

September 28th, 2010

MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 28th, 2010, 615 Macon Avenue, room LL3, Fremont County Administration Building, Canon City, Colorado. Commissioner Chairman Edward H Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, Katie Barr, Deputy Clerk; and Jody Blauser Clerk and Records Office.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Stiehl moved to approve the agenda, Commissioner Lasha seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to remove Item #1, the approval of the minutes of the September 14th meeting from the consent agenda and to approve the Special Meetings Minutes from September 2, 2010 and September 15, 2010 and approve the remaining consent agenda. Commissioner Lasha seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE / INFORMATIONAL

1. Administrative and Elected Officials

George Sugars gave an update on the air conditioning situation and said the new compressor could possibly be installed by tomorrow.

Commissioner Lasha said that Pioneer Days in Florence took place over the past weekend and it was a great success. Also the Field Of Dreams event at the Fremont Airport over the weekend had a great turn out. He said there were 28 planes that flew in for the event. He thanked Dick Baker, Dave Thompson, and Randy White for their help with the event. He said about 300 breakfasts were served. He said Commissioner Norden even went for a helicopter ride and a jet ride.

Pat McFarland requested Treasurers redemption of a mobile home tax lien be made to reimburse George R. Turner \$970.97 for a mobile home that was sold at tax lien sale several years ago. The mobile home was destroyed by fire, and the Treasurers Office was not aware it had been destroyed. Commissioner Lasha moved to approve the request for the redemption. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The Motion carried.

Pat McFarland requested to cancel a list of mobile home taxes and personal property taxes listed on Exhibits A and B to the Board. Commissioner Stiehl moved to approve the request. Commissioner Lasha seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The Motion carried.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

Commissioner Norden read A Proclamation from the Board to proclaim the month of September 2010 as National Alcohol and Drug Addiction Recovery Month. Commissioner Norden moved to approve the Proclamation. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The Motion carried.

Commissioner Norden read the request to formally transfer the Liquor License from Shadow Hills Golf Club to Bill and Bonnie Holt. Commissioner Lasha moved to approve the request for a transfer of Liquor License from Shadow Hills to Bill and Bonnie Holt of Holt Family Recreation LLC. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The Motion carried.

Bill McGuire of the Penrose Chamber of Commerce said they are looking forward to the Apple Days this year; our 75th Diamond Jubilee is the theme. He made a request for TUP 10-006 for the Apple Day festivities on October 2, 2010 to be approved. He gave a copy of the schedule of events to the Board. These events will include a parade, pie contest, silent auction, fun run, car show, softball tournament, craft fair, senior's lunch, live music, and much more. Bill Giordano said the application had been submitted and it is complete. The list of food vendors had been provided by the 23rd per the request of the Environmental Health Office. He also said action needed today is consideration of proof of liability insurance that has been provided for two million and one million dollars which he believes is the same as last year. He said they are also asking for waiver of cleanup fee, which has been done consistently without any problems, so he recommends that it be done again. He said they are also asking for a waiver of the application fee. Commissioner Stiehl asked Bill if he has the proof of insurance. Bill said yes. Commissioner Lasha said he has a disclosure to make; Bill had just asked him to be the Parade Grand Marshall this year. Commissioner Lasha said he would be honored, and he accepts. He said he has no problem voting on request. Commissioner Stiehl moved to approve TUP 10-006 for Penrose Chamber of Commerce Apple Days and waive the application fee, waive the cleanup deposit, and accept the liability insurance as presented. Commissioner Norden seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Matt Koch of Cornerstone Land Surveying made a request for approval of MS 10-001 B & K Trogden Minor Subdivision. He said the owners are ok with the contingencies; they don't have a problem with any of those and are ready to get approval. Bill Giordano said the Planning Commission meeting on September 8th they recommended approval of the application with the 15 contingency items. He said the only real item of discussion was a request by the County Engineer to defer the drainage plan to a building permit stage. It was noted at that meeting they do not have authority under our regulations to require that by a note on the plat. They try to stay away from putting notes on plat as they stay there forever. Also in addition because subdivision regulations the property owner can put up monies through an escrow account to guarantee that the work would be done which would give them the time to defer it to whenever they want anyway. He said it was decided that instead of deferring it that it would be required at this time. He said notice in items 6,7,8,9, and 10 they are all related to the requirement of having the drainage plan done upfront. He said this means there would be an engineer estimate for the cost and approvals and stuff like that. He said other than that the Planning Commission did

recommend unanimous approval with all six members voting unanimously. Commissioner Lasha asked about the waiver request for the shed and shop. Bill said Matt had put on the plat the language they normally request. He said in this instance one of the buildings goes out into the County right of way. He said they changed the language a little bit. They are asking that the second language be put on the plat. He read; Structures that encroach into platted right of way shall be removed at the subject properties owners' expense upon request of the entity having authority over the rights of way and replacement of such structures or other non compliant structures shall comply with the zoning requirements in effect at the time of replacement. The normal statement that they usually put on there is that when they remove it that it has to be put back into place. But in this particular case because its in a right of way, if we ever decide to go in there and do any kind of work, then we may step up the process and make them do it sooner. He said we would ask that it placed on the plat and be part of the Motion if they approve. Commissioner Lasha moved to approve MS 10-001 B & K Trogden Minor Subdivision with the contingencies 1-15 and with the notice on the plat for non compliant shed with the waiver language as noted by staff. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden aye. The motion carried.

