the purview of the Colorado Legislature. It is possible for the RWADC to propose legislation to protect rural wells through our elected representatives. In reality though, it is highly unlikely that the Legislature will choose to change law regarding impacts to existing well and water rights. Many well

permits and water right decrees have been issued in the past two decades that would be difficult manage via Colorado's traditional "first in time – first in right" system. Although difficult, it may be possible to obtain additional reporting and well impact assessment requirements to be implemented with new well permit applications. The "injury" issue does, however, deserve serious public discussion and consideration.

**26. Can water be traced so that it can be proved where it comes from?**

Fluorescent dyes in low concentrations can be added to the source water and detected downstream. It is often difficult to trace groundwater movements over long distances due to the slow rate at which groundwater travels.

**27. Can we change state law to protect rural wells – requiring conservation by all users?**

Regulations regarding the impact of development on existing wells are under the purview of the Colorado Legislature and to some extent the local Board of County Commissioners. It is possible for the RWADC to propose legislation to protect rural wells through our elected representatives.

**28. Are there other neighborhoods with wells going dry or needing replacement wells, especially in RWADC District 1?**

There is some anecdotal evidence of well problems in the Northeast part of rural Douglas County, but none that have been documented to date. Owners are understandably reluctant to publicize water supply problems.

State well permit records do not indicate the reason for a "replacement" well permit to be issued, so that is not a source of this information.

**29. What does it mean to get a deed for your well?**

A deed is a written legal instrument that is signed and, in some jurisdictions, marked with a seal, used to grant an ownership interest or right to real property. Water rights in Colorado are real property. In Colorado, a water deed often refers to the decree of an adjudicated water right or the permit for the well. You are advised to speak with a qualified attorney regarding the various types of deeds used to convey a water right or interest.

## **County Policies**

**30. How does the County consider (evaluate) new developments in light of water supply?**

Water supply requirements in unincorporated areas set by state statute (30-28-133 (3)(d)) requiring a supply that is sufficient in terms of quantity, quality and dependability. There are no definitions in State law for the terms "quantity, quality and dependability." Counties are allowed to develop and use their own definitions.

Water supply adequacy in Douglas County is addressed in the 2030 Comprehensive master Plan and the County's Zoning Regulation in Section 18A. Douglas County has adopted requirements for four water supply overlay districts known as the: Pike/Rampart, Margin A, Margin B and Central Basin. The County has developed water supply standards that define the amount of water required for new developments. The standards are rarely applied as many water districts in the County were exempted from Section 18A when it was adopted.

Details regarding can be found in the Zoning Regulation, see <http://www.douglas.co.us/zoning/documents/ZR-Section18A.pdf>

**31. Does the Board of County Commissioners (BoCC) have power to require conservation measures of new developments?**

Yes, the BoCC has the ability to require conservation measures in new development via the County Zoning Resolution which currently requires compliance with the Douglas County Comprehensive Master Plan (CMP). The CMP requires development proposals to address prolonging the life of groundwater resources, see [http://www.douglas.co.us/CMP2030/documents/2030\\_CMP\\_Section\\_8.pdf](http://www.douglas.co.us/CMP2030/documents/2030_CMP_Section_8.pdf) .

Although the Master Plan is under the purview of the Planning Commission, the BoCC currently has the authority and responsibility to make sure that new developments follow the goals of the master plan. The BoCC does not, however, have to follow the water conservation or water use or conservation recommendations in the CMP. The BoCC may, via a change to the Zoning Resolution, make compliance with the CMP optional. Such a change would require a public hearing for modification to the Zoning and/or Subdivision Resolutions.

**32. Can the BoCC provide incentives for conservation to current residents?**

Yes, should County residents wish, the BoCC could create water conservation incentives for current residents. The County now has a program to transfer their water rights the County may own within a rural subdivision to the local homeowners associations, water conservancy districts or other qualified organization from lands dedicated to the County within the subdivisions. The recipient of the water rights must have a County approved water conservation plan in place before they use the water.

