



**Douglas County Board of
County Commissioners**

**Minutes of the Meeting of the Rural Water Authority
of Douglas County**

Wednesday, September 23, 2009

The Rural Water Authority met in the Philip S. Miller Building, 100 Third Street, Castle Rock, Colorado.

Present

Steven A. Boand, Commissioner
Charles Buckman
Barry Gager
Michael Owisany
Anita Littlewolf
Jack McCormick
Charlotte Mirabella
Priscilla Queen
Geoff Withers

Guests

Gary Crosby, Petrock & Fendel, P.C.
Britta Strother, South Metro Water Authority
Gary Cammarata, Thunderbird Water District
Mark Shively, Douglas County Water Resource Authority
Bob Snodgrass

Staff

Tim Murrell, Water Resource Planner
Judy Hammer, Planner

Call to Order

Commissioner Boand called the meeting to order at 7:05 p.m.

Approval of minutes

Wells and Water Rights- (Gary Crosby-Petrock & Fendel, P.C.)

Gary Crosby, paralegal at Petrock & Fendel, P.C., reviewed how the various Colorado Water Court's approve water decrees specific to the Denver Basin Aquifer system. He noted until a decree is established, the water underlying a property is not owned by the property owner. A water court decree confirms ownership of the water, quantifies amounts available, and establishes the terms and conditions under which it may be

withdrawn. Whereas, a well permit only gives the property owner the right to use the water. In addition, the water decree for the Denver Basin Aquifer establishes a 100 year water supply that is attached to the land. A decree also protects the landowner from future changes in water laws which may affect the type of water (not non-tributary and non-tributary), the amounts which may be withdrawn, or restrictions on its use. Gary noted adjudication is the process of getting a water court decree.

Gary reviewed the costs incurred by landowners in order to process a decree, and noted the water court will decree multiple properties at once. It was noted that the total number of lots decreed at once is restricted.

Gary reviewed the legal boundaries of Water Division One, the Denver Basin Rules & Regulations, and Senate Bill 5.

Gary defined the terms not non-tributary, non-tributary, and tributary. Specific to tributary rights, Gary noted the importance of augmentation plans in order to prove that a stream isn't affected. Non-tributary are not connected to surface streams therefore, any uses are allowed.

Commissioner Board noted the State will drill more cores in the Denver Basin aquifer in order to study the aquifer system in more detail, and suggested that the Authority consider offering an augmentation plan service.

Citizen Comment:

David Archer asked if it's legal for a water owner to sell the water under their land, and requested an explanation of the 600 feet rule.

Gary affirmed the legality of selling water in an aquifer.

Gary reviewed the 600 foot Rule and noted it stipulates when a well permit is filed with the State, then the State reviews the spacing between each well to ensure that they aren't closer than 600 feet. However, this specified distance doesn't apply to residential wells that pump less than 15 gallons per minute (gpm). It does apply if the well is going to be used for an agricultural use.

By-Laws Discussion

Geoff Withers reviewed the recent updates made to the draft bylaws.

The Authority discussed whether the bylaws would need a legal description of the County boundaries. Commissioner Board noted that a map is considered the legal description in the creation agreement. The Authority voted unanimous approval to add a map depicting the County as an appendix to the bylaws.

The Authority discussed alternate positions, whether or not every member should have

an alternate, or if alternates should be restricted to small water providers. The Authority voted not to have alternate positions.

The Authority noted that if it becomes necessary to add this position into the bylaws in the future, then the Authority can address it at that time.

The Authority voted unanimously to adopt the submitted bylaws as interim bylaws for next the 30 days. It was noted that they will be considered interim bylaws pending technical corrections, and legal review.

Citizen Comment:

Rural Water Supply Act Work Group IGA

Tim briefly reviewed the purpose of the Rural Water Supply Act Work Group. The Act was established to review whether it's feasible for rural water providers/entities to apply for loan guarantees with the Federal Government for water infrastructure improvements. Tim noted in July, the group submitted an appraisal investigation to the Bureau of Reclamation, which is the first phase of the process under the Rural Water Supply Act of 2006. The Colorado Water Conservation Board gave the group \$100,000 in order to fund the second phase of the Rural Water Supply Act, which is the feasibility study. Currently, the Bureau is reviewing the appraisal investigation and will communicate their determination in early October.

Mark Shively noted the importance of water entities/providers working together for the betterment of the community and briefly reviewed the timeline of the feasibility study.

Commissioner Board encouraged the Authority to ask for more information and noted the importance of Authority involvement in the Rural Water Supply Act.

Tim briefly reviewed the intent of the proposed Inter Governmental Agreement (IGA) and noted the ultimate goal is to build infrastructure for water delivery and get the County's rural residents off of wells.

The Authority reviewed the potential benefits of signing the IGA. Charlotte questioned why the Authority would sign the IGA and be a party to the feasibility investigation. She noted the potential for duplication of representation from two of the three parties listed in the agreement and made a motion to alter the language in the IGA in order to prevent membership duplication. Geoff stated the IGA has already been reviewed and approved by two boards.

Tim stated he will send background information about the Rural Water Supply Act and the Work Group to the Authority.

The Authority voted to table this item for continued discussion during their meeting in October.

Citizen Comment:

Citizen comments were not made.

Douglas County Domestic Well Inventory Report

This item was continued for next month.

Citizen Comment:

2010 Budget Proposal Discussion

Commissioner Board stated the proposed budget will be sent to the Authority by early October.

Citizen Comment:

Citizen comments were not made.

Calendar Update

Calendar updates were not reviewed.

Other Items

Commissioner Board noted a book entitled "Robert's Rules of Order" will be distributed to the Authority by early October.

Adjournment

There being no further business, the meeting was adjourned at 9:45 p.m.