

Volume 27
Spring 2009

Well Connected®



A Publication of the Water Systems Council

WSC MEMBER NEWS

WSC Calendar

August 1-3, 2009

- **South Atlantic Well Driller's Jubilee**
Myrtle Beach Convention Center
Myrtle Beach, SC

November 11-12, 2009

- **WSC Fall 2009 Members Meeting and Golf Tournament, WSC Board of Directors Meeting**
Rosen Shingle Creek Resort
Orlando, FL



2009 Spring Meeting Report: Twenty-Two WSC Members Visit Capitol Hill Two Members of Congress Honored in Washington, D.C.

During the 2009 Water Systems Council (WSC) Spring Meeting in Washington, D.C., twenty-two members took WSC's message to Capitol Hill, meeting with 53 members of Congress or their staff.

During their Congressional visits, WSC members highlighted the efforts of WSC's **wellcare®** program in their state, while also emphasizing that **wellcare®** is the *only* grant program under the U.S. Environmental Protection Agency (EPA) that works to protect the health of well owners and their families, and promotes responsible use and protection of groundwater resources nationwide.



Senator Richard Lugar (R-IN) (left) and Representative Norman Dicks (D-WA) (above) address WSC members after receiving the 2009 **wellcare®** Congressional Leadership Awards.

Continued on page 2

Inside this issue:

WSC Member News

Ubriaco Joins WSC Board of Directors	2
New 2009 Members	2
Senator Lugar Receives 2009 wellcare® Congressional Leadership Award	2
Representative Dicks Honored at WSC Spring Meeting	3
wellcare® Hotline 2008 Update	4
WSC Member Co. Celebrates 60 Years	4
WSC State Association Membership	4
New Publications Available to Members	5



WSC Launches **wellcare®** Well Owner's Network

As part of its commitment to protecting groundwater and drinking water sources for individuals with household wells, WSC has created a national network of well owners.

Network members will enjoy access to information and tools to help them better understand their drinking water source. They will receive WSC's new e-newsletter with information on wells, well water, and practical tips for protecting the nation's groundwater resources.



AROUND THE STATES Bounds and Casitas: Two Cases That Have the Potential to Transform the Water Well Industry

During WSC's Spring 2009 Meeting, WSC's Policy and Research Advisor Jesse J. Richardson, Jr. and Robin Irwin – WSC Member and Member of the New Mexico Ground Water Association – summarized two 2008 court cases that have the potential to transform the water well industry and private water rights.

The first case, *Bounds v. State of New Mexico*, would eliminate the exemption of private wells from New Mexico's Prior Appropriations Water Rights Rule. This decision by the Grant

Continued on page 5

WSC MEMBER NEWS.....



Above: Water Quality Association (WQA) Executive Director Peter Censky speaks about WQA programs and the future of our industries.

2009 Spring Meeting Report

Continued from page 1

WSC honored Senator Richard Lugar (R-IN) and Representative Norman Dicks (D-WA) with the 2009 **wellcare®** Congressional Leadership Awards (see box below and on page 3 for more information).

WSC Executive Director Kathleen Stanley elaborated on where the organization stands with regards to funding, in light of the new Administration's focus on the Stimulus Package and "Ready to Go" projects. Stanley said the expectation is that most of the money from the Stimulus Package will fund projects in metropolitan and suburban areas. The **wellcare®** Program fills a gap in the Stimulus package, she explained.

Water Quality Association (WQA) Executive Director Peter Censky shared details about WQA's programs and the future of our industries. Censky elaborated on WQA's efforts to fight legislation from municipalities who want to ban water softeners. He predicted that the future of water treatment will involve a transition

Continued on page 3

Ubriaco Joins WSC Board of Directors

Robert Ubriaco ("Ubi"), of ITT Industries, was voted into the WSC Board of Directors at the 2009 Spring Members Meeting.

New 2009 Members

WSC welcomes the following new members:

Individual Member:
Scott Burroughs
Mather & Sons Pump
Service, Inc.
Vancouver, WA

State Association Member:
Rhode Island Groundwater
Association

Senator Lugar Receives 2009 wellcare® Congressional Leadership Award

WSC honored U.S. Senator Richard G. Lugar (R-IN) with the 2009 WSC **wellcare®** Congressional Leadership Award during its Spring Meeting, held February 24-27 in Washington, D.C. Senator Lugar was honored for his exemplary commitment to wellowners and groundwater protection through his support of WSC's **wellcare®** program.

"I deeply appreciate this recognition by the Water Systems Council," said Senator Lugar. "Stewardship of our natural resources and environment is critically important to the welfare of all Americans."

