

September 9, 2013

Dear Members of the Water Resources Review Committee

I worked for the State Engineer's Office for 30 years as my father and grandfather did. I own water out of La Garita Creek in the San Luis Valley with an appropriation date of 1872. I do not own a well I am a surface water irrigator.

When the tax payer paid for me to ride the country and administer the state's water under the Doctrine of Prior Appropriation, I was a believer that the doctrine would protect the state's water. But today after the courts and the State Engineer's Office allowed the doctrine to be replaced by the Subdistrict concept which allowed water law be changed and out of priority pumping to take place, allowing a new unproven concept to protect water rights of the state when we had a proven way for over a hundred years, The Doctrine of Prior Appropriation. I have a problem with throwing the priority system away.

There are so many issues concerning the Model the supporter used. The advisory committee or the creators of the model was staffed by the well pumpers. They hand selected engineers, attorneys, hydrologist plus State Engineer's Office became the committee. I believe at first the model was created to fight against transportation of the confined aquifer out of the Valley. It has been difficult to use this model to show if a well injures the river or your neighbor. This model does a geographic area, not individual wells. So how can you figure timing of the injury to the surface rights or even the amount of injury? When the model was run earlier it showed that the pumping did not create an injury the answer was the return flows were not being figured correctly. If we us any model it should show data that is correct. If not there is something wrong would not the concept of the run be wrong. Today the State Engineer's Office is spending much more money to adjust the data to fit their perceptions. It is more than bad input the model needs to be able to figure individual wells to really understand how the system works. I was so naïve I thought the model told you something but it does not you need to hire someone to tell you what the model said. The interrupter of the data is on the staff of the pumpers.

The second trial the courts were told and believed that tributaries around the rim of the Valley were not injured by the pumping in the Closed Basin Area. These lands lay adjacent to the subdistrict. My creek has hundreds of wells right next to our irrigated lands. But in court they said to the judge the unconfined aquifer pumping does not injure our water right. Millions of dollars were spent in court preventing water export based on the confined and unconfined aquifer connection. Injury to the confined will cause an injury to the unconfined. These tributaries are the water supply for the confined aquifer so how can not the pumping from the unconfined not injure my creek and all tributaries. The problem is the subdistrict concept allows injury to take place in the confined aquifer because the plan does not address the injury to the confined.

When I was water commissioner I approached ever issue from the middle of the fence addressed the concerning issue un-biased. I look at both sides of the fence and stayed in the middle. If I did not treat issues in that manner I could lose a finger. But today the State Engineer's Office is a party in the case that removed the Doctrine from water administration. The State Engineer's Office has spent money and staffers to insure the subdistrict concept to work. The office did not ride the fence in the middle but was a party to this case. The office was bias the times he signed off on approval of the plans.

1

How do you address a pumping issue of injury by using pumping to replace the injury? The Closed Basin Project wells are drilled and work just as the other wells on the Valley floor. The Closed Basin Project well pumps from the unconfined aquifer just like many other wells on the Valley floor. If we need to offset the injury to all other unconfined wells the Closed Basin Project needs to stop pumping or replace their injury. You can not solve a pumping problem with pumping!!

Before, during and after the first two trials much discussion took place concerning the surface water users did not trust the State Engineer's Office. There was testimony from both river systems that the State Engineer's Office lost the trust of the surface water users. No trust, no rules and regs for pumping, no support to the surface water user but the power of this office has been supporting the subdistrict concept from the get go. Should not the State Engineer's Office be in the middle, center of the fence not spending money and staff to change water law? Should not the State Engineer's Office protect the Doctrine not destroy it?

Mr. Nielsen's idea of a Special Water Master I believe is a good one. We need someone from the outside to make sure the State Engineer's Office does his job. There is no trust of the State Engineer's Office for decades, this office has been the over seers of the water in the Valley from the beginning, but the office actions is why we are at this place today, special treatment for some and a very dead ear to others.

My forty years of watching the water world of the San Luis Valley I can only say the courts and State Engineer's Office are controlled by the pumpers. This letter is hoping you will give the State Engineer's Office some new direction, force the office to treat all citizens equally. The power of this office should ride the middle of the fence and stop spending our tax income supporting special interests.

Sincerely

Perry Alspaugh  
40351 County Road E  
Del Norte, CO  
719-754-2521



Fwd: Closed Basin Project - time to shut it down and put wells in priority

Barbara Tidd

to:

David Beaujon

09/07/2013 04:58 PM

Hide Details

From: Barbara Tidd <slvbarb498@gmail.com>

To: David Beaujon <David.Beaujon@state.co.us>,

History: This message has been replied to.

1 Attachment



P Godfrey ltr to editor 2013 07 25.pdf

Mr. Beaujon,

**On Thu, Jul 25, 2013 I wrote the following email to Mike King, and have chosen to pass this on to you in the hopes that it may add to the concerned voices of long-time ranchers in our community of the Northern San Luis Valley regarding the continued pumping of the Closed Basin Project:**

I write in full support of Peggy Godfrey's comments concerning the San Luis Valley's BLM Blanca Wetlands expansion (attached). The Closed Basin Project needs to be shut down and the State Engineer needs to implement rules and regulations based on Colorado's water doctrine of prior appropriation.