**33. Discussion of rural vs. suburban areas of Douglas County: Who subsidizes whom?**

A common issue of discussion in the County is whose taxes subsidize whom. Rural residents commonly have the misconception that their property and sales taxes subsidize urban growth and development. Urban residents often share similar concerns.

In any given year the County budget allocates "subsidies" across urban and rural areas. The BoCC works to balance needs, tax revenues and County

needs across all areas of the County. In any given year, decisions are made by the BoCC regarding the allocation of taxes to County projects and services needs.

**34. Who in Douglas County talks to State Engineer's office regarding water use?**

Anyone in Douglas County can talk to the Office of the State Engineer regarding water use, the water belongs to the citizens of the state, see <http://water.state.co.us/Home/Pages/default.aspx>

Douglas County has a Water Resources Planner on the staff at the Department of Community Planning & Sustainable Development, who discusses water issues with many agencies, including the State Engineer.

The Colorado Division of Water Resources – Office of the State Engineer provides comments to Douglas County regarding the adequacy of water supplies for new development at the Preliminary Plan stage of subdivision. Comments are often provided to the County at other stages of development. The County has the ability to recognize or ignore the States comments provided the state law is followed.

**35. What is Douglas County doing to find more water?**

Water providers (water districts, towns and cities) in Douglas County are directly responsible for providing water to their customers. Local residents have a responsibility to understand their water supply and participate in the affairs of their water provider. Each water provider has an individual water supply plan for its jurisdiction. At present (April 2011) only a few water providers in the County provide a substantial amount of renewable water to their customers.

Several water projects are in various stages of developed including Reuter Hess Reservoir, the WISE water supply agreement, the United Water & Sanitation District supply system and others.

The Douglas County Water Resource Authority, the South Metro Water Supply Authority, the RWADC and Douglas County participate in an intergovernmental agreement through the Rural Water Supply Act Work Group see [http://www.douglas.co.us/commissioners/adhoc/Rural\\_Water\\_Supply\\_Act\\_Work\\_Group.html](http://www.douglas.co.us/commissioners/adhoc/Rural_Water_Supply_Act_Work_Group.html)

**36. Will the BoCC consider water supply limits when approving subdivisions?**

Yes, if you mean water limits related to the conservation of water. The BoCC has in recent years limited the landscape irrigation area in rural developments in several instances. State statutes, the Comprehensive Master Plan, Zoning Resolution and Subdivision Resolution all require a water supply of sufficient quantity, quality and dependability to support a subdivision approval.

**37. Has Douglas County sold water rights for use by Town of Castle Rock?**

Douglas County did not sell water rights to the Town of Castle Rock. The County purchased Denver Basin aquifer water rights more than a decade ago to prevent them from being transferred to a user outside of the County. The County sold a portion of those rights to water users in the County several years ago with stipulations as to how the water may be used. Additional details of the water right sale may be obtained from Douglas County Commissioners Office (303)-660-7401.

**38. Can Douglas County impact/influence possible effects on water from oil and gas drilling?**

Douglas County has a limited role in the regulation of oil and gas drilling. At present, oil and gas wells are allowed in the A-1 Zone District via the Use buy Special Review process. Under State law, The County has virtually no say in the design of an oil or gas well with respect to the protection of groundwater. The County has met with various State officials to convey the vital importance of groundwater production. Additional meetings are planned for the near future to determine if special rules may be needed to protect our groundwater. Please look for updates on this issue on the Douglas County website: [www.douglas.co.us](http://www.douglas.co.us)

## **The RWADC**

**39. Please briefly explain what the RWA is and when it was established.**

The RWADC is a local government, created by contract in October 2008 under CRS 29-1-203 and 204.2 between Douglas County and Grandview Estates Rural Water Conservation District. Since then Thunderbird WSD has become a Party to the Agreement, and two other districts are considering joining.

