

**BASIN 162 GROUNDWATER MANAGEMENT
ADVISORY COMMITTEE**

MEETING MINUTES

**February 9, 2015 – 9:00 AM
BOCC Chambers, Pahrump, NV**

Regular Members: Gregory Hafen II – Chair
Gregory Dann – Vice Chair
Lenny Badger
Wendy Barnett
Kristian Bentzen
Walt Kuver

Alternate Members: Mike Floyd
Kenny Bent
Judith Holmgren

Legal: Marla Zlotek

Finance: Amy Fanning

Staff: Darrell Lacy
Oz Wichman
Levi Kryder
Teddi Osburn

Acronyms: AG - Attorney General
AVSTP - Amargosa Valley Science & Technology Park
BOCC - Board of County Commissioners
BOR - Bureau of Reclamation
CSWP - Community Source Water Protection
CNRWA - Central Nevada Regional Water Authority
DOA - Department of Agriculture
DOI - Department of Interior
EPA - Environmental Protection Agency
GID - General Improvement District
GM - General Manager
GWE - Groundwater Evaluation Grant
GWMP - Groundwater Management Plan
HUD - Housing and Urban Development
IRWMP - Inter Regional Water Management Program
MOU - Memorandum of Understanding
NTS - Nevada Test Site
NCWDGB - Nye County Water District Governing Board
NRWA - Nevada Rural Water Association
NWRA - Nevada Water Resources Association
RFP - Request for Proposals
RNWA - Rural Nevada Water Authority
ROW - Right of Way
SNWA - Southern Nevada Water Authority
USDA - United States Department of Agriculture
UGTA - Underground Test Area
USGS - United States Geological Survey
WD - Water District

Mission Statement: "To create an equitable groundwater management plan for the Pahrump Basin and the Pahrump Community that balances water supply and demand today and for the future."

BASIN 162 GROUNDWATER MANAGEMENT PLAN ADVISORY COMMITTEE

- 1. (00:00:00) Call to Order – Pledge of Allegiance**
- 2. (00:00:36) Roll Call – Present:** Gregory Hafen II, Greg Dann, Walt Kuver, Kristian Bentzen, Lenny Badger, Wendy Barnett **Absent:** Mike Floyd
- 3. (00:00:59) General Public Comment (first): Three-minute time limit per person. Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item.**
Frank Maurizio discussed a class action lawsuit that he has initiated against the State Water Engineer (see attached document). He requested that the Groundwater Management Plan Committee and Nye County Water District Governing delay making any decisions regarding the groundwater plan until his lawsuit is settled. John Bosta explained more details of the preliminary injunction (see attached document). Paul Cichocki explained the concerns he has with agricultural water users.
- 4. (00:11:33) For Possible Action – Discussion, deliberation and possible decision regarding the election of new Basin 162 Groundwater Management Plan Advisory Committee officers.**
 - a. Chair**
 - b. Vice Chair**

Wendy Barnett moved that Gregory Hafen continue in the capacity as Chair for the Groundwater Management Plan Advisory Committee. Lenny Badger seconded the motion. The motion was approved with a vote of 5-0 in favor with an abstention by Gregory Hafen. Wendy Barnett moved that Greg Dann continue in the capacity as Vice Chair of the Groundwater Management Plan Advisory Committee. Lenny Badger seconded the motion. The motion was approved with a vote of 5-0 with an abstention by Greg Dann.
- 5. (00:13:22) Approval or Modifications of the Agenda for the Groundwater Management Plan Advisory Committee Meeting of February 9, 2015.**
No modifications
- 6. (00:13:40) For Possible Action – Approval of Minutes for January 12, 2015.**
Lenny Badger made a motion to approve the minutes for January 12, 2015. Walt Kuver seconded the motion. The motion was approved with a vote of 6-0 in favor.
- 7. (00:14:28) Correspondence and Announcements**
Gregory Hafen related that he had presented the Top 11 priority items from this committee to the Water Board at their January 26, 2015 meeting. The Water Board made some suggestions for additional inclusions. Greg Dann reminded everyone that he is still conducting water level measurements for anyone that has an interest.
- 8. (00:16:26) Ex-Parte Communications and Conflict of Interest Disclosure Statements**
None

9. **(00:16:34) For Possible Action – Presentation, discussion and deliberation regarding the Top 11 priority items selected by the Basin 162 Groundwater Management Plan Advisory Committee to be included in a Groundwater Management Plan for Basin 162.**

Gregory Hafen proceeded to present additional items that the Water Board felt should be addressed in the Groundwater Management Plan.

