

Volume 30  
Winter 2010



# Well Connected®

A Publication of the Water Systems Council

## WSC Calendar

February 23-25, 2010

- **WSC Spring 2010 Members Meeting & WSC Board of Directors Meeting**  
Washington Court Hotel  
Washington, D.C.

March 26-27, 2010

- **New England Water Well Expo**  
Marlborough, MA

May 18, 2010

- **2010 NY Children's Water Festival**  
Columbia-Greene College  
Hudson, NY

July 31-August 2, 2010

- **South Atlantic Well Drillers Jubilee**  
Myrtle Beach, SC

November 9-12, 2010

- **WSC Spring 2010 Members Meeting & WSC Board of Directors Meeting**  
Shingle Creek Resort  
Orlando, FL

December 7-10, 2010

- **2010 NGWA Ground Water Expo**  
Las Vegas, NV

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## THANK YOU!

WSC wishes to thank the following who donated or purchased items for the auction held at the WSC Fall 2009 Members Meeting, and those who made cash donations. The money raised will support the **Water Well Trust**, WSC's new 501(c)(3) organization. See page 2 for more information on the **Water Well Trust**.

*Buzz Mills, 2M Company, Inc. ▪ Jim Grasha, A.O. Smith Water Systems  
JJ Troccoli, A.O. Smith Water Systems ▪ Joe Lane, Amtrol, Inc.  
Chris VanHaaren, Amtrol, Inc. ▪ Tom Sterzing, Austin Pump & Supply Company  
James Paulhus, Blake Equipment Company ▪ Gary Boshart, Boshart Industries, Inc.  
Jim Mullins, Boshart Industries, Inc. ▪ Emery Davis, Campbell Manufacturing, LLC  
Dennis Coggins, Cogs Consulting ▪ Alan Dretel, DeLS Pump and Supply  
Aaron Dretel, DeLS Pump and Supply ▪ David Dretel, DeLS Pump and Supply  
Bo Andersson, Danfoss Flomatic Corp. ▪ Nick Farrara, Danfoss Flomatic Corp.  
George Simas, Flexcon Industries ▪ Gerry Duggan, Flexcon Industries  
Robert Stone, Franklin Electric Co., Inc.  
Mark Durham, Gicon Pumps & Equipment, Ltd.  
Bernie Kistner, GroupOne Northeast ▪ Terry Teach, Grundfos Pumps Corp.  
Kathy Teach, Grundfos Pumps Corp. ▪ Greg Harmon, Harmon & Co., Inc.  
Karl Buscher, ITT Industries ▪ John Surinak, Maass Midwest Manufacturing, Inc.  
Donna Surinak, Maass Midwest Manufacturing, Inc.  
Richard Mest, Master Water Conditioning Corp.  
Steve Anderson, Merrill Manufacturing Co. ▪ Burnet Chalmers, Milby Company  
David Brown, Mitchell, Lewis & Staver ▪ Brian Irwin, Murray Drilling Company  
Robin Irwin, Murray Drilling Company ▪ Pat Partridge, Partridge Well Drilling Co.  
Kevin Hancock, Pentair Water ▪ Jerry Laughlin, Pentair Water/Wellmate Division  
Edie Rickard, Rickard Sales Inc. ▪ Rusty Cook, Service Wire Co.  
Seth Weisberg, Service Wire Co. ▪ John Bivins, Southwire  
Terry Dotson, United Pipe & Supply Company, Inc.  
Kathi Stanley, Water Systems Council ▪ Jesse Richardson, Water Systems Council  
Paul Haderer, Western Hydro Corporation*



## **Water Systems Council's 2010 Initiatives Include New 501(c)(3), New Leadership Institute, and Expanded Public Education and Outreach**

Water Systems Council (WSC) Executive Director Kathleen Stanley unveiled several of the organization's 2010 initiatives at the Fall Members Meeting held in Orlando, Florida last November. In 2010, WSC's efforts will include:

- the continued growth of the **wellcare® Well Owners Network**, which launched in May of 2009;
- the launch of the new **Water Systems Council Leadership Institute**;
- the development of the new **Water Well Trust**;
- a continued focus on public education through the upcoming Children's Water Festival in Hudson, NY and through a partnership with The Groundwater Foundation; and
- the continued operation of the **wellcare®** program, including the **wellcare®** hotline, **wellcare®** information sheets and more.

### **wellcare® Well Owners Network**

WSC continues to grow the membership of its **wellcare®** Well Owners Network.

