

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

September 5th, 2023

The **September** meeting of the Board of Directors of the Upper Black Squirrel Creek Ground Water Management District was called to order **Tuesday, September 5th, 2023**, at 6:00 P.M., at 1500 8th Street (inside the conference room at Farmers State Bank, enter through the courtyard) & also Via Zoom. 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 at 6:14 PM

Board Members Absent: NA

Others in Attendance: Carl Tatum, John Hill, Jeff Munger (Zoom), Lisa Thompson (Zoom), Peter Johnson (Zoom), Michelle Kinney (Zoom), Tracy Doran, Cristina Welch, Bob Aamodt

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 September 5th, 2023:

Director Farmer motioned to accept the agenda with the addition of Kunau Determination of Water Right. Director Nily seconded the motion. Motion carried (3-0)

3. Minutes for August 1st, 2023:

Director Farmer motioned to approve the August 1st, 2023 minutes. Director Nily seconded the motion. Motion carried (3-0)

4. Treasurer Report & Any Bills Needing Board Approval:

Manager Doran reported on the income and expenses for the month of August. Director Nily motioned to accept the August treasurer report and pay the attorney bill of \$3,445.20. Director Farmer seconded the motion. Motion carried (3-0)
The board discussed preliminary budget numbers and had some suggestions for Manager Doran to recommend to the accountant. Discussion also followed on not qualifying for an exemption for audit this year because we will more than likely go over the \$750,000 threshold for Exemption for Audit.

5. Appoint Designated Election Official:

President Doran read the resolution into the record. Director Baldwin motioned to appoint Tracy Doran as the Designated Election Official for the February 2024 election. Director Farmer seconded the motion. Motion carried (4-0)

Discussion followed on removal of term limits because it is so hard to get volunteer board members, and board members are termed off just as they learn about water rights. Director Baldwin motioned to add removal of term limits on the next ballot. Director Nily seconded the motion. Motion carried (4-0)

VISITOR INPUT

Cristina Welch & Bob Aamodt came to the meeting to try and figure out who is in charge of what authority and jurisdiction because they have been experiencing some significant ground water infiltration in the Falcon Highlands subdivision and they have been getting told by every entity that they are not responsible. The installed underdrain system has been unable to keep up with, and they don't know if it is infrastructure issues or clogs but there is a massive amount of water pouring out of their sump pumps and going into the roadway. President Doran explained to them how the water should naturally flow, and that the district has spent a lot of time and money going to the Supreme Court and promulgating rules to try and manage the underdrain water in subdivisions in the basin, because it is naturally reoccurring recharge water for the senior water right holders in the basin who we are tasked to protect, that is no longer flowing in its natural state because of these underdrains.

Bob stated that his concern is that he thinks Woodmen Hills and Falcon Highlands are trying to back door something to build more houses.

Dave said that he got a call from Jeff Rice from the County and reported that Jeff when he spoke to him said that Woodmen Hills said there is a massive underdrain problem and they do not want to get in the middle of that because they know that is a lengthy process, and Jeff Rice asked if they would be grandfathered. Dave told Jeff that no they would not be grandfathered, and they would have to go through the same process that Woodmen Hills went through.

Discussion continued with Cristina and Bob on their subdivision and the water issues. Ms. Thompson discussed that each one of those sumps constitutes a well permit and that they have to be accountable for the water leaving. They have to keep the water underground or discharge into drainages and keep accounting and make up for the water loss if it isn't underground. She discussed the legality of what they are responsible to do. She further stated that she thought this was a metropolitan issue. Discussion continued with the board and Cristina and Bob.

The board will write a letter to the Ground Water Commission staff and convey their concerns, and express that they are also very concerned about the amount of water that is being wasted and that this is not covered by a replacement plan. Ms. Thompson stated that they should be treated just as Woodmen Hills was, and have to account for that. Discussion followed on high ground water in the Falcon area.

Cristina asked the board to attend a concerned homeowner meeting on Saturday, Sept. 9th, 2023 at 9 A.M. at the Falcon Fire station.