I have been visiting the San Luis Valley since the early 1970s, have owned land in the northern Valley since the mid-1980s and lived here since 2003. During the past 40 years, I have witnessed the impact of the Closed Basin Project on this Valley. As one rancher recently said to me, one cannot improve on nature. The Closed Basin Project is a man-made project siphoning water out from under the Valley floor, which is exactly what we were successful in preventing when in the late 1980s American Water Development, Inc. (AWDI) and subsequently in 1995 the Stockman's Water plan attempted to gain approval to export the Valley's groundwater to the Front Range.

If the Closed Basin Project had not displaced water from the Valley's aquifer for the past 30 years, the current drought would not be as devastating as it is today. Ask any rancher who has been ranching in this Valley since before the Closed Basin Project started pumping.

It is time to act.

Thank you.

**To which Mr. King responded:**

----- Forwarded message -----

From: **King - DNR, Mike** <mike.king@state.co.us>

Date: Fri, Jul 26, 2013 at 9:37 AM

Subject: Re: Closed Basin Project - time to shut it down and put wells in priority

To: Barbara Tidd <[slvbarb498@gmail.com](mailto:slvbarb498@gmail.com)>

Thanks Barbara - I have spoken with my State Engineer and many folks from the Valley about this. The perspective you articulate is not supported by the science that my engineers are relying on. I know we are all frustrated by the limited resources - but I have confidence that my staff have reviewed this appropriately. Thanks, Mike

--

**Mike King**

**Executive Director**

State of Colorado, Department of Natural Resources

1313 Sherman Street, Denver, CO 80203

office: [303.866.3311](tel:303.866.3311) Ext. 8655 | cell: [303.506.8696](tel:303.506.8696)

email: [mike.king@state.co.us](mailto:mike.king@state.co.us)

**In reply to Mr. King's response to me, I have this to say:**

Garbage in, garbage out. If the data input into a computer model is flawed from the outset, the results will not be reliable. Scientists, researchers, and engineers can manipulate data and models to create the results they are looking for, especially when faulty data is input into a computer model. I witnessed this firsthand as a paralegal for a law firm representing a water company in Tucson, Arizona in litigation against the City of Tucson in connection with the use of Colorado-Arizona Project (CAP) water. Each party engaged an engineering firm to create a model using 'science' to support their opposing positions. This happens all the time in the legal arena. That is why there is litigation.

Barbara Tidd

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28988 County Road 65

Moffat, CO 81143

t: [719.221.8434](tel:719.221.8434)

f: [866.207.4259](tel:866.207.4259)

*stay together*

*learn the flowers*

*go light*

--Gary Snyder from "For the Children"



Too much pumping of the Closed Basin Project  
Jennifer S  
to:  
david.beaujon  
09/06/2013 03:30 PM  
Hide Details  
From: Jennifer S <jennifer.stoughton@gmail.com>  
To: david.beaujon@state.co.us,  
History: This message has been replied to.

Dear Sir,

We in the San Luis Valley are frustrated with the continued pumping of the Closed Basin Project that subsidizes the unsustainable pumping in Subdistrict 1 (north of the Rio Grande as far as Rd G -between Hooper and Moffat). This is being done with absolutely no regard 12-year drought that we've been enduring.

The north and east valley have been damaged by the depletion of the historical water table to depths that have dried up riparian areas and w

Please provide us with some groundwater administration in this area!

Sincerely,

Jennifer Stoughton

0935 Kenosha Road

South Fork, CO 81154



**The unregulated pumping of groundwater in the SLV**

Sharon Ray to: david.beaujon@state.co.us

09/04/2013 09:10 PM

Cc: "poetpeggy@gmail.com"

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History:

This message has been replied to.

The unregulated pumping of groundwater in the SLV must be addressed. The ranchers in the northern SLV are suffering because of unregulated pumping from wells. Natural artesian wells no longer flow creeks no longer flow and anyone with senior water rights is really hurting.

The aquifers underneath the valley are falling at an alarming rate.

The Closed Basin Project must also be seriously looked at and eliminated.

This is a serious situation which must no longer be overlooked. It's time to do the right thing.

Sharon Ray. PO Box 91, Saguache, CO 81149

Sent from my iPhone



Water in San Luis Valley

Michael Onewing

to:

David Beaujon

08/30/2013 10:19 PM

[Hide Details](#)

From: Michael Onewing <mmonewing@gmail.com>

To: David Beaujon <david.beaujon@state.co.us>

History: This message has been replied to.

Dear David,

As a resident property owner in the Baca/Crestone I write to you with encouragement to use your influence in changing the way our precious water is wasted by central pivot irrigation from wells that suck from this great San Luis aquifer. I'm certain you are aware of the high rate of evaporation when water is exposed to wind and low humidity, especially when it is "sprinkled" into the blowing, dry air. Can there be a more ludicrous way to irrigate? If water were sprinkled from airplanes on pastures and fields, it would be only slightly more ludicrous.

Our huge and rare aquifer is being abused by this ignorantly conceived technology that supports plumbing manufacturers while draining the life out of our agriculture, wildlife and wild lands. Intelligent, conservative use of water has been outed by greed and ignorance. Our state and federal administrators have the power to right the situation and wise people now demand that it is done.