Since its launch last May, the Network's membership has grown to nearly 1,000.

WSC has a goal of increasing this membership to 10,000 before the end of 2010, and is exploring social networking

as one way to create visibility for the network and reach this goal. A Facebook fan page was created at the end of 2009, and a new Well Owners Network blog will be launched later this year.



### **Water Systems Council Leadership Institute**

The WSC Leadership Institute will encourage young people in the water well industry to be more active in industry organizations and issues, while strengthening state associations. "The WSC Leadership Institute serves as a forum committed to the future leaders in the water well industry by advancing leadership skills, technical development, networking and customized training and education that results in an informed and active legacy for industry organizations and state associations," explains WSC Senior Program Manager Rita Wayco.

### **Water Well Trust**

WSC formed a new 501(c)(3) nonprofit organization to seek out additional funding sources for projects to promote wells. The **Water Well Trust** will provide matching funds for projects like the Screven County Model Project, and will help provide wells for low-income individuals.

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## **AROUND THE STATES**

### **Exempt Well Issues Heat Up in Montana**

On December 1, 2009, senior water rights holders filed a petition before the Montana Department of Natural Resources and Conservation asking the department to declare the definition of "combined appropriation" invalid and initiate rulemaking amending the definition of "combined appropriation." "Combined appropriation" involves the exempt well provisions in the state.

The Montana Water Use Act provides a limited exemption from permitting and environmental review requirements for water wells with a maximum appropriation of 35 gallons a minute or less, not to exceed 10 acre-feet a year. The exemption does not apply within controlled groundwater areas. In addition, combined appropriation from the same source by two or more wells or developed springs exceeding this limitation requires a permit.

Regulations adopted by the department under the act define "combined appropriation" as an appropriation by two or more wells from the same aquifer if the wells are "physically manifold" or connected into the same system. *Rule 36.12.101, ARM*. The senior water rights holders allege that this definition is contrary to the intent of the legislature. In addition, the petitioners believe that residential subdivisions where each home is served by individual exempt wells

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### Youth Education Initiatives

As part of its public education efforts, Water Systems Council helps interested communities to plan and implement Children's Water Festivals. These exciting, educational events showcase water education through hands-on activities. The educational experience is for students and teachers, and enables students to:

- Explore water through interactive and dynamic activities;
- Learn about drinking water, groundwater, watersheds, surface water, and water quality topics in engaging presentations; and
- Gain a better understanding of their water supply and a greater appreciation for what a truly precious resource it is.

Festival activities include Edible Aquifers, Water Jeopardy and plenty of hands-on activities, presented by water and natural resource experts.

Presenters and volunteers are still needed for the upcoming 2010 New York Children's Water Festival, scheduled for May 18, 2010 at Columbia-Greene College, located at 4400 Route 23 in Hudson, NY. For more information, contact Dawn Greene at [dgreene@watersystemscouncil.org](mailto:dgreene@watersystemscouncil.org) or 202-625-4387.



WSC is also partnering with The Groundwater Foundation to extend its "LEAP (Learn Educate Act Protect) into Groundwater" and Growing Groundwater Awareness in Nebraska (GGAN) projects across the nation. For more information, see the box on page 5.

Look for updates on these projects and more in future issues of *Well Connected*®.

## WSC MEMBER NEWS

### WSC 2010 Leadership

#### 2010 Officers and Executive Committee

WSC elected the following 2010 officers at the Fall 2009 Members Meeting:

**President Kevin Hancock**, Pentair Water  
**Vice President Robert Stone**, Franklin Electric Co., Inc.  
**Secretary/Treasurer Bo Andersson**, Danfoss Flomatic Corp.

**Distributor Board Member Buzz Mills**, 2M Company, Inc.  
**Executive Director (ex-Officio) Kathleen Stanley**

#### 2010 Board of Directors

WSC also elected the 2010 Board of Directors. Members of the Board of Directors not listed above are:

**Stephen Anderson**, Merrill Manufacturing Co.  
**Brent Anthony**, Grundfos Pumps Corporation  
**Karl Buscher**, ITT Industries  
**Emery Davis**, Campbell Manufacturing, LLC

**Gerry Duggan**, Flexcon Industries  
**Jim Grasha**, A. O. Smith Water Systems  
**Joe Lane**, Amtrol, Inc.  
**Richard Mest**, Master Water Conditioning Corp.