1. **C-16, Promote Conservation** - Verify that commercial businesses are being metered. Oz Wichman noted that there are some instances where domestic wells are being utilized in small businesses and do not have meters. Greg Dann stressed that it is important to educate business owners regarding state water law requirements. There was no public comment on this item.

Greg Dann made a motion to add language relating to educating commercial water users about metering requirements into item C-16. Lenny Badger seconded the motion. The motion passed with a vote of 6-0 in favor.

2. **E-1, Future Domestic Wells** – Mr. Hafen noted that the Water Board recommended adding E-6 which concerns a requirement that new domestic wells be limited to .5 AF. Wendy Barnett was also in favor of metering which may help prove to the State Engineer that a do-nothing strategy is a viable option. Walt Kuver discussed the need to establish an average of water usage in the valley by metering domestic wells. Other members did not agree with the concept of metering. Gregory Hafen suggested the addition of E-7, which deals with education of well owners on how to purchase additional water rights. One public member felt that curtailment of water usage may be considered a taking.

Regarding Mr. Maurizio's and Mr. Bosta's pending lawsuit, Gregory Hafen noted that until a formal injunction is served to the Nye County District Attorney, business will be conducted as usual despite the claims of Mr. Bosta. During discussion with members and staff it was recommended that there should be no further debate on this subject since it had not been agendized.

Other discussion centered on who would make the final decision regarding what should be included in the Groundwater Management Plan. Frank Carbone related that the BOCC had the final authority following Water Board input. Greg Dann stressed that this committee was only making recommendations. He felt the Nye County Water District was doing things that were contrary to what the majority of the public desires, and he had more confidence in this committee than with the Water District when it came to making decisions.

There was additional public comment. Judith Holmgren felt that the final plan should be put before the public for a vote. Glen Woodworth questioned the proposal to limit water usage to .5 AF for new domestic wells. Oz Wichman explained why metering of new domestic wells was important for gathering information on which to base future decisions. Wendy Barnett related that, generally, residential water consumption in a high density subdivision is much lower due to tiered rate structures and requirements for desert friendly landscaping. Kenny Bent discussed the benefits of 3-D modeling of the basin aquifer. Michael Dugan felt that current water law needs to be made "smarter" when it comes to dealing with drought conditions and taking steps to conserve water.

Lenny Badger made a motion to include Items E-6, curtailing water consumption in new domestic wells to .5 AF, and E-7, educating domestic well owners on the how to purchase additional water rights, in the section that deals with Future Domestic Wells. Gregory Hafen seconded the motion. Kristian Bentzen expressed concerns about restricting water consumption from new domestic wells. The motion was approved with a vote of 4-2 in favor. Wendy Barnett and Kristian Bentzen cast the nay votes.

3. **Establish a definition for a “new” domestic well** – The Water Board had concerns about defining “new”: Would it be when a pump is set in place; a building permit is pulled; or perhaps when a well is refurbished? Wendy Barnett felt that “new” should apply only to undeveloped property.

Public member, Bill Clark, questioned what happens when a home has been removed from a previously developed property? Other members of the public felt that wells being re-drilled or replaced due to failure should be exempt.

There was more deliberation by committee members about what qualifies as a “new” well. Oz Wichman noted that an “Intent to Drill” card must be filed with the state each time a well is drilled or re-drilled. Frank Carbone felt that staff should consult with the Planning Department and local realtors in order better define at what stage a well may be considered new.