OLD BUSINESS

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

Ms. Thompson reported that Upper Black Squirrel submitted their second round of comments, not as extensive as the first round, and a week later Cherokee submitted their expert reports, and they are still making their way through those. Had the first expert meeting today. Next big deadline for all objectors who have listed experts, their reports will be due December 18th. Ms. Thompson discussed that there are a number of very large concerns by the Upper Black Squirrel, one is that the replacement plan proposes to put water in one year and withdraw it in the subsequent year. Downstream senior wells simply because they haven't been able to pump up to their full potential, there is no injury but as long as those wells can pump what they have pumped in the last 10-15 years they say it is not injury. The districts have serious disagreements with this. Water quality is another serious issue. Ms. Thompson said there is a lot of questions that need to be answered and the expert reports don't go into detail in a number of areas and a long road ahead of us. At this point in time, she does not think this replacement plan is ready, but welcomes the opportunity to talk to Cherokee. Discussion continued on out of basin injury because of in-basin pumping, and the 1999 stipulation and that they are required to bring water back into the basin for recharge. The board has an executive session later to discuss the replacement plan.

2. District Violations/Enforcement Actions:

President Doran sent letters to Blue Springs and Old West residents. Director Doran reported that Chris was going to go on a field visit but something came up and he will reschedule that. Director Doran noted that another pond has been built since the flooding event, it was confirmed that it is a sizable amount of water being held and Chris is going forward with enforcement action and they will have 90 days to comply.

President Doran reported that there may be another illegal grow in District 4, using a domestic well. Discussion followed.

3. USGS Monitoring Program/Water Quality Study:

President Doran noted that Zach would like to meet with the board at the October meeting and go over the data. If that doesn't work maybe schedule a special meeting by Zoom.

4. AEM Project/Aqua Geo Frameworks:

Director Doran stated that we had a Zoom meeting to update us and that they are progressing very well and are ready to put the information and documentation into the final report. Director Doran advised that we will have a better definition of the basin and geology of the basin.

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

No updates on this item

6. Town of Bennett Determination of Water Right Objection:

This application and hearing have been postponed to November.

7. Paint Brush Hills Determination of Water Right Objection:

Ms. Thompson advised that they have submitted a new draft and they are still going through that. Ms. Thompson stated that it is very confusing what they are wanting to do.

NEW BUSINESS:

Water Well Permit Applications:

1. Ingebretson:

Applicant is seeking 3 homes, 1 acre of lawn and garden irrigation, domestic animal watering on 40.89 acres, with 1 acre-foot in the Denver aquifer. They will not be allowed 3 homes per our rules and regulations.

2. Maddie Investments:

Applicant is seeking 1 dwelling, 0.056 acre of lawn and garden irrigation, domestic animal watering on 6.28 acres in Peyton Ranches, and 1.5 acre-feet in the Dawson aquifer. Applicant has DWR No. 4239-BD & Replacement Plan No. 4239-BD.

3. Meadowlake Industrial, LLC/Large Capacity:

The applicant is seeking all uses associated with 458-BD in the Arapahoe aquifer for 99.52 acre-feet underlying 54.51 acres. The applicant is also pursuing an application for the Denver aquifer so it won't be the only well. The total land acre they state is 254.53 acres.

4. Shellhaas:

The applicant is seeking a well permit for the Upper Dawson for 1 acre-foot, they don't specify the number of homes, or lawn and garden irrigation, they are also seeking domestic animal watering and livestock watering underlying 36.49 acres. The State states there is no Dawson at this location and at a depth of 400 feet would be in the Denver aquifer.

5. Mi Casa Colorado, LLC:

The applicant is seeking 1 dwelling, 1 acre of lawn and garden irrigation, domestic animal watering, with 1 acre-foot in the Dawson aquifer underlying 5 acres in the Reata Subdivision. The water supply plan allows for those uses and amounts, and they are required to install a meter.