Commissioner Norden said next is consideration of a 3 lot minor subdivision for Lone Eagle, Doug and Cathie Brill. This is along County Road 45 in the Howard area, about 1 ¼ miles northwest of the junction of County Road and Highway 50.

Matt Koch made a request for approval of MS 10-002 Lone Eagle Minor Subdivision. He said this is a 2 lot subdivision with an out lot. The out lot is along the river, and it is in a conservation easement that is mainly used for fishing. The owners of lot 1 and 2 will take responsibility for that lot through the subdivision. He said the owners are ok with all of the contingencies. Bill Giordano said the September 8th meeting the Planning Commission did recommended unanimous approval with the list of the 17 contingency items. He said he would note again the same issues that he talked about on the drainage are the same on this one. The Planning Commission voted in the same manner; they would ask that the engineered plan be done and handled through the subdivision process and not be deferred to building permit time. He said these are basic standard contingency items. He said items 6, 7, 8, 9, and 10 are all related to the drainage. Commissioner Norden questioned under item 5, that there are just 5A and 5B. Bill said yes that is correct. Commissioner Lasha moved to approve MS 10-002 Lone Eagle Minor Subdivision for Douglass and Cathie Brill with the contingencies 1-17. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden adjourned the meeting at 9:55 A.M. for a break before the scheduled hearing. He said there are slips at the back of the room for people who wish to speak; they need to fill those out.

Commissioner Norden called the meeting back to order at 10:00 A.M.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

Request CUP 10-003 Taylor Ranch Exploration/Black Range Minerals Colorado, LLC 1st Amendment

Commissioner Norden said he will open resumption of the Public Hearing that was tabled from the September 14th Meeting of the Board of Commissioners for the Request of CUP 10-003 Taylor Ranch Exploration/Black Range Minerals. As discussed at the close of the previous meeting, all parties desired to hear from the third party expert that was appointed in this previous permit from Black Range Minerals back in 2008, Bruce Smith who is in attendance today. He said he would like to note the entire record with everyone's questions from the previous hearing as well as written comments were reviewed by Bruce. He said the DVD of the previous meeting was also reviewed by

Bruce. He said that Bruce prepared for today with all of this in mind as well as some follow up concerns from the Board raised in Testimony and written comment by various citizens. He stated the Board took note of the repeated concern and issue that was raised by a number of people of the complaint filed against BRM for an alleged violation of their previous permit. He said the Board sought clarification, as with all complaints, those are filed with the Planning and Zoning Department, but it was also being made a record for this particular hearing. He said we reviewed the timing of when those conditions were set into place with the original CUP and the conditions that the Board set out in relation to the issues raised in the complaint. He said the timeliness of that in connection with the appointment of Bruce Smith later that fall of 2008 as the water expert that would guide what the monitoring program developed by BRM would look like. He said the Board is aware of all of those concerns and all of the questions raised. He said Bruce is also aware of those and will hope to address those issues in his presentation and will follow up with more detail with Staff and the Board in the aftermath as well as the public comment. He said public written comments were received by the Board until September 22nd for the purpose to be on record and so that it could be reviewed for today's meeting. He asked that comments today are to be limited to the presentation of Bruce Smith and the water issues that are raised here today.

Bruce Smith of Western Water & Land Inc, gave a power-point presentation based on the information he reviewed from the September 14th Board Meeting. As he was not able to attend that meeting, he was given a DVD of that meeting and he tried to address the questions and concerns brought about by that meeting. His presentation focused on the key events and status of the Taylor Ranch Project. He also discussed the key issues of the monitoring well plan, mud pits, analytical results, and a proposed new monitoring plan.