Wendy Barnett made a motion to direct staff to come up with language that would address the concerns discussed today in formulating a definition for a “new” well. Kristian Bentzen seconded that motion. The motion passed with a vote of 6-0 in favor.

4. **J-3, Create incentives to voluntarily connect to a public water system** – Gregory Hafen noted the Water Board recommends domestic well owners be subsidized for the expense of abandoning a well. This may serve as an incentive to connect to a utility system. Greg Dann discussed the process of abandoning a well.

There was no further comment from the committee or the public. With that, Wendy Barnett moved to add language to J-3 that removes the cost to a domestic well owner for abandonment of a well should they wish to voluntarily connect to a utility system. Lenny Badger seconded the motion. Ms. Barnett noted that if a utility company was to waive a connection fee, it would have to be approved by the PUC. The source of funding for this program has yet to be defined. The motion passed with a vote of 5-1 in favor. Mr. Bentzen cast the only dissenting vote.

10. **(01:31:54) For Possible Action – Discussion, deliberation and decision regarding options for the pulling of tax sale parcels in order to reduce future water usage. Approval of budget and program parameters, and delegate authority to GM to work with County Treasurer and County Manager to identify and transfer parcels to the Water District.**

Gregory Hafen noted that due to the absence of Darrell Lacy, General Manager of the Water District, there would not be any decision made today regarding this item, but general discussion could take place. A formal presentation by Mr. Lacy will take place at the joint meeting of this committee and the Water District Governing Board on February 23, 2015. Gregory Dann related that he is adamantly opposed to this concept for a variety of reasons, one of which is it will expand government. Gregory Hafen felt that this could be of benefit since some of the parcels might be used for detention basins and other public works projects related to water

distribution. Kristian Bentzen had conflicts with this proposal and wanted to move it forward to the joint meeting for discussion. Mr. Hafen felt more education on this topic was needed.

One member of the public had concerns that the county would not generate a profit if parcels were sold to the Water District only for the back taxes that were due.

Kristian Bentzen made a motion to continue this item to the joint meeting of this committee and the Nye County Water District Governing Board. Lenny Badger seconded the motion. The motion was approved with a vote of 6-0 in favor.

11. (01:48:02) For Possible Action – Presentation, discussion and possible decision regarding ongoing and short-term projects of the Nye County Water District.

Oz Wichman presented a list of items that might also be considered for inclusion in the Groundwater Management Plan. Some of those items had been listed by Jason King for consideration in a plan. Mr. Wichman felt that the Groundwater Management Plan should make reference to Mr. King's list as well as the Top 11 Priority Items. He listed several other items that should also be referenced in a second round of priorities that would be addressed in the plan at a later date since they have no immediate impact.

He related that some of studies and reports that have already been performed can have a direct impact on the Groundwater Management Plan. Some of those may need to be updated or revised. There currently exists 2 water models for the basin and a decision needs to be made regarding which one will be used and who will be responsible for its operation and maintenance.

Mr. Wichman related items that the State Engineer must consider, as per state statute, once he has the Groundwater Management Plan presented to him.

Greg Dann emphasized the importance of modeling the aquifer. Gregory Hafen noted that we must make sure that all of the items included in the statute are adequately addressed and referenced in the plan. There was continued discussion about the 2 existing water models. Mr. Wichman noted that a water model is a "living" document and is constantly changing as new data is entered. Kristian Bentzen emphasized that a model was needed that would clearly explain to the public the current condition of the aquifer. The Water District does have the software to run water a water model and it is currently administered by staff member Levi Kryder. Mr. Wichman related that he would like this committee to adopt his list as a basic guideline for moving forward.

During public comment, Kenny Bent discussed his thoughts on what a 3-D model should encompass. John Bosta discussed protection of domestic wells through a mitigation plan.