**40. How and where are the RWADC's districts divided?**

Director districts are defined in our Creation Agreement. Generally they are District 1 – northeast Douglas County, District 2 – Franktown, District 3 – Cherry Valley, District 4 – northwest Douglas County, and District 5 – southwest Douglas County. A map can be found at <http://rwadc.org/images/Rural-Water-Providers-17X22-50dpi.pdf>.

**41. What are the positions of leadership/hierarchy?**

The 9-member Board of Directors elects a Chairman, Vice Chairman, Treasurer and Secretary every year in May, who may act as the Executive Committee on the Board's behalf between Board meetings.

**42. Explain how well owners within the RWADC Service Area became members.**

"Members" are either Parties to the Creation Agreement (governmental agencies) or Participants in the Authority. The Creation Agreement defines a Participant to include the owner of a well with a household or domestic

permit in our Service Area, which is the unincorporated area of Douglas County (i.e., not within the corporate limits of a municipality), and not within the boundaries of a large water System Provider (over 500 residential taps).

**43. What is the overall purpose of the RWA and what are the benefits to members?**

The purpose of the Authority is to assist its members in developing water resources and/or water systems. The functions and services of the Authority include

- (i) Providing services and facilities related to the supply and distribution of water to members;
- (ii) Collaborating and cooperating with other local, regional, and statewide water supply agencies in the development of water supply plans and conservation of water resources;
- (iii) Educating and informing water users on issues affecting an adequate, sustainable, and reliable water supply;
- (iv) Taking reasonable and prudent actions necessary to protect important or valuable water resources;
- (v) Providing such other services or functions reasonably related to the provision of an adequate, sustainable, and reliable water supply to Rural Water Users.

The benefits to members include having a “seat at the table” in the many discussions currently underway among the large water system providers that focus on bringing sustainable/renewable sources of water into Douglas County. The RWADC also undertakes educational efforts that help rural well owners with water conservation and general knowledge about their wells, permits, rights and responsibilities.

**44. Please explain the statutory authority of the RWA.**

The Authority derives all of its authority from the Creation Agreement, which itself has a statutory basis, but the RWADC does not have any specific statutory powers or responsibilities. The Creation Agreement does grant the power of eminent domain, subject to certain limitations that are listed in that document (see <http://rwadc.org/images/CA2009.pdf>).

**45. How is the RWA funded?**

The Authority has been funded by a two-year grant from Douglas County, totaling \$200,000, which the Board intends to last for at least four years. The RWADC also obtained a grant of \$113,000 from the Colorado Water Conservation Board to support a water level monitoring program being conducted by the United States Geological Survey. A long-term financial plan will be developed, hopefully by the end of this year, which will include an estimate of annual expenses beyond that time and how those expenses can be defrayed. There are no plans for assessing members at this time. The Authority can also receive contributions to defray its expenses and charge

fees for services. As the RWADC considers long term funding options, the Board welcomes your thoughts and participation.

**46. Does RWADC have power to tax?**

The RWADC does not have the power to tax. Money could be from fees, membership charges or bond proceeds for capital projects. Any bonds must be secured by a specific revenue stream, and would have to be repaid by the users of the project facilities.

**47. The Creation Agreement says the RWADC has the power to create Public Improvement Districts. When and how will that happen?**

The Creation Agreement says: “[t]he ongoing works of the authority including development, exploration and evaluation of water supply plans, Services, Projects or Facilities may be funded in whole, or in part, by a public improvement district, which may be organized and formed under Article 20, Title 30, C.R.S.” [Section XII,(B)] and “The Authority anticipates that additional project-specific public improvement districts may be formed to facilitate the construction and financing of Projects and Facilities of specific benefit to Parties and Participants and for the general benefit of Rural Water Users.” [Section XII,(C)] The cited state statute gives the power to create such a district to the county only. It is possible the county could create one or more such districts for the benefit of rural water users, and could designate the RWADC as an implementing mechanism.