#### WSC welcomes the following new Contractor Members:

**Wayne D. Smith**, Custom Drilling Services, Inc.  
 Mulberry, FL

**Walter Wyckoff**, Aqua-Tec Water Services Inc.  
 Gilboa, NY

**Donovan Sippel**, Sippel Well Drilling Inc.  
 Salem, OR

## Exempt Well Issues Heat Up in Montana

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should fall within the definition of “combined appropriation.”

Petitioners point to an increase in exempt wells throughout the state, including in closed basins\*, to support the petition. In addition, the petitioners allege that exempt wells interfere with their senior water rights. (\*Note: Closed basins are water basins where rights to all of the water have already been appropriated. Therefore, the state will “close” the basin, meaning that no additional water rights can be granted within the basin).

In addition to declaring the present definition invalid, the petition proposes a new definition. The new definition would include “appropriation of water from the same source aquifer by two or more wells or developed springs that are part of the same project, development, or subdivision. Two or more wells or developed springs that are part of the same project, development or subdivision are presumed to appropriate water from the same source aquifer.”

Other groups have also been discussing exempt wells in Montana. During the latter part 2009, the Gallatin River Task Force met with the Montana Department of Natural Resources and Conservation. The Task Force recommends that the state adopt a Ground Water Mitigation Exchange where landowners that install water wells in controlled groundwater areas would be required to purchase water rights or water mitigation credits to mitigate the impact of exempt wells on senior water rights.

The Montana State Legislature has been examining the exempt well issue also. The Water Policy Interim Committee has been meeting on the exempt well issue. The Legislative Environmental Policy Office recently prepared a primer on exempt wells for the committee as it continues to explore exempt well issues.

Legislative, judicial and administrative activity is expected to continue in 2010 and beyond. Water Systems Council will continue to monitor these activities.

### Latest Developments in the Kittitas County, Washington Exempt Well Moratorium

A draft memorandum of agreement (MOA) has been developed between the Kittitas County government and the Washington Department of Ecology. A public hearing on the MOA was held January 20, 2010.

The MOA would suspend the current moratorium on the drilling and use of new wells, which began on July 16, 2009. The moratorium would be suspended

on March 26, 2010, for a 150-day period.

Residential projects would be required to use water from a new well before the end of the 150-day period. Wells drilled during this time period would not be required to obtain a permit so long as the well qualifies for the exemption. The exemption applies for wells that draw less than 5,000 gallons per 24-hour period for single or group domestic purposes.

The MOA outlines the responsibilities of the county and the department in managing, limiting and monitoring the use of new water wells in portions of the county. In September, after the expiration of the 150-day period, permanent rules would apply with respect to location of new wells, amount of water to be withdrawn and how the water is applied to single and multi-home developments. In addition, the drilling of new wells would require the purchase of water mitigation credits.

These rules would be in place while a three-year groundwater study is conducted examining the connection between exempt wells and surface water rights. Upon the completion of the study, the rules may be modified.

More information on the management of exempt wells in Kittitas County may be found at [www.ecy.wa.gov/programs/wr/cro/kittitas\\_wp.html](http://www.ecy.wa.gov/programs/wr/cro/kittitas_wp.html). The proposed MOA may be found at [www.ecy.wa.gov/programs/wr/cro/images/pdfs/01062010\\_kittitas\\_MOA\\_finaldraft.pdf](http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/01062010_kittitas_MOA_finaldraft.pdf).

### Colorado Court of Appeals Decides Important Water Rights Case

The Colorado Court of Appeals, Division I, recently decided an important water rights case. In *Meridian Ranch Metropolitan District v. Colorado Ground Water Commission*, 2009 WL 3765490 (Colo.App.), the metropolitan district owned and operated wells within the Upper Black Squirrel Creek Ground Water Management District.

The wells operated by the metropolitan district are pursuant to permits granted by the Colorado Ground Water Commission. The permits authorized the withdrawal of specific amounts of water. The management district adopted rules that restrict water withdrawals to a level below that specified in the state permit. The rules were adopted in response to declining groundwater levels in the management district.

The metropolitan district appealed the rules to the Colorado Ground Water Commission. At two different levels of appeal, the commission found that the rules were invalid, finding at one level that the management district lacked authority to adopt the rules and

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at another that the rules were unreasonable. However, the final level of appeal with the commission upheld the rules.

The metropolitan district appealed to the district court. The key issue on appeal was whether the management district had the authority to adopt rules that restricted pumping levels below that set out in a state issued permit. The district court upheld the authority of the management district to adopt the rules. The metropolitan district appealed to the Court of Appeals, which found that the statutory authority creating management districts gave the management districts authority "similar" to that of the Colorado Ground Water Commission in regulating water pumping levels by rule or regulation. In addition, the court found that the impairment of vested water use rights did not violate procedural due process.

