

Submitted by David Beech
at 8/20/2012 Board
meeting:
Item 14

Beech Appeal of Permit Approvals for Flores and Pisenti WDS

Public Hearing
August 20, 2012

Background

- October 2010: Beech well ran dry for about 3 days
 - Only time in at least 11 years, has run perfectly ever since
- Then we learned that
 - New Piseni well had been drilled
 - Three-day testing had just been carried out on Flores/Piseni Well #1 and Well #2
- Unlikely coincidence
 - No change in our watering patterns
 - Not an exceptionally dry year

Concerns

- Potential short-term impact
 - We seek the monitoring to which we were entitled (non-compliance of notification)
- Potential longer-term impact
 - Non-compliance with recovery requirements raises questions about sustainability
- Wider implications of this appeal
 - Sets precedent for fractured rock testing
 - 20-acre parcel adjacent to Flores/Pisenti now for sale

Requested motion tonight: “Option 3B”

Continue Consideration of Flores and Pimenti Permit Hearing Until Full Well Testing Has Occurred Pursuant to MPWMD Procedures

- **Specifically:**
 - **Simultaneous 72-hour pumping of Well #1 and Well #2 with concurrent monitoring of Beech well**
 - **95% recovery within six days shall be demonstrated by actual measurements**
 - **Well capacity calculation shall utilize actual pumping rates, with no substitution of estimated values**

Reasons

- Retesting is required because of non-compliance - failure to notify Beeches of rights to monitoring in October 2010 (see MPWMD GM's 6/24/11 letter)
- Also non-compliance with Recovery requirements
- MPWMD Procedures state that if 95% recovery is not achieved after 6 days, "then an evaluation of the test will be conducted by the District," and it is within discretion of Board to carry out that final evaluation of retesting (having indicated criteria it will apply)

More Reasons

- Simultaneous (allowed in 2010, replicate conditions)
- Mr. Oliver's memo confirms non-compliance with Procedures for Recovery
- We have adopted Mr. Oliver's wording "utilize actual pumping rates" for well capacity

Procedures, p.11

- **“Step 2, Documentation of Drawdown and Recovery. ... Water level recovery data shall be measured until the recovering water level in the pumping well reaches 95% of the pre-test static water level. If 95% percent recovery is not achieved after two times the pumping period has elapsed, then an evaluation of the test will be conducted by the District to determine whether or not the calculated yield should be reduced.**

Oliver memo

The intention of the statement in question is clarified by the highlighted additional phrase as follows:

Water-level recovery data shall be measured until the recovering water level in the pumping well reaches 95% of the pre-test static water level **or two times the pumping period has elapsed, whichever occurs first.**

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Beech Response

This escape clause does not appear in the approved *Procedures*, which (bottom p.1) “outline the minimum requirements for production testing, analysis, and reporting of groundwater information to comply with the MPWMD rules and regulations.” Your suggested additional phrase is an unauthorized lowering of the bar below the minimum requirements.

Hence the recovery testing was non-compliant.

Problems with “Estimating” Formula for fractured rock wells

- **Well #2 had 6-day recovery of 54.42% instead of 95% -- worst on record with MPWMD**
- **Fractured rock aquifers unpredictable - necessary to get hard data where possible**
- **Even well #1 (61 ft drawdown, strong recovery) and well #2 (<9 ft drawdown, weak recovery) behaved quite differently**

The “estimating” technique used in evaluation of Well Recovery is a Loophole

- Apparently not documented or justified
- Without scientific foundation
- Pumping rate is first artificially inflated (e.g. 6.25 gpm raised to 41.2 gpm!)
- “Reduction” then applied – (to 24.52 gpm - much larger than rate that failed recovery!)
- Renders crucial test of well recovery virtually impossible to fail

Fairness Issues

June 24 Letter from GM Fuerst giving Beeches 7 days to respond

July 5 GM Fuerst confirms that his June 24 letter was appealable (Rule 70 allows 21 days to appeal)

July 11 Beech appeal to Chairman Brower and Directors is received and date-stamped by MPWMD, but is not delivered to Chairman Brower and Directors

July 20 GM Fuerst issues “complete” letters to Flores/Pisenti despite the pending Beech appeal

July 26 GM Fuerst reverses his July 5 statement; says his June 24 letter is not appealable; rejects Beech appeal

Etc.

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Footnote: Requested Fee Rebate

- We respectfully request rebate of the full \$750 appeal fee that we have paid
 - Rule 70: “... significant benefit to the public”
 - Issues with Procedures are being addressed by Rules & Regulations committee
 - We have attended their meetings and made suggestions, and can continue to do so if helpful