

www.upperblacksquirrelcreekwater.com
**UPPER BLACK SQUIRREL CREEK GROUND
WATER MANAGEMENT DISTRICT
REGULAR MEETING MINUTES**

January 11th, 2023

The **January** meeting of the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District was called to order **Wednesday, January 11th, 2023**, at 6:06 P.M., at 1500 8th Street (inside the conference room at Farmers State Bank, enter through the courtyard). The meeting was open to the public.

Board Members in Attendance: President David Doran, Vice-President Dan Farmer, Secretary Darrel Nily, Treasurer Mitchell Baldwin Via Zoom

Board Members Absent: NA

Others in Attendance: Lisa Thompson, Nathan Horesh, Luke O'Brien Via Zoom, Mike Wireman Via Zoom, Ted Brewer, Allan Demeuse, Terry Christianson, Sarah Aaberg, Arnold E. Wright Sr., Thomas Aaberg, Ashley Almends, Stuart Mitchell, Linda Childers, Randy Childers, Kathy Peach, Delene DeGroot, Peggy Schafek, Donna Farmer, Russell Farmer, Wyatt Hilton, Albert Kobilan, Bill Waddoyes, John Gladden, Linda Gladden, Larry Minkler, Donald L. Booker, Dodd & Maria Jindra, David Kinnischifzhe, Paulette Caraway, Nicolle Lynch, Andrew Lynch, Judy Hertel, Kenny Burk, Cera Heisch, Dennis Heisch, Brenda Burk, Carl Tatum, Jesus Galarza, Amayrani Gonzlez, Edward Sweazey II, Elvin Henderson, Jason Kuols, Ron Howard, Eric Skrzypek, Gabriel Ballatore, Christopher Heet

I apologize if names are misspelled, it was hard to read some of the handwriting.

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

1. Call to Order/Roll Call:

President Doran called the meeting to order and took roll call and determined a quorum was present.

2. Agenda for January 11th, 2022:

Director Farmer motioned to approve the agenda. Director Nily seconded the motion. Motion carried (4-0)

3. Minutes for November 1st, 2022 & Special Meeting Minutes of November 16th, 2022:

Director Nily motioned to approve the November 1st, 2022 minutes. Director Farmer seconded the motion. Motion carried (3-0) Director Baldwin excused

Director Farmer motioned to approve the Special meeting minutes from November 16th, 2022. Director Nily seconded the motion. Motion carried (4-0)

4. Treasurer Report & Any Bills Needing Board Approval:

Manager Doran reported on the income and expenses for the months of November and December 2022. Director Nily motioned to approve the November and December treasurer reports. Director Farmer seconded the motion. Motion carried (4-0)

5. Sunshine Law:

President Doran read the Sunshine Law into the record.

- A. Meetings to be held the first Tuesday of every month at 6:00 PM or at a day or time designated by the board of Upper Black Squirrel Creek at 1500 8th Street in the Conference Room (Enter through courtyard on South side of building) at Farmers State Bank, Calhan, CO or at a location designated by the board of directors.
- B. Agendas to be posted on the west door (by drive through) of the District Office located at 1500 8th Street at Farmers State Bank, Calhan, CO and on the district's web site www.upperblacksquirrelcreekwater.com
- C. The minutes and records of the meetings to be retained at the District Office located at 1500 8th Street (Inside Farmers State Bank), Calhan, CO and will be made available on the district's web site after approval at www.upperblacksquirrelcreekwater.com

VISITOR INPUT

NA

OLD BUSINESS

1. Cherokee Metro & Meridian Service Metro/Replacement Plan/Case No. 08GW71:

Attorney Thompson gave an overview of the amended replacement plan and explained the hearing process and timeline. Nathan Horesh from Spronk Water Engineers gave a power point presentation to explain the amended replacement plan, where it is located, what they are trying to achieve with the application, and where they are wanting to put 22 new alluvial wells. There was a question-and-answer session that ensued with the audience and the board, attorney and

engineer. There was also discussion about the spill that occurred near the Cherokee RIBS and of Cherokee being in non-compliance with their TDS, and the new RO plant that will be in operation sometime in 2023 with Cherokee's attorney Pete Johnson.

The board took a short break at 8:34 P.M.

2. District Violations/Enforcement Actions:

Attorney Thompson reported that Chris Grimes had sent a letter to the new owner of the Tran property of the conditions of the permit and what was required on the Order that was implemented by the State on the well and a lined pond that was seen from aerial photos that is not allowed to be on the property.

3. USGS Monitoring Program/Water Quality Study:

The board went over the amended modified agreement, which is a result of adding 6 new wells to monitor. Director Nily motioned to accept the amendment of the joint funding agreement, an increase of \$3,500.00. Director Farmer seconded the motion. Motion carried (4-0)

4. AEM Project/Aqua Geo Frameworks:

The board discussed and went over the amended flight path and increased cost with additional line miles. The original figure was \$250,000.00, and the new figure with the increased line miles is \$393,700.00, but will cover almost all of the basin. Director Baldwin motioned to approve the Aqua Geo Frameworks scope of work and additional cost. Director Nily seconded the motion. Motion carried (4-0)

5. Meridian Determination of Water Rights Case Nos. 22GW01 & 22GW02:

Attorney Thompson advised that we had stipulated on this case and it is completed.