**48. The Creation Agreement gives the RWADC the power to levy assessments and fees. When and how will that happen?**

The Creation Agreement says “[t]he Board may establish general and/or special fees, rates, and charges for the use of the Authority's Services. The Authority may use any method legally available to collect such fees, rates, and charges and may terminate any Services or automatically exclude a person or affected land for failure to pay.” [Section XII,(I)]  
The power to levy assessments is not granted to the RWADC in the Creation Agreement. Any fees charged by the RWADC would be on the basis of a businesslike transaction, where a willing buyer purchases a service that has value to them commensurate with the fee. If they do not agree, they may withdraw as a Participant in the Authority.

**49. If a resident wants to opt out of the RWADC, what is the process?**

Inform the RWADC in writing, giving certain specific information necessary to update the Service Area boundaries, which the RWADC must have to properly maintain a legal description of its Service Area. All this information is reflected in a Withdrawal Notice, available on the RWADC web site. The executed Withdrawal Notice is filed by the RWADC with the Douglas County Clerk and Recorder as a legal condition of the property withdrawn by the owner.

**50. Can the RWADC help publicize conservation measures?**

Yes, a major portion of the annual budget of the RWADC is dedicated to water conservation planning and reporting. This was one purpose of the seed grant money provided to the RWADC by Douglas County in 2010 and 2011.

**51. Can the RWADC talk about proposed dams in Sedalia area?**

Yes, the RWADC is designated as a referral agency to the County for land development proposals. Rural water users can bring their concerns about water issues in land development applications to the RWADC Board.

The RWADC supported the Grandview Estates Rural Water Conservation District opposition to Chambers Reservoir at the Douglas County Planning Commission Hearing, which resulted in a ground water level and quality monitoring plan being supervised by Tri-County Health.

**52. Suggestion: the RWADC needs to work on recommendations regarding water quality and supply, and work to tighten standards; and the RWADC should suggest revision of zoning regulations, so that BOCC has more tools to protect rural wells.**

The RWADC is a referral agency of the County and has the responsibility to influence the Comprehensive Master Plan, Zoning Resolution and Subdivision Resolution development in Douglas County with respect to water resources and systems for the benefit of rural water users. The Board also has the ability to create Advisory Boards as deemed necessary to address these issues. This is a good suggestion, one which the RWADC Board will take under advisement.

**53. Can taxes be collected to fund RWADC?**

The RWADC does not have the power to tax, but other governments could use tax revenue to fund the RWADC.

One or more improvement districts could be created by Douglas County within the RWADC Service Area, each of which could levy taxes to finance improvements, but the voters would have to approve each service district and its tax, if any.

**54. What about eminent domain?**

The RWADC has the right of eminent domain and must follow state law to exercise that right. The Creation Agreement requires consent to exercise of eminent domain within service areas of a Party or Small Water Provider. [Section XIII, p. 17]

**55. How can RWADC be a voice for us if Reuter-Hess draws on aquifers?**

Reuter-Hess has adjudicated its storage rights including aquifer water in Water Court, the RWADC was not party to those proceedings. The RWADC could appoint an Advisory Committee to monitor additional aquifer water storage water right applications and Reuter-Hess performance against their adjudicated rights if deemed necessary.

**56. What can RWADC do to influence other counties?**

The RWADC can form intergovernmental agreements with other counties to work on conservation programs or other issues such as the Douglas County Rural Water Supply program. (See Question #35)

**57. Will RWADC/USGS study target shallow/alluvial wells?**

No, the USGS study will not target the shallow alluvial tributary aquifers, it will focus on the deeper not-nontributary and nontributary Denver Basin aquifers.

**58. Can RWADC protest use of ground water for filling ponds or other unnecessary uses?**

Administration of water rights is within the purview of the state Division of Water Resources. The RWADC can assist rural water users in contacting their water commissioner to file complaints. As indicated previously in Question #40, the RWADC is a referral agency to Douglas County on land development issues. The creations of some water storage vessels in the County require a land use process that the RWADC can participate in.