Thank you for serving your citizens,

Ms Michael Onewing



**BACA GRANDE**  
PROPERTY OWNERS ASSOCIATION

PO BOX 237; CRESTONE, COLORADO 81131 PHONE: 719.256.4171 FAX: 719.256.4173  
WWW.BACAPOA.ORG INFO@BACAPOA.ORG

August 22<sup>nd</sup>, 2013

Water Resources Legislative Review Committee  
Attn: David Beaujon  
Colorado Legislative Council  
Room 029 State Capitol  
Denver, CO 80203

Mr. Beaujon,

The Board of Directors of the Baca Grande Property Owners Association, representing thousands of property owners, wish to express our concerns for the diminishing aquifer and stream flows which arise in our community at the foot of the Sangre de Cristos, East of the Baca Wildlife Refuge.

The Closed Basin Project, which has been pumping groundwater year round for over 20 years, takes most of its annual production from the Baca National Refuge lands between Road T and Hooper.

This project removes our ground waters to a canal and has exceeded its legislative limitations of a 2-foot drop. This man-made underground drought has exacerbated the effects of the past ten years of well-below-average snowpack and precipitation.

It needs to be shut down.

We strongly urge the Water Resources Legislative Review Committee to press the issue of groundwater administration with timely rules and regulations.

Sincerely,

Board of Directors  
The Baca Grande Property Owners Association

cc: [WaterResources@state.co.us](mailto:WaterResources@state.co.us)  
[david.beaujon@state.co.us](mailto:david.beaujon@state.co.us)

August 24, 2013

Water Resources Review Committee

Committee Members

Senators

Gail Schwartz, Chair  
Greg Brophy  
Angela Giron  
Mary Hodge  
Ellen Roberts

Representatives

Randy Fischer, Vice-chair  
Don Coram  
Diane Mitsch Bush  
Jerry Sonnenberg  
Ed Vigil

Dear Senator Schwartz & Committee Members:

As, I write, circles are pumping throughout the Valley, and have done so since the first ditch was allowed to turn on this spring. Our rivers (Conejos and San Antonito) are dry the last 25 miles before they reach the Rio Grande. The trout that made this section of the river famous are long gone due to the lack of spring's water – dried up, and 4 Hispanic villages have just disappeared.

Our rivers were the first in the Valley to feel the effect of 5000 irrigation wells using our return flows that originated in the two aquifers tributary to our rivers. Instead of the high positive returns prior to the wells; now our rivers are negative and much water is lost in the stream beds just sucking it up! I will give you a for instance: several years ago on my wife's birthday, August 6<sup>th</sup>, I called the Water Commissioner and asked that my priority #4 ½ (an 1855 decree) be delivered to my head gate. I had heard there was 200 C.F.S. going by the Mogote station. There was a 25% compact call but there should be enough for my 6.2 C.F.S. to be delivered. The Commissioner said "Kelly, the compact requires 25% of the 200 C.F.S. or 50 C.F.S. delivered at Los Sauces to the Rio Grande. However, it is taking another 50 C.F.S. to get the compact water there. Sorry, there is only enough water left for #1 and #2. I know we have a bad drought but that doesn't stop a sprinkler. The only thing that will is for the well to go dry.

I don't have irrigation well, but I have meadows and cattle and 1855 water adjudication. My hay crop is running about ¼ of normal. I am faced with selling half of my cows and start over at 89 years of age. If I quit I die.

Conejos County is at the south end of the Valley, it is very volcanic and completely different geologically than the rest of the valley. The confined aquifer was very precious to us but is nearly exhausted. Cattlemen are going broke and well owners getting rich. Most of the cattle in the Valley are here along with most of the senior surface rights. But the priority system is broke, and the States Constitution means nothing.

I believe the "Model" is having a hard time describing what is happening underground here.

Sincerely,

*Kelly Sowards*

Kelly Sowards  
P O Box 65  
Manassa, CO 81141

August 21, 2013

Water Resources Review Committee  
Committee Members

Senators

Gail Schwartz, Chair  
Greg Brophy  
Angela Giron  
Mary Hodge  
Ellen Roberts

Representatives

Randy Fischer, Vice-chair  
Don Coram  
Diane Mitsch Bush  
Jerry Sonnenberg  
Ed Vigil

Dear Senator Schwartz & Committee Members:

Imagine a Colorado "American Dream" being in your 20's buying property to build a home for your family with 32 acres of land to plant hay and alfalfa and a 7 acre pond with fish and wildlife. You purchase it knowing that it will take blood, sweat and tears but that is what it is all about.

You have more than enough surface water to flood irrigate your 32 acres, the pond if full and for the next 30 plus years you work on your dream. But over the years you feel the effect of irrigations wells. Wells by the way that are allowed to pump with no augmentation plan.

Now your original well supporting your home water needs has to be dug deeper, your lands require more and more too just get wet and the pond is losing water. Each time a well is turned on around you, your toilets fill with sand, your washer is filled with sand and there is nothing you can do.

Now imagine your now in your 50's, you cannot even wet your lands to raise a crop, the pond is completely dry and each year you have to replace household items that are ruined by sand. You should have seen to spectacle of the Eagles coming in to feast on the fish that were in the pond as it dried up. The water literally

looked like it was boiling with the fish that were dying because the water was gone. The water in the pond was sustained by the aquifers – aquifers because of welling pump are nearly exhausted. Where is the State Engineer???? Where are the Rules and Regulations that are supposed to be in place? I have senior water rights and it means nothing because the Constitution was not followed and those that had money bought those in power out.

Sincerely,  
Wayne Garcia  
PO Box 368  
Antonito, CO 1120  
(719) 843-5600

Aug 17, 2013  
Saguache, CO

David Beaujean  
Colorado Legislative Council  
Rm 029 State Capitol Bldg  
Denver, CO 80203

Dear Sir,

This note, along with a letter to editors of local papers, is with regard to an upcoming meeting addressing the water problems in the San Luis Valley.