This case is important because it further erodes water rights. The court in essence endorsed a procedure whereby a state agency can grant water rights, but also give a local government or regional agency (in this case, a ground water management district) the ability to take those rights away or to reduce those rights. In the court's words, the water rights at issue are "vested, but not unchangeable." The ruling raises uncertainty as to the continuing viability of established water rights.

#### **Colorado State Engineer Adopts New Non-Tributary Groundwater Rules**

On December 30, 2009, the Colorado State Engineer filed the final Non-Tributary Groundwater Rules with the Colorado Secretary of State. The action results from the *Vance v. Wolfe*, 205 P.3d 1165 (Colo. 2009) case, which was reported in the Summer 2009 *Well Connected*®. The case held that water produced from coalbed methane wells is subject to state requirements

for permitting, adjudication and administration since the use of water in coalbed methane production is a "beneficial use" under state law.

This ruling raised concerns that the increased workload for the State and Water Court Division Engineers would become too onerous. In response, the Colorado General Assembly passed H.B. 1303, which initiated rulemaking for establishing criteria for determining the tributary or non-tributary status of water produced from oil and gas wells. This determination is very important since appropriation of tributary groundwater (groundwater that impacts surface waters) requires augmentation, or substitute water supply, plans, while appropriation of non-tributary groundwater does not require augmentation.

The new rules include maps designating tributary and non-tributary groundwater in the Piceance and Northern San Juan Basins, which cover the coalbed methane production areas in the state. Furthering fueling controversy, the maps were produced by area gas companies and show most of the groundwater affected by coalbed methane production as non-tributary groundwater.

The rules were set to become effective at the end of January. However, the plaintiffs in the *Vance v. Wolfe* case vow an appeal.

The State Engineer is now conducting another round of the rulemaking to deal with conventional, noncoalbed gas wells in Southwest Colorado. More information on the rulemaking may be found at [water.state.co.us/wateradmin/NontribGw.asp#frules](http://water.state.co.us/wateradmin/NontribGw.asp#frules). The newly submitted rules may be found at [water.state.co.us/wateradmin/NontribGW/FinalRules/FinalProducedNontributaryGroundWater\\_SOBP.pdf](http://water.state.co.us/wateradmin/NontribGW/FinalRules/FinalProducedNontributaryGroundWater_SOBP.pdf).

# AROUND THE STATES

## **WSC MEMBER NEWS** **wellcare® Hotline 2009 Update**

The **wellcare®** Hotline wrapped up another busy year, with more than 3,000 calls and e-mail requests received in 2009. Once again, the overwhelming majority of calls (71%) came from well owners and seventy-three percent of questions were related to water quality, testing and treatment.



Contact the **wellcare®** Hotline at  
**1-888-395-1033** or visit  
**[www.wellcarehotline.org](http://www.wellcarehotline.org)**

Calls came from 49 states (all except Hawaii), the District of Columbia, Canada, China and Puerto Rico. States with the highest number of calls in 2009 were Pennsylvania, New York, Arizona and Florida.

## **WSC Continues its Successful Partnership with The Groundwater Foundation on Educational Projects**

For 2010, WSC has partnered with The Groundwater Foundation to sponsor its "LEAP (Learn Educate Act Protect) into Groundwater" and Growing Groundwater Awareness in Nebraska (GGAN) projects. These programs provide Nebraska communities with tools to educate area citizens about the importance of groundwater protection.

WSC's sponsorship will help expand these programs to targeted communities across the country. WSC has also provided educational materials to supplement those provided by The Groundwater Foundation, including the **wellcare®** Pocket Guide and information about the **wellcare®** Hotline and **wellcare®** Well Owners Network.



WSC NATIONAL PROGRAMS OFFICE  
1101 30<sup>th</sup> Street, N.W.  
Suite 500  
Washington, DC 20007

## THE CHILDREN'S WATER FESTIVAL IS COMING TO HUDSON, NY ON MAY 18, 2010!



NEW!

BECOME OUR FAN ON FACEBOOK!

Search "wellcare Well Owners Network" from your Facebook page.



**VOLUNTEERS ARE STILL NEEDED!**

Contact [dgreene@watersystemscouncil.org](mailto:dgreene@watersystemscouncil.org) for more information.