"The **wellcare®** Congressional Leadership Award acknowledges Senator Lugar's efforts and expresses our appreciation on behalf of nearly 2 million well owners in Indiana," said WSC President Gerry Duggan.



Above: Senator Richard Lugar (center) accepts the 2009 **wellcare®** Congressional Leadership Award from WSC Executive Director Kathleen Stanley (left) and WSC President Gerry Duggan (right).



Above (from left to right): WSC Board Member Robert Stone, Anna Stone, WSC Board Member Jim Grasha, Senator Richard Lugar, WSC Member Scott Lechner, and WSC Member Scott Trumbull.

2009 Spring Meeting Report

Continued from page 2

away from centralized treatment systems – which often use old water treatment technology – and toward small clusters of newer water treatment technologies. In this model, he said, water treatment will likely be paid by the homeowners themselves, but the return will be higher quality water.

The Accord Group’s Jeff More updated the membership on WSC’s efforts to have its Authorizing language included in the Appropriations Bill. Thus far, our efforts have been successful. At the time this issue was printed, our language was present in the bill passed by the House, and that same bill was slated to go to the Senate for approval.

WSC’s policy and Research Advisor Jesse J. Richardson, Jr. and Robin Irwin – WSC Member and Member of the New Mexico Ground Water Association – summarized two 2008 court decisions that have the potential to transform the water well industry and private water rights. For more information on these cases, see the article that begins on page 1 of this issue.

**WSC
MEMBER
NEWS.....**



Above: Jeff More of The Accord Group, WSC’s Washington Representative, summarizes WSC’s recent efforts on the Hill.

Representative Dicks Honored at WSC Spring Meeting

WSC honored U.S. Representative Norman Dicks (D-WA) with the 2009 WSC **wellcare®** Congressional Leadership Award during its Spring Meeting, held February 24-27 in Washington, D.C. “Water Systems Council is pleased to recognize Representative Dicks’ commitment to protecting the drinking water supplies of household well owners nationwide and in Washington,” said WSC President Gerry Duggan.

The WSC **wellcare®** Congressional Leadership Award is given annually to Congressional members who have shown exemplary commitment to wellowners and groundwater protection.



*At left: WSC Executive Director Kathleen Stanley (left) and WSC President Gerry Duggan (right) present the 2009 **wellcare®** Congressional Leadership Award to Representative Norman Dicks (center).*



At right: Representative Dicks with WSC Member H.A. “Bill” Mills.



Above: Representative Dicks with WSC Members Randy Lyne (bottom left), Robert Stone (center), and Jim Grasha (bottom right.)

WSC MEMBER NEWS.....

wellcare® Hotline 2008 Update

The **wellcare®** Hotline responded to over 3,500 calls and e-mail requests in 2008, reports Hotline Specialist Charlene Greenstreet. The Hotline received approximately 100 more calls than it received last year. The majority of calls came from well owners/renters (75%), followed by

home buyers (7%), citizens on public water systems (3%), realtors (2%), businesses (2%) and others. Calls came from all 50 states and many countries, including Africa, Germany and India. States with the highest number of calls in 2008 were Arizona (280), Pennsylvania (242), Florida (176) and New York (170).

Again in 2008, the **wellcare®** Hotline calls reflected the weakened economy, with a large number of callers asking where to find free or low cost water testing kits. Potential homebuyers continue to utilize the Hotline. Many of their questions concerned radon testing and U.S. Department of Agriculture (USDA) home loan requirements.

The **wellcare®** Hotline received a large volume of questions about which type of chlorine to use when disinfecting a well system. Callers – including plumbers, well drillers, well owners and those on shared or community well systems – were confused as to whether they should use chlorine in liquid form or tablets.

As in previous years, **wellcare®** Hotline calls reflected topics in the news, such as (1) the safety of plastics in bottled water, pressure tanks and holding tanks, (2) well safety following inclement weather, and (3) pharmaceuticals in tap water.

WSC Member Merrill Mfg., Co. Celebrates 60 Years

WSC Manufacturer member Merrill Manufacturing Co. is celebrating its 60th Anniversary in the water well industry. Founded in 1949 by Noel Merrill Anderson, Merrill manufactures and sells frost proof yard hydrants, pitless units, kits and adapters, well caps, tank tees, insert fittings and other water well accessories. Merrill Manufacturing's President Steve Anderson serves on the WSC Board of Directors.



WSC State Association Membership

State associations of well contractors and groundwater professionals are an important part of the water well industry. WSC is proud to have the following state associations as WSC members:

Arizona Water Well Association, California Groundwater Association, Connecticut Water Well Association, Empire State Water Well Drillers Association, Florida Ground Water Association, Georgia Drillers Association, Illinois Association of Groundwater Professionals, Iowa Water Well Association, Louisiana Ground Water Association, Maryland/Delaware Water Well Association, Massachusetts Ground Water Association, Michigan Ground Water Association, New Mexico Ground Water Association, Pennsylvania Ground Water Association, Rhode Island Groundwater Association, Texas Ground Water Association, and Virginia Water Well Association.