We are ranching in Saguache County and both retired physicists with doctor's degrees. The statements in the enclosed letter are based on our experience here along with looking at data from monitor wells. We would be pleased if you could present our thoughts to attendees at the above-mentioned meeting.

Sincerely,

Maef Bengert Sue Ellen Engbert

Phone: (719) 256-4353

August 1, 2013

To the Water Resources Legislative Review Committee:

I believe we live in a society that operates solely on greed. I will explain in this letter. I was born Robert E. Bunker, August 15, 1943. I have lived all of my life in Saguache County except for four years when my folks moved to Nevada to find a better job. It turned out more money was not better after all. We moved back to Saguache County and I have lived here every since. Where I grew up your livelihood depended on stream water for irrigation. In good years you had plenty, in dry years you got by with what came down the stream. You did not take more than nature provided. Even in dry years the stream flowed by where I live now. When I was young I could sit by the road and fish in San Luis Creek where it went under what is now Road AA. I own property that was once part of a muskrat and mink-raising operation that advertised three and one-half miles of clear flowing water. Only once since 2001 has the stream reached my property so I could irrigate. My livelihood is a small herd of cows. I have survived by buying hay because cattle prices were high enough I could afford to do it. This year hay prices are so high I will likely not survive. I am too old to get a job working. Where is my compensation that I keep hearing about. I refuse to join the welfare society that has been created in this country and I will not sit quietly and starve to death. What do you think my options are?

Now I will explain the role greed plays. In 1970 I went to work on the BACA GRANT RANCH. It may have been the best ranch in Colorado. There were thousands of acres of hay meadows and several thousand cows. Shortly after I arrived on the grant, the effects of the over-pumping to the west began to show up. Pastures on the west side of the ranch became too dry to use and the meadows on the south part could no longer be irrigated due to the dropping water table. This affected the profits of the cattle operation, so a land development was started by the stockholders. This finally led to the destruction of the cattle operation. There was less interest in ranching and more interest in money-making. At this time the stockholders realized they had created more problems with the development than they wanted to deal with. They took their money and ran. The ranch became the headquarters for several money-making schemes that did not seem to work.

Now greed really shows up: the government builds the Closed Basin Project. There was strong opposition to the project by the local people but they did not have enough money so they lost the battle. Now the well owners could get credit for the water going into the river. This allows them to pump more water. The Colorado government fully supports this process. It allows them to collect tenfold or more taxes on a piece of ground that raises farm crops than they can collect on pasture land. Government greed is responsible for a large part of the current problem.

Here comes greed again. People figured if government could market water, they could too. A large water development scheme was put in the works. Pump owners were forced to join forces to fight these projects. They could not let someone steal water that they were already stealing. They became powerful enough to finally win the court battles that followed. They are now powerful enough that they feel they can dictate how water is managed in the San Luis Valley. Unless someone in Colorado government has backbone enough to stand against them, they will become water dictators for the whole San Luis Valley. Their only goal can be to get every penny they can make before all the water is gone

I moved to where I live now in 1991. The first four years I had good water but as more sprinklers were added I started to get less and less. My stream priority is #23 (1872). I have not had water in ten years but wells with no priority are still pumping every day. I started with 5 flowing wells on my property,

now I have to pump water for the house and it is starting to suck air. To keep living here I will have to go for deeper water. If government and well owners keep showing no regard for people like me, the fate of the people in the San Luis Valley will be the same as me. Even the so-called water managers will pump themselves out of business. It is probably too late for my property but maybe some of the valley can be saved.

Robert E. Bunker  
County Rd. AA  
Moffat, CO 81143  
719-256-4292

Published in the *Saguache Crescent* July 25, 2013

### **Letter to the Editor**

Since comments on the San Luis Valley BLM's Blanca Wetlands expansion are available to the public, I present my comments here:

I would love to see natural wetlands restored to northern Saguache County and the eastern side of the valley (Saguache and Alamosa counties), an area which includes the Blanca Wetlands. All of this area historically had interspersed playas and intermittent marsh habitats. Satellite data has shown a drying trend since 1985 in this area, as does testimony of owners and managers of private lands, state and federal lands.

Designation of the Great Sand Dunes National Park and the purchase of a 100,000 acre private ranch with some of the north valley's oldest and best water rights, now known as the Baca Wildlife Refuge (USFWS), was touted as the best solution to save the valley's water from development and export. Underneath this conversation has been a different agency of the Department of Interior—the Bureau of Reclamation's pumping project. Since the late 1980s over 550,000 acre feet have been pumped and flushed to the Rio Grande from the San Luis Creek watershed which once contained wetlands as an expression of its natural hydrology and history. More recently, most of the pumped and exported water has come from the aquifer underlying the Baca Wildlife Refuge and north valley ranchlands. With the project intercepting and flushing these good waters down a lined canal, project wells as well as farm and domestic wells further south in the valley's "sump area" have water quality and quantity issues. The project is required to divert mitigation water to both Blanca Wetlands and the Alamosa Wildlife Refuge, though this water does not have to meet the same standards as that introduced to the Rio Grande. Mitigation waters are permitted to exceed maximum contaminant levels. Twenty-five years of mitigation applications have likely created toxic concentrations of soluble salts as these waters evaporated, and the aquifer may also be affected.