**59. How can we find RWADC documents?**

Many RWADC documents are available at the RWADC web site. If other documents are needed, contact the RWADC through the web site at <http://www.rwadc.org/contactus.html>

**60. How do you define “rural”? (as in Rural Water Authority)**

The RWADC Service Area is all of unincorporated Douglas County (i.e., not within the corporate boundaries of a municipality), that is not within the boundaries of a Large Water System Provider (more than 500 taps), including areas that are within the boundaries of Small Water System Providers which have signed up to be a member of the RWADC.

**61. Has the Creation Agreement been amended?**

No, not since it was signed in 2008. It can be reviewed at <http://rwadc.org/images/CreationAgreementPDF.pdf>

The RWADC Board has adopted Bylaws that provide some detail about how the Creation Agreement will be implemented. See [http://rwadc.org/images/01\\_26\\_11\\_By-Laws\\_Amended.pdf](http://rwadc.org/images/01_26_11_By-Laws_Amended.pdf)

**62. How can you charge taxes without monitoring?**

Property taxes are collected by the county based on the assessed value of the land and improvements and the local mill levy, not on the quantity of water used. The RWADC does not have the ability to levy property taxes, however, the County and Small Water System Providers that participate in the RWADC have the ability to tax within their jurisdictions.

**63. Can RWADC get real authority?**

In order for the RWADC to obtain additional powers, the Creation Agreement would need to be amended. Water authorities do not, by state law, have broad powers to regulate any aspect of water or land use. They are limited in scope by state law and the intergovernmental agreement that created them, and serve mostly to foster cooperation in water projects and water matters.

**64. How can a RWADC ‘voice’ be used to have any real effect?**

The RWADC voice has already had an effect. The Douglas County Planning Commission required that a monitoring program be put into effect prior to construction of Chambers Reservoir, a position that the RWADC advocated.

**65. Can the RWADC report on well statistics? Well permit statistics?**

Yes, for example: According to data from the State Engineer’s office, there are a total of 15, 507 well permit records in Douglas County. A total of 7,767 identify a subdivision, 9,849 have a recorded date that the well was constructed, and 6409 have a recorded date when the pump was installed. A total of 56 wells had recorded pump installation in 2010.

Over 1,100 Replacement Well Permits have been issued in Douglas County since 1965.

**66. Does RWA plan to protect water, in regards to potential oil and gas drilling?**

The RWADC can disseminate information about any threats to rural water users from oil and gas drilling.

The Office of the State Engineer must provide notice and opportunity to comment on any well permit for oil and gas wells to be placed within 600 feet of any well used for other purpose, according to state statute 37-90-137(2)(b)(II)(E).

**67. How can the RWADC protect us?**

The RWADC can assist rural water users by actively monitoring the level of the water in the Denver Basin aquifers and use the information in planning for development of future water supplies for rural water users.

The RWADC can provide information to the rural water users on the methods for legal protection of water rights from activities that may cause material injury to rural water users.

Otherwise, the RWADC does not have the power or resources to protect any individual’s water or water rights.

**68. Can the RWADC provide language for individual well owners to use when talking to oil and gas companies?**

A number of landowners have cooperated in developing their own lease agreements that provide more protection for owners than oil company leases. The language in those agreements is proprietary, and is not available to us.

The RWADC could create an Advisory Board to develop guidance for rural water users to use in dealing with oil and gas companies, if deemed necessary.

**69. “The drilling for oil can cause wells to go dry.” Can Douglas County or RWADC require oil and gas operations to protect aquifers?**

The RWADC has no authority over oil and gas companies. Aquifer protection will be best accomplished through lease agreements that provide protection for wells and surface activities, by opposind well permits that may cause material injury to rural water users.

**70. Are there other RWAs elsewhere in Colorado?**

No, but there is an organizational effort underway to form a rural water authority in Otero, Bent and Prowers counties.