6. Cherokee Change of Water Right Application-Poleson Well (Export):

Attorney Thompson went over the application and explained that it had gone through a previous change case and that they are asking to change the type of use and that it will have to go to a Hearing before the Ground Water Commission for the Change and the Upper Black Squirrel board for export, because they are wanting to take the water out of the basin. Ms. Thompson went on to explain that the district could have the Ground Water Commission hear the Change of Use first and then it can come to the board second for the export hearing, or the other way around. Discussion followed. Director Doran motioned to have the Commission go forward first on the Cherokee Change case and the district will hear the export case second. Director Farmer seconded the motion. Motion carried (4-0) Director Doran motioned to object to the Ground Water Commission on Cherokee's Change case to flush out any issues. Director Nily seconded the motion. Motion carried (4-0)

Discussion followed with attorney Pete Johnson and engineer Kevin Brown and Jason Kuols on the Poleson Right and that they should just swap the Tipton Right to Mayberry with the Poleson Right, because Tipton already has export. Mr.

Johnson stated they signed the Poleson contract in 2021, and that they want to control the water right.

7. Case Nos. 22GW21 (Cowiche Creek, LLC), 22GW22 (Mtn Reigns Ranch Trust), 22GW23 (Williams), Proposed revision to “Storage as Use”:

Attorney Thompson advised that the board had objected to these determination of water rights because of the storage as use wording in the applications. Ms. Thompson reported that we had them narrow it down to temporary storage in a cistern and they took out piscatorial. Director Farmer motioned to approve the stipulation and new language for temporary storage in a cistern and to withdraw our objections. Director Nily seconded the motion. Motion carried (4-0)

NEW BUSINESS:

Water Well Permit Applications:

1. Roots Properties LLC/Re-permit Existing Well:

The application was returned to the applicant for 5 reasons, one being that the State cannot issue a small capacity well permit for 6.9 acre-feet. The applicant’s attorney responded that they checked the wrong box, and it is to re-permit. They are asking for a new permit for the well already on the property, and know it can only be for a small capacity well. They will be applying for determination of water rights. The original well permit is 171940, for 1 single family dwelling, 15 GPM, 1 acre-foot in the Denver aquifer, with one acre of irrigated area.

2. Castro Investments LLC:

The applicants are applying for a well associated with DWR No. 1187-BD on 38.67 acres, they are asking for 3 homes, 1 acre of lawn and garden irrigation, domestic animal watering, 1 acre-foot in the Arapahoe, 15 GPM. They will only be allowed 2 homes per our rules.

3. Castro Investments LLC:

The applicants are applying for a well associated with DWR No. 1187-BD on 38.77 acres. They are asking for 3 homes, 1 acre of lawn and garden irrigation, domestic animal watering, 1 acre-foot in the Arapahoe, 15 GPM. They will only be allowed 2 homes per our rules.

Director Doran motioned to have Lisa write to the State to get clarification of Roots Properties, LLC. Director Baldwin seconded the motion. Motion carried (4-0)

Director Doran motioned to approve #2 & #3 on consent. Director Nily seconded the motion. Motion carried (4-0)

Determination of Water Rights:

NA

EI Paso County Reviews:

1. TR EI Paso Land LLC/Rezone:

The application is to rezone 275.89 acres from R-4 to A-35 zoning district. The approved Final Plat will clarify zone districts. The application requests approval to develop 7 lots under the A-35 zone.

Each lot will have on-site wells and septic. Each lot will be required to complete individual permitting independent of the rezone.

2. Romens/Rezone:

The applicant is requesting to subdivide the original 36.539 acres into 7 (approximate 5 to 6 acre lots). The Romens subdivision would be bordered on all sides by previously existing RR-5 (5-acre) residential development lots.

3. Eagleview/Final Plat:

Final Plat for (38) 2.5-acre minimum rural residential lots on 121.21 acres. Eagleview LLC requests approval of a Final Plat for the subdivision filing No. 1. Reconsideration of the Preliminary Plan (approved in 2007 and since expired), is currently under consideration. Water will be individual wells, in the Dawson under DWR 746-BD and Replacement Plan, and individual on-site septic systems.

Manager Doran advised that there were numerous El Paso County applications for out of district

Any Other Business the Board May Have:

Jason Kuols speaking on behalf of Mayberry and Ellicott Utilities told the board he wanted to be transparent with the district and went on to explain that they are going to be submitting an application for a waste water treatment plant off of the Falcon Hwy and Peyton Hwy area and that they already have a site approval for this plant under the old Santa Fe Springs development. The board relayed to him their concerns over the proliferation of waste water treatment plants in the basin and the degradation of water quality in the alluvium aquifer. He stated the reason for them wanting to do this plant was that it was cheaper for them to build their own plant versus the cost of running a pipeline and connecting to Cherokee's system and just the overall costs of being to connected to Cherokee. Mr. Kuohls stated he would send a copy of their application to attorney Thompson and the board explained to him that they can not take any action unless they have an application from the State or the County.

Director Nily motioned to go into executive session at 9:55 P.M. to get legal advice on the Cherokee Metro & Meridian Service Metro Replacement Plan application. Director Farmer seconded the motion. Motion carried (4-0)

Executive Session:

Please take notice that Attorney Lisa Thompson Pursuant to C.R.S. §24-6-402(4)(b) & C.R.S. §24-6-402(e), is requesting an Executive Session with the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District during its regular meeting scheduled Wednesday, January 11th, 2023, regarding the following matters:

1. Cherokee Metro & Meridian Service Metro/Replacement Plan Application-Case No. 08GW71

Director Nily motioned to come out of executive session and back into regular session at 10:48 P.M. Director Farmer seconded the motion. Motion carried (4-0)

Executive Session Report:

There was no action taken

Next Meeting Date: February 7th, 2023

Adjournment:

President Doran called for the meeting to be adjourned.

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

The meeting adjourned at 10:49 P.M.

Tracy Doran/Office Manager