Director Nily motioned to approve on consent with noted comments 1-5, with Lisa doing a brief overview and comments if necessary on #3. Director Farmer seconded the motion. Motion carried (3-0)

Determination of Water Rights:

1. Kunau:

The applicants are seeking a determination of water right underlying 849.79 acres in the Laramie-Fox Hills aquifer. The beneficial uses they are seeking are: domestic, including in-house use; irrigation; agricultural; commercial; industrial; fire protection; livestock watering; replacement and recreational use. 379.20 acres are not-nontributary portion of the overlying land and require 4% replacement, the 470.5-acre portion is actual impact replacement, & will be subject to the conditions of a replacement plan when they start drilling wells. Objections are due by October 21, 2023.

Director Farmer motioned to have Ms. Thompson do a brief review and comment. Director Nily seconded the motion. Motion carried (3-0)

El Paso County Reviews:

1. Paint Brush Hills Equipment Storage Facility:

Paint Brush Hills Metropolitan District is seeking approval to further develop portions of two (2) lots for public improvements and drainage. They are also seeking authorization of pre-development site grading.

2. Davis Sketch Plan (to be renamed):

The owners of Davis Ranch which consists of 398.91 acres intend to subdivide with a request to rezone their property from A-35 to RR-2.5 and RR-5.0 Rural Residential. Two small parcels located on Judge Orr Road are proposed as CS-Commercial Services intended for neighborhood retail use. The Davis Ranch Sketch Plan request is for approval of up to 92 single-family residential lots with a density of .23 dwellings per acre. Approximately 51.45 acres are proposed to be designated as public and private open space tracts, a public park, public trail easements, and buffer zones in areas adjacent to existing residential properties. All proposed internal roads are proposed as public. **Davis Ranch retains ownership of all water rights; homes to be built within the proposed subdivision will be serviced via on-site wells and septic. A water resources report has been completed by a local hydrogeologist and water attorney. The report confirms that low-density residential development as proposed can be supported they state.**

3. 21305 E Highway 24 Wholesale Nursery:

The applicants are seeking to have a wholesale nursery on 40 acres off Hwy 24 and will include two phases. First phase will consist of the construction of twelve (12) tree nurseries, and four (4) greenhouses in the second phase, thirty-three (33) tree nurseries and eleven (11) greenhouses. 12.33 acres of land will be disturbed as

part of the project. Proposed flows are tributary to the Upper Brackett Creek-CHBR0600 drainage basin. Proposed flows will be captured in two proposed swales and will divert flows to a proposed private extended detention basin. The proposed private detention basin will detain flows and release them below historic rates. They have an existing well and plan on putting in water line to the tree nurseries and greenhouses.

4. Sand Creek Channel Design CDs/Out of Basin:

The applicants request for approval of construction plans for the Sand Creek Channel restoration from the south property line of Sterling Ranch then north to the downstream limit of the Sand Creek channel improvements constructed by Classic for the Retreat at Timber Ridge Development.

Director Nily motioned to approve 1 & 4 and Have Ms. Thompson review and comment on 2 & 3. Director Farmer seconded. Motion carried (3-0)

Any Other Business the Board May Have:

President Doran reported that Lisa requested a field visit for Spronk, Jon Jones, Mike for the 26th, of September.

The board took a brief recess at 8:24 P.M. and returned at 8:31 P.M.

Director Farmer motioned to adjourn the regular meeting and go into executive session at 8:33 P.M. to

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 Tuesday, September 5th, 2023, regarding the following matters:

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

Director Farmer motioned to adjourn the executive session and go back into regular session at 9:49 P.M. Director Nily seconded the motion. Motion carried (3-0)

Executive Session Report:

No action taken

Next Meeting Date: October 3rd, 2023

Adjournment:

President Doran called for the meeting to be adjourned.

Director Doran made a motion to adjourn the meeting. Director Nily seconded the motion.
Motion carried (3-0)

The meeting adjourned at 9:49 P.M.

Tracy Doran/Office Manager

Join Zoom Meeting

<https://troutlaw.zoom.us/j/85347637758?pwd=NDBNVWICV0tabXNzYmtZRkl1WIFCZz09>

Meeting ID: 853 4763 7758

Passcode: 065921

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