There is a Rural Water Authority in Parker, South Dakota that supplies water to all farms and homes. It may be a good model for developing water resources through the RWADA. The organizing district was a taxing authority, but the Mid-Dakota Water Development District spun off from that entity and funded the development of water distribution through voluntary \$350-\$500 hook-up fees to be used to conduct an engineering study for federal funding of the project. They were fortunate to have a local dam as the water source. See <http://www.mdrws.com/>

**71. What about elections for RWADC?**

The first elections for the RWADC Board was scheduled for May 7, 2011, the date of our first Biennial Meeting. Director Districts 3, 4 and 5 were up for election, as were Small Water Provider Seats 1, 2 and 3. All those elections were cancelled because there only one candidate declared for each of those seats. Districts 1, 2 and 5, and Small Water Provider Seat 1, and the Commissioner Directors will be elected in 2013, all for four-year terms.

**72. How do people run for the Board?**

- a. Nominations for the 2011 election opened in February 2011. Candidates needed to fill out a self nomination form which was witnessed by a Participant or Party. An Affidavit to be a Write-In-Candidate could have been submitted to the designated election official by the close of business on Thursday, April 7, 2011.

**73. Do RWADC members get a vote?**

“Members” of the RWADC are either Participants or Parties, as defined in the Creation Agreement. Each Participant and Party has a vote to elect Directors to represent them on the RWADC Board.

**74. Can RWADC require fees of members?**

As noted above, “members” of the RWADC are either Participants or Parties, as defined in the Creation Agreement. Fees can only be charged for services to Parties or Participants, and voluntary dues could be requested of Parties and Participants. To date no long-term financial plan has been developed, so no fees or dues have yet been proposed.

**75. How can we educate ourselves?**

Explore web links provided in response to these questions and use the resources of your public library. Google your topics of interest. (See also Question #12, above)

**76. Suggestion: offer another Seminar on well adjudication and groundwater law.**

Good idea. The Water Court also provides information on water rights adjudication, see [http://www.courts.state.co.us/userfiles/File/Self\\_Help/Non-Attorneys\\_Guidebook\\_to\\_Colorado\\_Water\\_Courts\\_Final.pdf](http://www.courts.state.co.us/userfiles/File/Self_Help/Non-Attorneys_Guidebook_to_Colorado_Water_Courts_Final.pdf)

**77. Suggestion: the RWADC needs to improve its mailing list.**

The RWADC mailing list is based on Douglas County Assessor mailing address records. Participants and Parties should keep their mailing address for their land parcels within the RWADC service area current with the County.

**78. How do we contact the RWADC?**

The RWADC’s mailing address is PO Box 4610, Parker, CO 80134, and the web site can be found at <http://www.rwadc.org>.

Contact the RWADC Administrator, Director of your RWADC District, the Small Water Provider Directors or the County Commissioner Director:

Administrator, 303-482-1002, Fax: 303-722-2768, [info@rwadc.org](mailto:info@rwadc.org)

The Board currently is made up of:

RWADC District Directors

District 1, Geoff Withers, [District1@rwadc.org](mailto:District1@rwadc.org)

District 2, Charlotte Mirabella, [District2@rwadc.org](mailto:District2@rwadc.org)

District 3, Kristin Dearborn, [District3@rwadc.org](mailto:District3@rwadc.org)

District 4, Jack McCormick, [District4@rwadc.org](mailto:District4@rwadc.org)

District 5, Chris Hashimoto, [District5@rwadc.org](mailto:District5@rwadc.org)

RWADC Small Water Provider Directors

SWSP1, Charles Bucknam, [SWSPDirector@rwadc.org](mailto:SWSPDirector@rwadc.org)

SWSP2, Barry Gager, [SWSPDirector2@rwadc.org](mailto:SWSPDirector2@rwadc.org)

SWSP3, (vacant)

RWADC County Commissioner Director  
Commissioner Steven Board, [bocc@rwadc.org](mailto:bocc@rwadc.org)

The RWADC Board meets monthly. The meeting schedule is posted on the web site, and all are welcome to attend.

*NOTE: The Rural Water Authority of Douglas County appreciates the expert assistance given by the Colorado Division of Water Resources – Office of the State Engineer in compiling the answers to these questions.*