

**UPPER BLACK SQUIRREL CREEK GROUND
WATER MANAGEMENT DISTRICT
REGULAR MEETING MINUTES**

June 4th, 2019

The **June** meeting of the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District was called to order **Tuesday, June 4th, 2019 at 6:06 P.M.**, in the conference room inside Farmers State Bank, 1500 8th Street, Calhan, CO. by President Dave Doran who determined a quorum was present.

Board Members in Attendance: President David Doran, Vice-President Dan Farmer, Treasurer Mark Greeley, Secretary JR Bond

Board Members Absent: NA

Others in Attendance: Jerry Jacobson, Jeff Munger, Mrs. Munger, Perry Hastings, George Schubert, Steve O'Bryan, April Hendricks via phone, Lisa Thompson via phone, John Hill, Tracy Doran

PUBLIC NOTICE OF THE MEETING WAS POSTED AND OPEN TO THE PUBLIC

President Doran opened the meeting and called for approval or amendments to the agenda.

1. Agenda for June 4th, 2019:

Director Bond motioned to approve the agenda with the addition of #2 Falcon Field Metropolitan Districts, and #3 The Ranch/Sketch Plan under El Paso County reviews. Director Farmer seconded the motion. Motion carried (4-0)

2. Minutes for May 7th, 2019:

Director Farmer motioned to approve the May 7th, 2019 minutes. Director Bond seconded the motion. Motion carried (4-0)

3. Treasurer Report & Any Bills Needing Board Approval:

Treasurer Greeley went over the bills needing paid. Director Farmer motioned to approve the May treasurer report and pay the attorney bill for \$ 9,998.63 and engineering bill of \$980.00. Treasurer Greeley seconded the motion. Motion carried (4-0)

OLD BUSINESS

1. Rules & Legislation Updates:

a. **GWC General Amendments to Designated Basin Rules 4, 5 & 7:**

The Hearing Officer has scheduled a public hearing for July 29-August 2nd, 2019.

1. **5.3 & 5.4:**

Ms. Thompson briefed the Board on the status of the amendments to the Ground Water Commission Rules in Designated Basins. Mr. Vander Horst circulated an amendment to the proposed rules on April 26th, 2019. The amendments only modify Designated Basin Rules 5.3 and 5.4, and involve the permitting of small capacity wells following a determination of water rights. Discussion followed on the changes Staff is proposing. The Hearing Officer granted an extension of time for all parties to submit responsive position statements until June 7th, 2019. Bob Longenbaugh had submitted comments to the Commission Staff concerning the amendments for Rules 5.3 and 5.4. Mr. Longenbaugh's suggestion, which attorney Thompson agrees with, the Rules must be revised to state that the amount of water available for well permits issued pursuant to 37-90-107(7) "shall" be reduced by an applicable amount for all small capacity wells that are also permitted to withdraw water from the aquifer beneath the overlying land. In their current form, the Rules provide that the amount of water available for withdrawal "may" be reduced to account for withdrawals from a small capacity well. The District agrees with Mr. Longenbaugh and will include comments to that effect in the District's responsive position statement. The District is additionally raising questions about the revised nontributary ground water boundary in the Laramie-Fox Hills aquifer. Discussion followed on other parties and alternate points of diversion. Ms. Thompson further noted that a settlement conference has been scheduled for June 18th, 2019, to allow parties to discuss outstanding issues. All remaining issues in dispute must be filed by July 12th, 2019, and the parties must submit their final pre-hearing statements by July 19th, 2019.

2. **Meridian Service Metropolitan District/Application for a Well Permit and an Amendment to a Replacement Plan/Case No. 19-GW** :

Ms. Thompson reported that there were no updates at this time. The District agreed to the old decree and will continue to compare any new orders that Meridian may prepare to those we stipulated on to ensure no substantive changes are made.

3. **Cherokee Metro & Meridian Service Metro/Replacement Plan/Case No. 08GW71/Cherokee Motion for Determination of Question of Law related to Case No. 98CW80:**

Ms. Thompson advised that the Hearing Officer ordered that a status conference be held on September 10, 2019, and that Cherokee and Meridian file a status report no later than June 14, 2019. Cherokee has reached out to set up another meeting after June 14th, 2019. Discussion followed.

4. **District Violations:**

President Doran reported that we had gotten an email from Chris Grimes on the Robinson Brick Co. ponds and they are still on top of it. If they can't release the water in 72 hours, they need to figure out how to release the water or come up with an augmentation plan. Discussion followed on another pond to the north of those ponds that had been dredged and the house has since sold. The Board would like to get an update from Chris on that pond. Further discussion followed on an email that was received from Mr. Grimes on Livestock Water Tank Erosion Control Dams. Mr. Grimes noted that staff is in the process of developing guidelines for LSWTECD structures in designated basins.