The Closed Basin Project was conceived to "salvage" waters inundating the eastern side of the valley north of the Rio Grande in the early 1900s when flood irrigation and canal diversions provided the excess. By the 1970s, when project legislation passed and the 1980s when federal funding came through, excess waters were no longer a problem with pivot sprinklers proliferating and pumping groundwater. But the Rio Grande Water Conservation District, which had been created in the late 1960s, lobbied for legislation and funds to proceed with the

Peggy Godfrey, rancher  
Moffat, CO 81143



comments for Gunnison meeting, July 18

Peggy Godfrey to: WaterResources, david.beaujon,  
gail.schwartz.senate

07/15/2013 01:26 PM

Dear Members of the Water Resources Review Committee,

I am writing in response to Senator Schwartz' letter notifying of the committee's Gunnison meeting. Water Division 3 has a huge mess going on here in the San Luis Valley. My comments will address several of the issues that seem to be forefront.

In 2004 the senate passed SB-04-222 creating a new way to address water issues that pretty much ignores Colorado statutes of prior appropriation. We are nine years into this "solution" which has not changed anything for the better. In fact, state government has stalled the promulgation of rules and regulations which govern every other water division in Colorado. In the meantime, public and private lands are being degraded to devastation as we wait for progress with water administration. Repealing the bill would be a huge benefit since the state engineer would be forced to create rules and regulations that have been promised for years.

In absence of the repeal of SB-04-222, I suggest that the state find some way to incorporate flexibility into the groundwater management plan to address the severe drought we are experiencing, for the fourth year in the east side of the valley as a result of low snowpack in the Sangre de Cristos in 2010, 2011, 2012, and 2013. For wells to continue pumping an aquifer that has continued to decline is foolishness. The plan of water management concept has failed to halt or turn around the abuse of a currently very limited resource. Is someone waiting for a total collapse of the valley's agricultural economy?

Confined aquifer wells (flowing artesian in some parts of the valley) are critical to ranch lands. When this aquifer is over-pumped, pressures drop and artesian flow ceases. Wells that can't flow "sand in" and lose their capacity to flow. Lack of groundwater administration has permitted the excessive pumping which is having an effect on waterfowl and wildlife habitat as well as range land management for domestic livestock.

Most of the creeks in the Sangre de Cristos now have minimal flows during spring run-off, so that 1800s water rights (senior water rights) are being injured as a result of the vastly lowered water table while wells drilled a hundred years later continue to pump. Farms in northern Saguache County ship their hay to California, New Mexico, Texas, and Oklahoma while neighboring ranches with the senior water rights are facing extinction. Do you really want all this beautiful range land blowing away for the sake of a temporary "economy?" And it will be temporary since farms are seasonal and depend on a steady supply of water, which is now in short supply. The federal government has printed money but so far, no one has figured out how to print water!

Thank you for reading my comments,

Peggy Godfrey, rancher in the San Luis Creek watershed, northeast side of Saguache Co.

Water Resources Review Committee  
Legislative Council Staff:  
Brooke Maddaford  
David Beaujon

July 17, 2013

Regulation and administration of wells appropriating tributary water from the unconfined aquifer of District 25, Water Division 3 has been the obligation of the State Engineer's office since the Water Right Determination and Administration Law of 1969. Other than requiring a permit to drill a well and requiring measurement of the water pumped (since 2007), no regulatory action has been apparent in this district.

After several years of discussing with our water commissioners and the division engineer the likely effects of the proliferation of pump wells and circle sprinklers upstream from our ranch, the effect of well depletions became obvious and undeniable in 2000 when San Luis Creek failed to flow to our diversion points after an average snowpack. My water commissioner advised me to ask the State Engineer for rules and regulations.

In February of 2004, I wrote to the State Engineer inquiring about the lack of well regulation in our district, explaining that since the 1980's our water table has been progressively dropping and since 2000 there has been no surface flow in San Luis Creek on our ranch, the result of consumption of water by the upstream circles. The State Engineer answered my letter and assured me that the proposed legislation to form subdistricts for water management in the Rio Grande Basin was nearing completion and would solve my problems. He asked me to be patient.

The legislation, SB04-222, was passed and the process of forming the 1<sup>st</sup> subdistrict began. Now it has been 14 irrigation seasons that no water has reached my 1873 diversion points, the water table continues to drop and the ranch has lost over 5000 tons of native hay production based on the historic production prior to 1980. Still no regulation of well diversions has occurred, I cannot irrigate and the wells are still pumping. My patience is waning.

The State Engineer's office, after the unpleasant experience of enforcing Rules and Regulations on the Platte and Arkansas Rivers, was happily willing to defer its administrative obligations to the upcoming subdistricts. Instead of having to process and oversee thousands of augmentation plans and curtailing wells to balance the water basin, it merely endorsed and supported the subdistrict management proposal. Unfortunately it also postponed any meaningful attempts at administration other than the empty threat of Rules and Regulations which obviously did not reduce pumping. The result has been continuing injury to the surface water users and likely permanent damage to their hydrologic basins. These ongoing damages will continue until all subdistricts are operational which may require many years.

In 2007, well pumping was required to be measured. When the RGDSS model calculations are eventually completed or a subdistrict with an approved management plan is functioning or the long promised Rules and Regulations are completed and enforced, the resulting formula for stream depletions should be applied to the unregulated out of priority diversions made by wells since they were required to be measured. If calculation of past owed depletions is illegal, it should at least be possible to pass legislation that will compensate injured surface water users from now until the basin is restored (by any form of regulation) to its historically normal condition prior to pump well diversions.

