

Additional Comments Received by the Water Assembly



February 21, 2004

Dr. Robert Wessely
Chairman
Middle Rio Grande Water Assembly

HAND DELIVERED

Re: Water Planning Issues in the Placitas Area, Middle Rio Grande Planning Region

Dear Dr. Wessely,

Del Agua Institute, Inc. (DAI), a Placitas-based non-profit water resources research organization, has conducted research pertinent to water planning in the Placitas area of Sandoval County since 1999. DAI is writing to provide results of selected research in the Placitas area as local community planning input and detailed local research on area water use to the Middle Rio Grande Water Plan.

From June to November 1999, three water planning workshops were held to receive input from Placitas community members regarding their preferences and priorities regarding sustainable water use in Placitas over the next 50 years. These workshops were funded by the River Network of Portland, Oregon, and facilitated by Dr. Ric Richardson and Ms. Kate Hildebrand.

During 2002, a comprehensive evaluation of current and historical water demand in the Placitas area was conducted by Andrew Sweetman, then a graduate student in the University of New Mexico Water Resources Management program. This project was conducted under grants from the Turner Foundation of Atlanta, Georgia, and Sandoval County, New Mexico.

DAI submits copies of the reports summarizing the findings of these projects, for the Water Assembly's consideration and inclusion as local community input to the Middle Rio Grande Water Plan. These reports are offered by way of comments on the final draft of the Plan.

Thank you for your consideration.

Sincerely,
Del Agua Institute, Inc.

Reid F. Bandeen, P.G.
President

- Attachment 1: Placitas Area Watershed June 19, 1999 Planning Workshop
- Attachment 2: Community Workshop #2, Placitas Area Watershed Planning, October 23, 1999
- Attachment 3: Organizing Workshop, Placitas Area Watershed Planning, November 6, 1999
- Attachment 4: Historical and Current Water Use in the Placitas Area, Sandoval County, NM

Subject: Re: My NRJ article and the MRG Water Plan

From: Bob Wessely <wessely@sciso.com>

Date: Mon, 12 Jan 2004 10:19:13 -0700

To: "John R. Brown" <jrb@osogrande.com>

John -

Argggggh - Sorry for the oversight during the chaos of getting to publication.

During the next update, which I suspect will not be far off, let's reference it. My initial thought of the appropriate place, with a few added sentences, would be from Paragraph 1.3.4. Can you identify a better place?

Regards, Bob W. 12 Jan 04 1019 MST

John R. Brown wrote:

Bob,

As far as I can tell, my NRJ article has not been acknowledged or cited anywhere in our Water Plan, nor does it seem to have informed much ? or perhaps any - of the historical description of the process. I find this somewhat puzzling, and a bit disappointing, given the fact that it was written principally to provide a way of understanding the institutional bases for many of the difficulties we faced in coming to a collective resolution of major issues the plan attempts to deal with. Was the article really that irrelevant to the plan?

Other than that, the General Summary is a lot better than the draft you asked me to review.

John

--
Bob Wessely
SciSo, Inc.

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Placitas, NM 87043

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

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February 20, 2004

RECEIVED

FEB 23 2004

COUNCIL OF GOVT

Michael R. Trujillo
Administrative Services Director
Mid-Region Council of Governments
317 Commercial NE
Albuquerque, NM 87102

Re: Comments on December 2003 draft Middle Rio Grande Water Plan

Dear Mr. Trujillo:

On behalf of our client, Ristra Communities, LLC, we are forwarding to you the following comments on the MIDDLE RIO GRANDE DECEMBER 2003 DRAFT WATER PLAN. We request that these comments be included in an appendix or supplement to the plan, and that they be given serious consideration by the COG and its members in any decision to adopt the plan and implement its recommendations.

Water Transfer Process (page 34)

“Transfers of water rights must be open to all affected stakeholders.”

- The term “affected stakeholders” is vague. In the strict sense, affected stakeholders would be those which would be directly affected, hydraulically, by the transfer of a water right to a different point of diversion.
- “Affected stakeholder” could be read to include protests from any person that does not want a water rights transfer to take place, whether their ability to produce water from their well, or surface diversion, is affected or not.

Public Welfare Principles and Considerations (page 35)

“1. Maintain, improve, and where possible, increase the quality and quantity of the region's water resources.”

Michael Trujillo

2/20/2004

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- The above statement could be used to argue that any transfer of water rights to a new area, known as the move to location, would be contrary to public welfare because it would decrease the quantity of water at the move to location.

“When considering environmental interests, the State Engineer should maintain and improve ecosystem biodiversity. The State Engineer should also consider instream flows as being essential for the region.”

- The State Engineer should not be put in a position to consider instream flows by limiting the use of existing water rights holders. Instream flow could be considered by the State Engineer if entities were to purchase rights, or transfer existing rights, such that the water would be dedicated to instream flow.

“When considering municipal and domestic needs, the State Engineer should strive to sustain an adequate water supply to meet these needs. The State Engineer should consider local land use plans and decisions.”

- The consideration of local land use plans may be contrary to State regulations for water rights administration. An aggressive “anti” type group could shut down development in an area.

Urban and Rural Conservation Activities (R1)

Establish a Domestic Well Policy (R1-1, page 41)

“The State Engineer should establish a policy to reduce pumping from domestic wells and restrict drilling of domestic wells where surface waters or the aquifer could be impaired.”