Not a member? Join WSC! WSC Membership benefits include:

- ◆ Discounts on publications (up to 25%)
- ◆ Free Membership Directory and hotlink to your website from WSC's website
- ◆ Free listing in PAS-97(04) and ANSI/WSC PST 2000-2005, if qualified (included in dues)
- ◆ Access to Members-Only Forum where you will find monthly updates on state legislative issues impacting our industry in Around The States
- ◆ Networking possibilities at WSC's spring and fall membership meetings, and more!

To become a member or for more information, contact memberservices@watersystemscouncil.org or visit www.watersystemscouncil.org/join

"Two years ago, I accepted an invitation as President of the Pennsylvania Ground Water Association to attend a WSC meeting in Washington, D.C. At that meeting in 2007, I learned that WSC as an organization was committed to the ground water industry and that our interests went hand-in-hand."

– Bill Reichert, President, Pennsylvania Ground Water Association

New WSC Publications Available for Members

Water Systems Council's 2008 Annual Report to the Membership and the 2009 state-specific sheets, which were distributed during the Congressional visits, are available to members by request. These publications were distributed at the 2009 Spring Members Meeting. Copies of the Annual Report will be mailed to members unable to attend the meeting. For additional copies, please contact Angela Stanley at 202/625-4326 or e-mail angela.stanley@watersystemscouncil.org.



The 2008 Annual Report to the Membership highlights WSC's **wellcare®** Program, 2008 efforts, and upcoming 2009 initiatives. The state-specific sheets illustrate the impact of the **wellcare®** Program in each state. This includes data on the number of wells in each state, charts on water use and population growth, **wellcare®** Hotline data, and more. A list of WSC member facilities in each state is also included.



AROUND THE STATES

Bounds and Casitas: Two Cases That Have the Potential to Transform the Water Well Industry Continued from page 1

County Circuit Court struck down a state law that had been in effect for over 100 years and exempted domestic water wells from prior appropriations rules. The "Prior Appropriations" rule says that the first landowner to beneficially use or to divert water from a water source is granted priority of right.

The case has been appealed and is likely to go to the New Mexico Supreme Court. If it is upheld, it would increase waiting periods for well permits and costs for domestic wells exponentially. WSC is working closely with the New Mexico Ground Water Association and will keep the members informed of new developments.

The second case, *Casitas Municipal Water District v. United States* was a "takings" case. Although the case involves surface water, the principles could apply to groundwater as well.

Takings law provides that one may prove a taking in three different ways. If the governmental action involves a physical invasion or deprives the owner of all economically viable uses of the property, a taking has occurred. We call these two types of takings "categorical takings" because if you prove one of these two conditions, you need not conduct any further analysis. Most takings claims involve the third test, a much more difficult test to meet. Under this test, called the *Penn Central* balancing test, the court balances the economic impact of the taking on the landowner, the landowner's reasonable investment backed expectations and the character of the governmental activity.

The court concluded that a "physical invasion" was involved. The case is being contested and the United States has filed a motion for a hearing. If the ruling is upheld, water rights will be protected by the takings case, and future takings cases involving groundwater could be much easier to prove. If it is overturned, the government will have free reign to limit water rights.

Together, *Casitas* and *Bounds* could cause a seismic shift in water rights in the United States. Other states are pointing to the *Bounds* case in moving to eliminate exemptions for private wells, putting the right to a well in question. For more information on these cases, see the summaries in the Summer/Fall 2008 issue of *Well Connected*.

How Should The Water Industry Respond to Cases Such as These?

- ◆ *Stay aware of what's happening. WSC will continue to keep you informed of new developments in these cases.*
- ◆ *Work with state agencies and local governments to devise reasonable regulations. BE PROACTIVE!*
- ◆ *File amicus briefs, such as the New Mexico Ground Water Association has done in the Bounds case.*
- ◆ *State Associations must take the lead, with assistance from WSC and the industry.*



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**SAVE THE DATE
FOR THE WSC FALL 2009 MEMBERS MEETING
AND GOLF TOURNAMENT
IN ORLANDO, FLORIDA**



Thursday, November 12:
*WSC Fall Members Meeting
and Committee Meetings*

Wednesday, November 11:
*WSC Board of Directors Meeting
9th Annual WSC Golf Tournament,
Rosen Shingle Creek Resort*



Contact memberservices@watersystemscouncil.org for more information.