Presentation to Water Resources Legislative Review Committee
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Panel: Agriculture Producers' Perspective on Groundwater Administration
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The San Luis Valley is still waiting for Groundwater Administration. We are a watershed without rules and regulations to manage groundwater; and as such are not even beneficiaries of Colorado State Statutes concerning groundwater. Wells have been permitted and allowed to pump without replacing their depletions. They are still pumping.

Ten years ago SB-04-222 was enacted by the legislature presuming that the agriculture producers of the entire San Luis Valley knew about and supported the legislation for self-governance. Self-governance has resulted in ten years of no governance. By enacting SB-04-222 the Doctrine of Prior Appropriation is ignored: all wells are equal. Non-exempt wells in the San Luis Valley have been metered since 2009, but the first and only subdistrict with a court decree is in its fourth year of operation and has no authority to regulate pumping. Subdistrict wells can only be regulated by the State Engineer in the spring of the year when he approves the annual Plan of Water Management. When the aquifers continue to drop, as they have, his hands are tied until the next spring. Subdistrict groundwater management plans have 20 years to make progress. For all but Subdistrict 1, they must stop the aquifer decline from current pumping within the first ten years.

This presentation is not about individual efforts or even group efforts to conserve water or build up the soil's water retention capabilities, it is about groundwater administration and we have none.

We are currently awaiting the promised promulgation of Rules and Regulations, as we have been for the past five years. They are based on the RGDSS groundwater model. It has been noted, but not corrected, that the north and south valley have a shortage of monitor well data to give the groundwater model representative information of these areas. "No problem," we are assured: after these drought years with the aquifer being at its lowest, the model will establish a baseline in March 2015, a benchmark with which surface water users are not comfortable. This assumes the appropriate monitor well systems are functioning by then. The RGDSS will then recreate past hydrologic history of these areas. Long-time residents in the poorly monitored areas have questioned model results that do not reflect experiential data.

Gain/loss studies on streams should be implemented on a regular basis to determine the actual effect of wells on the streams. Some work has been done on call sheets and actual delivery of water shows a 35-38% loss in a system between gage flows and actual delivery to surface users in priority.

Pumping the confined aquifer began in the late l960s and 70s. Even before the current 15 years of drought, the flowing confined wells not associated with pivot sprinklers were showing the effects of pumping. Since 2000, the confined aquifer has seen increased withdrawals from pumping, with noticeable adverse effect on streams. In addition, wells are pumping in the alluvium of these streams that surround the north valley. These outer edges of the valley are the recharge zones of both the confined and unconfined aquifers over which streams must flow to reach the valley floor. When the aquifers are full, water flows over the recharge zones;

when the aquifers are drawn down during limited surface water supplies (drought), only high water events allow water to reach the surface rights on the valley floor.

A federal pumping project with a salvage decree continues to pump in the Closed Basin, the area north of the Rio Grande. On September 30 there will be oral arguments before the Colorado Supreme Court concerning whether the water pumped from non-augmented wells in the Bureau of Reclamation Closed Basin Pumping Project can be used as replacement of depletions to the river for non-augmented irrigation wells also pumping in the Closed Basin. Between I988 through 2011, project water has been delivered as mitigation water to Blanca Wetlands (BLM) and the Alamosa Refuge (USFWS) as well as to compact payment. If approved by the Supreme Court, water would be double-counted both as compact payment and to replace depletions for subdistricts which owe the Rio Grande from 2012 forward. This argument not only concerns well-to-well augmentation, but also the question of how many times you can use the same water for differing purposes. The Supreme Court's decision could have statewide ramifications for surface water rights.

Subdistricts in the rest of the valley must have their groundwater management plans before the court one year from the date the Rules and Regulations are approved by the court...however, that does not mean the groundwater management plans are functioning. As you well know, there will be objections to the Rules and Regulations which will have to be resolved. Subdistrict Plans are likely to be challenged and those will need to be resolved. How long could this process take?

Well over a decade of severe drought has already exacted a heavy toll on landscape-level ecology and ranches. Modest, if any, effect has been experienced on pivot sprinkler production, dependent on groundwater pumping.

We need an immediate mechanism in place to make wells accountable for their depletions and to insure that over-pumping a decree during drought years does not continue to adversely affect surface water rights while litigation is ongoing. In addition, gain/loss studies on all the streams with decreed surface rights are needed to inform the groundwater model the extent of stream loss as the over-pumped aquifers receive any available waters during the entire year.

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