

September 26, 2013

Dear Water Resource Review Committee,

Water division 3 is the only area in Colorado that has no Rules and Regulations governing ground water pumping. Sub-district #1 in the San Luis Valley is operating under Senate Bill 04-222 and a very new water model, yet the water level in our aquifer continues to drop. The rest of the pumps in the Valley can pump with very few restrictions. Yet, when the State Engineer determines that my surface water rights, decreed prior to 1870, are being diverted out of priority, I am immediately curtailed. There are in excess of 50 wells within 10 miles of me that are still allowed to pump while I am being curtailed. All of these wells were decreed at least 50 years after my surface rights, although a very few may have augmentation plans. Let's not allow these junior appropriators to continue to mine our aquifers at the expense of surface rights that have been diverting for over 140 years.

The sub-district has had two years of operation to address the declining aquifer, but what has been accomplished is to increase the deficit by an additional thirty percent. The sub-district concept was designed to allow local control to solve local problems, but it isn't working. There are some very hard decisions to be made to solve our water problems in the San Luis Valley. Passage of SB 04-222 was just kicking the can down the road because these problems have not yet been dealt with. For the sake of senior surface water users, natural wetlands and riparian areas, and native rangelands that are all dependent on healthy aquifers, we must find a new direction. We cannot wait another 18 years to begin the recovery of the aquifer.

You will hear that Rules and Regulations and augmentation plans will be an economic disaster for ground water users and the San Luis Valley economy, but we are here today to tell you that the lack of Rules and Regulations and augmentation plans have already imposed this economic burden on senior surface water users in the San Luis Valley. That impact will continue until the aquifer is recovered. What should be irrigation water for surface water users to grow crops with becomes recharge water for groundwater users so they can continue to pump. The over-pumping has the same effect on our stream flows, wetlands, and riparian areas. This will not change until the aquifer is recovered. Surface water users did not create the problems, but we have paid the price and will have to continue to pay the price until the aquifer is recovered.

The South Platte and the Arkansas basins are governed by Rules and Regulations and augmentation plans. They are now functioning according to the Doctrine of Prior Appropriation. This is the approach the San Luis Valley must take to solve our problems. The Rio Grande Decision Support System water model may become a valid tool to predict stream depletions in the future but there are too many unanswered questions about it to impose its' use on us now.

Please repeal SB 04-222 and encourage Governor Hickenlooper to appoint a Special Water Master to finalize Rules and Regulations for the San Luis Valley so that senior surface water users are on a level playing field with groundwater users. Only then, will we be able to begin the long journey to recovery of our aquifer.

Thank you,

Ed Nielsen