Lacking some way of accruing compensation for the continuing, illegal taking of my water, my lending institution will foreclose on my livestock and I and many other valley ranches will be out of business.

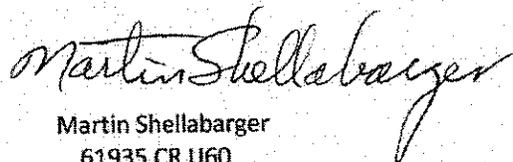
When human use or cyclic physical changes of the natural world occur, perhaps over extended periods of time (climate change, depletion or contamination of a resource, economic or political changes, technologic inventions or scientific discovery) new legislation may need to be enacted to address these changes. The new legislation may alter the former management of a natural resource (water, solar, wind, geothermal energy harvest, mining of minerals or petroleum). However, the former management entity, its rules and administrative hierarchy should remain responsible for the administration and allocation of the resource under the old law until the new agency or administrative body is organized and capable of the transition to administer the requirements of the new legislation.

Failure of this transition results in a limbo of animosity, frustration, litigation, and economic devastation to the consumers of the natural resource. Absence of administration equals anarchy.

To help correct this situation and prevent similar events from occurring I would suggest the following type of legislation:

- a. Please consider legislation that will accrue compensation for damages that are continuing from the unregulated well pumping that is depriving senior water right owners of their property and livelihood. Lacking such a law will reward those who are knowingly causing injury and will benefit from the stalling of an enforcement agency such as the State Engineer's office.
- b. Please repeal SB04-222. The law has failed to timely protect senior water rights in Division #3 and has basically been used as a license to steal.
- c. Please hold hearings on the failure of the State Engineer to terminate well pumping in Water Division No. 3 for wells that do not have a judicially approved plan to prevent injury to other water rights, and order him to terminate the well pumping in accordance with Colorado law. We have waited long enough for tangible action and there is no reason that my family and other similar situated families should bear the financial ruin associated with his inaction.

Thank you for your Consideration,



Martin Shellabarger  
61935 CR U60  
Moffat, CO 81143  
719-256-4598



To:  
Cc:  
Bcc:  
Subject: Fw: Water Resource Committee Meeting

----- Forwarded message -----

From: <[jnslade657@gmail.com](mailto:jnslade657@gmail.com)>  
Date: Tue, Jul 16, 2013 at 11:05 AM  
Subject: Water Resource Committee Meeting  
To: Senator Schwartz <[gail.schwartz.senate@gmail.com](mailto:gail.schwartz.senate@gmail.com)>

Senator Gail Swartz  
Chairman, Water Resource Committee

Re: Proposal regarding legislative changes

Colorado San Luis Valley Sub-district NO. 1

Farmers in charge of policing the aquifer from which they pump is turning into a huge disaster. Farmers with good surface water rights wells are going dry while those that put no water into the aquifer continue to pump water put into the aquifer by someone else for a small fee. If it is self policing works, why don't we just let farmers police the rivers in our state. We could save a lot of money by doing away with Division of Water Resources. If self policing works lets put banks robbers in charge of making banking rules. We could put foxes in charge of watching the chicken house. Where self policing is in effect the state has rules for these boards to follow; school boards, zoning boards and 100 other boards have state mandated rules.

The sub-districts, their lawyers and sympathy judges have made rules that are outside of Colorado Water Laws and not protected in any other part of the state. The sub-district concept should be revisited and common sense rules written into the sub-district law. If the sub-district laws are not tightened to protect surface water rights then the only place to turn will be the federal courts. If things do not change I can foresee federal officials protecting Colorado surface rights, which will be a tragedy of giant proportions.

One thing that would balance the playing field would be to allow those with surface water rights to lease water on yearly basis to the highest bidder. The sub-district has rules that require surface water to be put into aquifer without any compensation from the sub-district then the sub-district will resell that water and keep the money even though the sub-district owns no water rights, they are allowed to sell huge amounts of ground water to pumpers. We are pumping the aquifer dry with no concrete plans on how to refill the aquifer. It is the sub-district position to not pay for any water, therefore surface water rights holders should be able to lease their water to the highest bidder. We need enabling legislation like the sub-district got for protecting land.

(S) Norman Slade  
6987 W. CR. 8 N.  
Del Norte, CO 81132  
0.



letter for water resources committee  
Peggy Godfrey to: david.beaujon

07/15/2013 12:39 PM

Virginia has macular degeneration and is well into her 80s, a lifelong resident of the San Luis Valley; so I have helped her with a letter which has been sent to the governor, our senator and representative, and several publications. Please could you get this to all the committee members.  
Peggy Godfrey, friend of the author

Dear Editor:

Want Superior and No. 1 Irrigation Water Right in the San Luis Valley ??

EASY, just have a pump well. You will supersede all previous water rights, including surface--no matter how old, all artesian--no matter how old, all other wells--no matter how old. Because there are no rules to stop your pump!! Despite years of dawdling, the State Engineer of Colo, the Division 3 Engineer, the Rio Grande Water Conservation District, and the Colo Water Conservation Board (all of whom are supported by our taxes) have not got the intestinal fortitude to advocate and curtail pump wells. In addition, some of the beer-supported and lettuce farmers condone weather modification, so as not to spoil the salad and brew!! All together, the effect is to help the drought become even more catastrophic.