- Recent water use data by the State Engineers office (Water Use by Categories, 2000, B. Wilson, 2003) indicates that the average domestic well uses about 0.30 acre-feet per year. This is significantly less than the 3.0 acre-feet per year diversion the wells are allowed under the domestic well (NMSA 1978 §72-12-1) permit.
- Requiring the test of impairment, whether on surface waters or aquifers, can be arduous, and could require ground-water flow modeling. This recommendation could result in a significant increase of water rights hearings, thus tying up the resources of the State Engineer hearing unit and legal staff for relatively small impacts on surface and ground water resources.

Water Resources Planning and Management (R-2)

Water Resources Database (R2-6, page 45)

"A regional water resource database needs to be established and maintained within the region and made accessible to any water management entity."

- The regional database should be available to all interested parties. Limiting the use to water management entities will limit the ability of the public, land developers, and consultants to have up to date information.

Cooperative Regional Water Management (R2-10, page 47)

"This plan recommends that the local jurisdictions explicitly share the task of balancing the regional water use with renewable supply and implement sustainable water resource management to:"

- The term "local jurisdictions" should be defined. Page 1-6, Section 1.3.8, paragraph 3 refers to "special districts." The ability of special districts to create regulations or policy for specific areas should also be addressed.

Water Banking (R2-11, page 47)

"contribution to the quality of regional airshed and viewshed"

- Definitions for the terms airshed and viewshed should be established.

Land Use Management and Planning (R2-12, page 48)

"Local jurisdictions should:..."

- This may be an area where Diamond Tail can inquire about the development of cluster housing, but still using domestic wells.

8 WATER PLAN ALTERNATIVE ACTIONS AND EVALUATION

8.1.2 Category: Decrease or Regulate Water Demand

Domestic Well Controls (A-61, page 8-16)

As mentioned under an earlier section (*Establish a Domestic Well Policy*) to restrict drilling of domestic wells where surface waters or aquifers could be impaired could severely limit the ability to drill future domestic wells. Assessing impairment may be timely and costly. This type of impairment test could restrict domestic wells from being drilled along the Rio Grande valley

due to the relatively quick impacts on surface flows, or at any other place where local jurisdictions, the State, or special districts determine that any additional withdrawal from an aquifer is considered impairment. Additionally, as the State Engineer designates "critical management areas" throughout the planning region, the completion of additional existing wells could be prohibited. The recurring theme of the "Domestic Well Policy" seems to be one which would eventually require domestic well owners to buy and transfer water rights.

8.1.5 Category: Water Quality Protection

Domestic Wastewater (A-26, page 8-22)

This section recommends expanding wastewater treatment to all urban and suburban areas.

- Implication for rural housing developments could be eventually connecting all homes to a regional or local wastewater treatment system. The costs associated with connecting existing homes to a regional system are usually borne by individual home owners.

8.1.6 Category: Implementation of Plan and Management of Water Resources

Growth Management (A-52, page 8-24)

An alternative of this section is the development of one governing body which would combine land use authority and water use authority. This is apparently a controversial approach to management.

- Implication for this approach is that the county could lose jurisdiction of local development.

10 RECOMMENDATIONS

10.2.1 Urban and Rural Conservation Activities

R1-1-Establish a Domestic Well Policy (A-61, page 10-3)

- Comments regarding this section are the same as those previously detailed above.

Thank you very much for your consideration of these comments.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

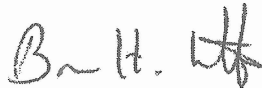
Michael Trujillo

2/20/2004

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Sincerely,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

A handwritten signature in black ink, appearing to read "B. H. Lematta". The signature is written in a cursive style with a large initial "B" and a stylized "L".

Brian H. Lematta

BHL/dc

Subject: Oh-My-God comments...

From: Janet Jarratt <jj@jj2people.com>

Date: Mon, 23 Feb 2004 14:31:06 -0700

To: Bob Prendergast <rnptep@swcp.com>, Bob Wessely <wessely@scisco.com>

Bob(s),

in conversation with Bob W., it seems that my earlier conversations with him regarding the oh-my-god of the ESA demand are insufficient, and that I need to write something. So, here I am formally stating that there is a serious omission from the plan of the additional stream flow demand of the biological opinion dictated by the ESA of, on average, 50,000 af per year. I have requested a single page (or so) of simple text referencing the study from the ESA workgroup. A couple of the folks are supposed to be working on that. I believe this can be simply resolved as a listed omission of importance.

Second, I am formally noting inconsistencies within the recommendations (chapter 10) that I believe must be resolved. Specifically, the contradiction in the verbage of alt. 144 and the rest of the document. 144 specifically calls for modification of the priority system, whereas the rest of the document supports the priority system, and that priority is also in the state constitution. I hardly think the regional water plan should call for a constitutional admendment. I believe this too can be easily resolved via a sentence deletion in 144.

I also have the issue of the changes made to Chapter 8 outside any review process, specifically the endorsement of hydroponic forage. I believe there are other issues with editorial changes to chapter 8 which in effect change the meaning of the analysis that must also be dealt with. I believe all these edits must be deleted forthwith, and that chapter 8 must retain some integrity as the reviewed contract analysis.

I have now made written comments to these issues, and will see you tonight, but hopefully not for a long meeting. The weather is getting worse by the second, and the drive gets longer...

j

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