5. Gonzalez/Determination of Water Rights Case No. 19GW09 & 19GW10/Division 2 Water Court Case No. 19CW3011/JM Enterprises Augmentation Plan:

Ms. Thompson briefed the Board on the Case. The applicants have filed two applications for determination of water rights with the Ground Water Commission. One for nontributary ground water in the Laramie-Fox Hills aquifer, and one for nontributary groundwater in the Arapahoe aquifer. The applicants intend to use the Laramie-Fox Hills groundwater as an augmentation supply at an 80-acre parcel that is outside the District's boundaries, thus requiring the District's approval to export Laramie-Fox Hills groundwater from a designated basin. The Applicant also has a pending augmentation plan in Division 2 Water Court that will reserve a like amount of the nontributary Laramie-Fox Hills water underlying the in-basin for the replacement of post-pumping depletions that may occur after pumping ceases (after 100 years). The Ground Water Commission Hearing Officer ordered that both Case Nos. 19GW09 and 19GW10 be consolidated for Hearing purposes. The Upper Black Squirrel is the only objector in both cases. A setting conference has been scheduled for June 19th, 2019. In the Case No. 19CW3011 Division 2 Water Court, the District submitted a statement of opposition in this case on the grounds that the Applicant has not yet received approval to export the 12.6 acre-feet per year of Laramie-Fox Hills groundwater for use in its augmentation plan. Mike Wireman and Bob Longenbaugh reviewed the modeling/depletion analysis, and an initial status conference has been scheduled for June 12, 2019. The State Engineer submitted a Determination of Facts for this application as required by Statute. The Determination of Facts stated that there is a total of 1560 acre-feet of water available underlying their 80-acre parcel outside the Basin, which amount must be reduced by 600 acre-feet to account for two wells already constructed on the property. Post-reduction, this leaves 960 acre-feet of total water available for withdrawal, at 9.6 acre-feet per year. The applicants plan on re-permit one of the existing wells for use under the augmentation plan, which would then result in 12.6 acre-feet of groundwater for use each year under the augmentation plan. Discussion followed on the belief that the alluvial aquifer may be in contact with the Laramie-Fox Hills aquifer at this location, and could potentially injure alluvial water rights. There was further discussion on the Division of Water Resources revisions to the nontributary groundwater boundaries in the UBS Basin, particularly in the Laramie-Fox Hills aquifer. Ms. Thompson reported that they plan to set up a meeting with the individuals responsible for gathering data and preparing the new model for the nontributary

boundary in the coming weeks. Ms. Thompson advised that the Applicants do not intend to amend the export application in response to the State Engineer's Determination of Fact and are requesting that the Board confirm whether the application can be published. Discussion followed on Rules 18 & 19. Director Farmer motioned to allow the applicant to go ahead and publish. Director Bond seconded the motion. Motion carried (4-0)

6. District Rulemaking:

Ms. Thompson reported that both the State Engineer/Ground Water Commission and Meridian, Cherokee, Woodmen Hills and Paintbrush Hills had submitted comments to the District regarding the proposed rules. Ms. Thompson noted that they prepared responses to those comments and they were sent out on June 3, 2019.

7. Election:

There were no updates to report on this item.

NEW BUSINESS

1. Steve O'Bryan/Ellicott Sand & Gravel/Sand Pit:

Mr. O'Bryan introduced himself and Mr. Hastings and Mr. Schubert who accompanied him. They discussed their plan to do a sand pit on 770 acres of land owned by Mr. Schubert that has been submitted to the State. There was discussion on capturing water for more than 72 hours, flood plain, minimum above the ground water table, reclamation. Mrs. Doran gave Mr. O'Bryan Ms. Thompson's contact information to send a copy of the plans that were submitted to the Bureau of Land Reclamation with file no. M 2018-063. President Doran noted that the Board can only act on applications but thanked them for coming in and discussing the plan with the Board and asking the important questions to avoid problems down the line.

Water Well Permit Applications:

1. Lowman/Division 5:

The applicant has 40 acres and is applying for a 1 acre well in the Arapahoe aquifer, with 2 homes, domestic animal watering and 1 acre of lawn and garden irrigation. Director Farmer motioned to approve the Lowman application. Director Bond seconded the motion. Motion carried (4-0)

2. Hammill/Division 1:

The applicant has 5.15 acres in the Peyton Pines Subdivision and are asking for 1-acre foot in the Dawson aquifer, with domestic animal watering and 13,000 square feet of lawn and garden irrigation. They are in Filing 1 and are allowed the uses they are asking for. Director Bond motioned to approve the Hammill application but note that they are limited to two homes. Director Farmer seconded the motion. Motion carried (4-0)