Mr. Wichman noted that there were 170 items on the original list and they are not off the table for consideration in formulating the final plan. Gregory Hafen related that the results from the Joe Leising report will play an important part in determining which direction the plan will move going forward. Mr. Wichman again emphasized that there are a bunch of disconnected items on the original list that the committee should reconsider for inclusion. There was discussion among committee members about who would actually write the plan.

Mr. Hafen requested that Mr. Wichman's list be agendized for a future meeting in order to further deliberate the issues and come to a decision.

12. (02:40:52) Staff Reports/Comments:

A. Darrell Lacy

None

B. Oz Wichman

None

C. Levi Kryder

None

D. John Klenke

None

13. (02:41:00) For Possible Action – Discussion, Direction and Possible Decision Concerning Future Meetings/Workshops.

There was a discussion about presentation of the water model at a future meeting. Kristian Bentzen emphasized that we need to make it useful to the community. Walt Kuver related that there needs to be discussion of a work plan for staff and this committee. The committee should also prepare a list of questions to ask of the State Engineer who will be present to provide answers at the joint meeting. Mr. Kuver emphasized that there was a need for a public relations effort to “sell” the plan to the public.”

Upon questioning from the public, Walt Kuver emphasized that the committee will present, in the context of Mr. Wichman’s list, the idea that the Groundwater Management Plan will be far more than just a list of the 11 priority items that have been identified by this group. Mr. Wichman’s list will serve as a basis on which to proceed.

**14. (02:54:00) General Public Comment (second) - (Three-minute time limit per person)
Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item.**

None

15. (02:54:15) Adjourn

Gregory Hafen adjourned the meeting.

My name is Frank J Maurizio. I am appearing and speaking here as a private citizen. I would like my comments posted in the minutes. On Tuesday, February 3, 2015, I initiated a Class Action Lawsuit against the Nevada State Water Engineer. After 3 failed repeated attempts my mail to the Governor's office, Mr. Leo Drozdoff, Director of Nevada Department of Conservation and Natural Resources and the old and new Attorney General, there was no response. It has become pretty obvious that the State Water Engineer wants to control all the private wells and water in the State of Nevada. The State Water Engineer will not follow the existing rule of Law concerning private wells. He has imitated two Bill Draft Requests asking the State Legislature to modify the existing Water Laws to accomplish his goal of total control of all waters in the State of Nevada. Those two BDR's are now listing for reading on the Senate floor as SB - 65 and SB - 81. Mr. King was asked in a Pahrump Valley Times article about Senate Bill 65 and the Environmental Protection Agency's 2014 proposed clarification of the Clean Water Act to expand the definition of the "waters of the United States". Mr. King admitted that his proposal is "somewhat connected" to the EPA proposal.

So with no other recourse, I filed the Lawsuit. Now I am asking that the Nye County Water District and the Basin 162 Groundwater Management Committee hold off on any action, discussions or votes on any Management Plan till the Lawsuit is heard and settled.

Complaint for Declaratory and Injunctive Relief (Class Action)
and
Motion for Preliminary Injunction and Notice of Motion (Class
Action)

On Monday, February 3, 2015 Frank Maurizio and I filed two Class Action; Complaint for Declaratory and Injunctive Relief and Motion for Preliminary Injunction and Notice of Motion. The Motion for Preliminary Injunction will be brought on for hearing on the 17th of March at the hour of 9:00 o'clock a.m. in the Pahrump/Tonopah District Court House, District Court, Department # 1, located at 1520 E. Basin Ave., Nevada 89060.

The Plaintiffs, John Bosta and Frank Maurizio, in Proper Person, and as representatives of the members of the class of Private Well Owners, and moves this Honorable Court for a Preliminary Injunction enjoining the Office of the State Engineer, the Defendant in this action, agents, employees and attorneys, and **all those in active concert or participation with them**, from exercising their delegated authority under Nevada Revised Statute Chapter 533 and 534 over the Plaintiffs or the members of the class until a final hearing and determination of the merits in this action.

Today, ~~Frank Maurizio~~ has ~~served~~ ^{number given} this committee with the two actions.

Respectfully submitted,


John F. Bosta