The grim reaper is already destroying the north end of a once-beautiful valley: the trees are dead, the artesian wells are gone or failing, the native grasses are unable to survive, the mountain springs and creeks are all being sucked down into a diminishing water pit. Thousands of sheep are long gone, and hundreds of cattle are following. The once-flourishing meadows are sorry patches of tough wire grass; thousands of acres of once-good pasture land are turning to bare dirt. There are no longer ducks, once as thick as mosquitoes; other water fowl are long gone. Many who once had jobs are living on welfare. Now the forests are burning and the skies are full of smoke and dirt from formerly productive range lands and plowed ground awaiting seed and a sprinkler to feed precious water for another cash crop!! Then some can fold up and go to Arizona or wherever to recreate, leaving livestock and wildlife to survive the winter. Ranchers who can afford another year are buying vastly over-priced feed from those who pumped their water out from under their land! Concurrently, the many weather modification programs west of the valley get the snow, while we just get the wind and cold, bleeding our last dollars to try and keep the livestock one more year!

Old-timers in this area remember previous droughts when the natural hydrology supported native vegetation, now barren ground. Excessive pumping with no regard for depleting the aquifer in drought years has drained by gravity water from the mountains, whose geology creates long-term water storage. Lush meadows and grasslands are now just memories.

I am old, but not quite senile, and I witnessed the drought of the 1930s. We still had a water table, drain ditches, and strongly-flowing artesian wells. Native grasses, not dependent on surface irrigation, survived; but a vicious winter when thermometers broke at fifty below zero, a foot of snow covered the summer's growth. These combined factors took a toll on our animals, as well as animals

on farms around the valley which could not make a crop. Similar conditions occurred in the 1950s, but we survived. Then came the pump-well mania, and development of new brush-covered "trash" land for farming. By this time all irrigation wells were registered, adjudicated, and had appropriation dates; this enabled groundwater management adhering to Colorado's statutes, recognizing the seniority of prior water rights. But, oh no! A previous State Engineer, with no regard for law, tossed the priority regulations into the trash---so newcomers can pump away, injure and deplete surface rights and older wells, without rules and regulations. So we are all equal, right? Think again! Now the guy with the pump can suck up all the water his pump can manage, effectively depleting and destroying the water table! He can pump with no ability or requirement to replace any of the water he's taken from the aquifer. One sub-district has been created, all others are in limbo. There is no evidence to date that the sub-district effort has begun to slow the aquifer's downward spiral. But the State Engineer is using the sub-district concept as a scapegoat for his refusal to promulgate rules and regulations for the San Luis Valley.

Virginia Sutherland, Saguache County Rancher

To the Water Resources Legislative Review Committee:

In the summer of 1974, I took a job on a farm (Warren Myers family) headquartered north of Leach Airport, four miles east of Center (San Luis Valley, Saguache County). The operation flood irrigated about ten quarter sections of alfalfa and barley. The acreage received Farmer's Union Canal water, a couple of large, deep flowing artesian wells, as well as a number of pumped unconfined wells.

I do not remember much, if any, rain that first season on Warren's farm; however the land was lush with vegetation and wildlife. Waterfowl were on the reservoirs, pheasants were in abundance, lots of rabbits, and I even remember my first encounter with a badger. The ditch banks and the field margins grew so thickly with sunflowers and other plants you could hardly carry irrigation tubes by summer's end. Groves of cottonwoods and other trees were healthy and provided shady areas on practically every quarter. There were only two center pivot sprinklers between Center and the airport at that time.

Sub-irrigation was a big factor and if the adjacent grain fields were flooded, you need not water your alfalfa because of the near-surface water provided to the roots. It was emphasized to me that the water that soaked into the ground held the water table up and was available for the neighboring areas to be irrigated.

The geologic history and formation of the San Luis Valley were a main focus of my entire Adams State College program, and by the time I had graduated in 1979, more sprinklers had appeared upon the landscape. Irrigation efficiency was increasing yield and reducing labor costs; business was booming. As I traveled through the valley throughout the 1980s, efficiency consumed the entire district at the expense of the fence rows and pheasants. Many of the cottonwood groves were gone, but the land was still fairly green and lush. Looming on the horizon was the Closed Basin Pumping Project, what seemed to be a far-fetched idea to "drain" the lower areas of Saguache County more rapidly than Nature could for the sake of a multi-million dollar "make work" project.

The SLV has recovered from the drought periods of the 50s and the late 70s with no long-term consequences. Even after the 2002 extended drought, artesian wells and water table recovered somewhat within the next few seasons. But by now the fifty-mile long cone of depression created by the Closed Basin Pumping Project is causing irreversible effects to the water table AND the confined aquifer artesians as well.

The salvage water that was the target of the Closed Basin Pumping Project was gone as soon as they flipped the switch on the first pumps. Wells have been deepened (there goes the salvage idea) even into the confined layer and what was billed as a salvage project has now become a mining venture. This project in combination with 30-40 years of weather modification efforts have created an artificial drought under the surface from which the valley's aquifer may not recover.

Some oversight of the Rio Grande Water Conservation District, Division 3 Water Resources (Rio Grande Watershed), and the State Engineer's Office is necessary!

Some call for rules and regulations for well pumping, but why not just follow the Colorado Constitution and the Doctrine of Prior Appropriation. Therein lie the rules.