3. Wilson/Division 4:

The applicants are applying for a domestic well on 35 acres. There is not a water transfer deed at this time for Determination of water right 459-BD, which is part of the Santa Fe Springs area. They are asking for 2 homes, 1 acre-foot in the Denver aquifer, with domestic animal watering. Director Farmer motioned that we cannot approve the application until time that the applicant can provide a water transfer deed and proof of ownership. Director Greeley seconded the motion. Discussion followed. Motion carried (4-0)

4. Christianson/Division 5:

The applicant is applying for a domestic well on 40 acres. They are asking for 3 homes, 1 acre of lawn and garden irrigation, domestic animal watering, and 1 acre in the Arapahoe aquifer. Director Bond motioned to approve the Christianson application but they will be limited to two homes per our rules. Director Farmer seconded the motion. Motion carried (4-0)

5. Blank/Division 5:

The applicant is applying for a domestic well on their 40.01-acre parcel and are asking for 1 acre-foot in the Denver aquifer, 1 home, 1 acre of lawn and garden irrigation, with domestic animal watering. Director Bond motioned to approve the Blank application. Director Farmer seconded the motion. Motion carried (4-0)

Determination of Water Rights:

1. Hyatt/Division 1:

The applicants have applied for determination of water rights in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers. The applicants claim ownership of the 39.4-acre property. They are asking for the following beneficial uses: domestic including structure and equipment washing, irrigation of lawn and garden, stock watering, and hot tub use. The State finds that they have 11.8 acres available in the Laramie-Fox Hills, 12.7 acre-feet in the Arapahoe, 13.15 acre-feet in the Denver, and 4.73 acre-feet in the Dawson. They have reduced the Denver to account for the historical amount withdrawn by a small capacity well which will be re-permitted pursuant to the determination of water right. They have a 4% replacement for the Denver. Discussion followed on Dawson and that the District does not allow small capacity Dawson wells, rules 17, 18 & 19. Director Greeley motioned to table the Hyatt application until after the Denver Basin Pumping under other business not covered above is discussed. Director Bond seconded the motion. Motion carried (4-0)

El Paso County Reviews:

1. Saddlehorn Ranch Metropolitan District(s)/Division 4:

This application is part of the old Santa Fe Springs subdivision. It has two commercial wells on it drilled by a previous owner. They plan on 224 detached single-family homes on 2.5 acre lots. They have 824 acres. They plan on having five tracts consisting of 85 acres dedicated to drainage and open space. Discussion followed on water and waste water which was unclear from the application on how it was going to be provided.

Director Greeley motioned to have Mike Wireman review and comment. Director Farmer seconded the motion. Motion carried (4-0)

2. Falcon Field Metropolitan District/Division 4:

This is an overlapping district to Woodmen Hills and was included in the Woodmen Hills Metropolitan District's boundaries. They plan on Woodmen Hills providing the water and wastewater. The Board did not have any objections to this plan.

3. The Ranch/Sketch Plan/Division 3:

This sketch plan is located west of Falcon, generally one mile west of Meridian Road and 1 mile north of Woodmen Road. There is no actual legal description given in the application. They plan on approximately 2144 residential units at varying densities, 15- acre community park and smaller neighborhood parks. They plan on an IGA with Sterling Ranch who is adjacent to this property for water and waste water. There was not a Water Resources and Waste Water report done by JDS Hydro included in the documents. Discussion followed. Director Farmer motioned to have Lisa look at the plan and comment if needed. Director Bond seconded the motion. Motion carried (4-0)

New Business Not Covered Above:

1. Denver Basin Pumping:

a. Lost Creek Letter:

The Board discussed Lost Creek's letter that they sent us that they are going to send out to all applicant's determination of water rights applications in their basin. The board reviewed the letter that UBS counsel prepared for their review. Ms. Thompson stated that she would like to send a courtesy copy of the letter to State staff letting them know that this letter would be going out to all applicants applying for large capacity determination of water rights well permits if approved by the board.

b. Enforcement:

Director Bond motioned to approve counsels' letter to accompany all determination of water right applications to large capacity wells going forward. Director Greeley seconded the motion. Motion carried (4-0)

ANY OTHER BUSINESS THE BOARD MAY HAVE:

Board Reports:

1. Ground Water Contamination Study:

President Doran stated there were no updates at this time on this.

VISITOR INPUT

NA

EXECUTIVE SESSION

NA

EXECUTIVE SESSION REPORT

NA

ADJOURNMENT

President Doran called for the meeting to be adjourned.

Director Farmer made a motion to adjourn the meeting. Director Greeley seconded the motion.
Motion carried (4-0)

The meeting adjourned at 7:54 P.M.

Respectfully submitted,

Tracy Doran/Office Manager