Kelly J. Smith  
875 Lincoln Ave. (P.O. Box 460)  
Moffat, CO 81143      719-256-5866

I currently grow hay and lease pasture north of  
Moffat, west of San Luis Creek.

## WATER AND PRECIPITATION IN THE SAN LUIS VALLEY

Certainly since the industrial revolution the world has suffered from "unintended consequences". Local, not global, air pollution, due to industrial emissions, plowing of the prairie lands that ultimately led to the famous, or infamous, dust bowl days, building of homes on the beach with wonderful views that are ultimately washed away by storms, to name a few, all of which have become a tax burden. Are we headed in the same direction here in the San Luis Valley? Rio Grande water users have created a water debt to states below for which the entire San Luis Valley seems to be responsible. In order to satisfy this debt we pump water from the so called "closed basin" into the Rio Grande until the debt is paid. If we understand correctly, the initial debt has been satisfied, however the closed basin project continues to supply water to down stream users to satisfy further use of Rio Grande water in the San Luis Valley. The pumping of closed basin wells to supply this "pay-back" water has contributed to lowered water tables, especially in the north end of the valley. Monitoring of well data shows that the rate of water table decline during years of insufficient recharge is twice in magnitude to the rate of recovery during rates of recharge, at least in and around the closed basin project. This is an unsustainable situation which seemed to have no influence on other pumped well drilling projects which are surely susceptible to the same outcome.

Meanwhile, well drilling was allowed for sprinkler irrigation throughout the valley. It was as though there was no limit to the underground water supply. Does the use of these sprinkler irrigation wells have any effect on the water table? We invite you to look at the areas within a few miles to the south east of what was once called "North Star Farms". What once was reasonably good hay meadows and pasture now has hardly any live vegetation growing on it because of insufficient sub-surface moisture to sustain even modest desert plants. Old ranches along Saguache Creek now find that this creek no longer flows enough to provide adequate irrigation for pastures and hay meadows. The reader might think that this is an isolated problem, but ask those users of pumped wells further to the south if their wells can support the pumping they did a few years ago. Surprisingly, monitor wells along a corridor between State Highway 17 and U.S. Highway 285, roughly Moffat to Saguache, show a very

constant average level of the water table for the last thirty (30), or so, years. One would think that recent periods of drought might show decrease in these well levels. Further, years of above normal precipitation like the winter of '82-'83 do not seem to influence the water table monitored by these wells. This is difficult to understand. However, we are not hydrology experts. Perhaps the water was pumped out as fast as it was put into the aquifer.

If the Colorado State Engineer does not, or can not rectify the problem then the San Luis Valley will ultimately not exist as we know it. Much, or most, of the blame resides with this office since well permits were granted so freely. Certainly insufficient measurements, testing, and forethought occurred at that level of government.

The idea of weather modification, or cloud seeding, in the San Luis Valley dates back to the 1960's. During winter months various weather modification projects have been used to enhance snow pack at higher elevations. The argument being that enhanced snow pack results in higher revenues from winter sports like skiing and snow mobile recreation as well as insuring higher volume spring run off to feed streams that flow out of the mountains. Summer time weather modification has been used with the concept that hail suppression will occur along with enhanced rain fall along the storm paths. The Coors beer industry was instrumental in supporting these concepts, along with San Luis Valley barley growers. Skeptics, like us, question the down wind effects of such weather modification. The saying, "You can't milk the cow twice." implies that precipitation due to weather modification at one point is likely to result in less precipitation down wind. Proponents of weather modification will assure you that such is not the case, however, we have seen little or no data to support this claim. Perhaps even the contrary when we recall that one of the worst hail storms around Monte Vista apparently occurred after a cloud seeding event. We would suppose that cloud seeding induced events depend on where seeding is done and what stage of cloud formation is occurring at the time of seeding. At one time summer cloud seeding was outlawed. Some illegal activity was investigated by the Colorado Bureau of Investigation, however we find no record of apprehension of those involved. The bigger question is, who funded the illegal cloud seeding?

The lesson(s) is(are) we as a state, and especially in the San Luis Valley, should look at history. If we fool with nature's way of providing precipitation we are likely not aware of, nor can we even

imagine the possible "unintended consequences". Farming and ranching has always been a gamble, we all must take our "lumps" when relying on nature's ways. Lest we forget, our front range neighbors, Denver metropolitan area, Colorado Springs, and Pueblo, to name only the higher populated regions, must also take their "lumps" when it comes to water use.

Thad and Sue Englert

LETTER TO THE EDITOR

The San Luis Valley's water system is severely in danger of going dry. The sub water is non-existent, artesian wells are drying up, water in the mountains springs has decreased to practically zero, the creeks that supply surface water to our fields have gone underground, the aquifer has decreased by 1,500,000 acre feet and falling.

The answer is enforcing Rules and Regulations. This needs to be done by the State engineer and soon.

Every pump well needs to be augmented. It's like a bank account; if you withdraw more that you deposit, you are soon broke. The Valley's aquifer is severely broken because of over pumping. We must reduce this withdrawal.

The so called "water model" will tell us nothing, that Mother Nature has not already told us.

The San Luis Valley is the most productive high mountain valley in the world, both in livestock and crops. Let's not screw it up!

*Jim Coleman*

Jim Coleman  
(Saguache)

Box 196  
Saguache, Colo.  
81149

*It will be good to visit with  
you on the 26<sup>th</sup> of Sept.*

*J*