Taylor Ranch Project A Review

- February 2007 - Black Range Minerals application for NOI with Colorado Division of Reclamation, Mining and Safety (DRMS)
- April 2007 - Exploration Drilling Commences – 70 exploration holes drilled
- February 2008 – BRM submits CUP application
- May 2008 – BRM makes presentation to Fremont County in support of CUP
- June 2008 - Fremont County CUP approved – exploration only
- August 2008 - Fremont County retains WWL as third-party oversight;
- August 2008 – BRM begins domestic well sampling and surface water field sampling programs. To date, sampling events occurred 8/08, 11/08, 6/09, 10-11/09, 7/10
- Fall 2008 – BRM drills 6 exploration holes (Sec. 16)

Taylor Ranch Project

A Review

- November 2008 - Mud pit at TRMR049 sampled
- May 2009 - BRM postpones further drilling while they address acquisition of the "Hansen" property; requests revisions to SW & DW monitoring plan (analyte suite). WWL concurs with additional archive time by laboratory
- November 2009 - WWL conducts site visit of BRM sampling event
- March 2010 - WWL submits final draft of 2009 progress report; inquires to BRM about drilling schedule in 2010
- June 2010 – BRM informs WWL of June 25th update public meeting and intentions to apply for CUP "extension"; County will advise WWL of results of meeting
- September 2010 – County conducts two BOCC public hearings on BRM's application for CUP amendment; WWL presents at the 9/28 meeting

*No drilling has occurred since November 2008

Bruce said during May 2009 there were a number of issues that occurred during that time on the project. He was looking at data with Susan Wyman. In November 2009 he visited the site and attended efforts of Whetstone and BRM as they implemented the fall surface and domestic well water sampling.

Monitoring Well Installation Rationale

- Monitoring Wells
 - No monitoring wells defined under the CUP have been installed to date
 - The purpose of the proposed monitoring wells is to provide baseline and characterization information for a DRMS mine permit application
 - No monitoring wells were proposed to specifically monitor potential impact from exploration boreholes
 - Only 6 exploration holes were drilled under the CUP
- Additionally . . .
 - Installation of monitoring wells to monitor exploration borehole impact was fundamentally flawed as it would have occurred almost two years after the boreholes were installed
 - The installation of such wells would be extremely limited and likely result in multiple interpretations
 - WWL's approach was to evaluate impact at groundwater fed surface-water streams within surrounding watersheds and at point of use wells, i.e. domestic well sampling program

Bruce said there are two Hydrologic Baseline Studies being implemented by BRM. The first is a mine permit baseline (DRMS) monitoring plan of surface water and groundwater. The second is Domestic well baseline for groundwater monitoring. He said the State of Colorado requires that any operator who chooses to apply for a mining permit include at least 5 quarters of baseline data, specifically groundwater data. DRMS does not look at surface water data. That is a jurisdiction under the Colorado Department of Public Health and Environment. He said no wells in that plan were specifically proposed to monitor exploration wells that have been drilled up to that point. He said under the CUP and all of the work that was done since the CUP was granted only 6 exploration holes were drilled. He said BRM in spring 2009 postponed all drilling activity as they

looked at the acquisition of the Hansen and Picnic Tree Deposits. He said as a result, no wells have been installed at this time as far as monitoring goes. He said it would be good point to look at how the amendment was written. Bruce recommended adding in a clause whereby BRM is required to install wells under a certain timeframe or a condition of the project. He said that would typically be a conditional requirement that when they reach a certain point in their project with a number of wells whereby those wells need to be installed. Some of these wells need to be looked at and designed for the direct access of potential contamination due to borehole cross-contamination in the shallow aquifers. This is why we are discussing this as this has been a concern from the start. He said these wells can also support a DRMS mine application. The plan would include utilizing some of the existing 92 monitoring wells that are in good condition. The plan also includes 12 new monitoring wells at 5 sites that are from 360-1360 feet deep. Plus 5-15 monitoring wells at 5 more sites with quarterly water quality and water level monitoring and 52 laboratory parameters. Bruce said the mud pit sample showed the dissolved uranium was less than the groundwater standard. As this was only one sample from one pit Bruce recommended installing pit liners where groundwater flow paths are less than 500 feet between up gradient locations and nearby source. He also recommended sampling 1 in 10 pits for dissolved uranium and installing temporary livestock/wildlife fencing during pit use. He said the fences should be less than or equal to four feet high, and that POP fencing be used as it can be quickly and easily installed. Bruce gave his analytical data review that showed the greatest uranium concentration and greatest fluctuation in other constituents is associated with stations downstream of Taylor Soda Springs. He said the overall chemistry is comparatively stable in recent data and that the historic data is generally comparable to recent data. He said the affects of discharge rate were observed. He said the Taylor Soda Springs is an unusual water quality. The lowest concentrations occurred in the spring and the highest were in the fall. He said when he made a visit to the site in November 2009 the sampling site for sw08 was changed from a pool to a much more active channel above. He said we may see some chemistry relationships there in the sense that the concentrations of uranium from the old site are lower than what we see in the stream could be because uranium is under a different redox state. Bruce thanked Kay Hawlee for helping him find the map that shows historical data. He was looking at a national map and this data was not on there. He was able to find it in on a Colorado web site. He said the Historic levels are comparative to current levels in Cottonwood Creek. He said what is interesting as you move downstream the values drop off which could be due to groundwater addition to the stream or a number of other geochemical reasons the value is lower. He said unfortunately the State did not collect uranium, so the only data we have downstream is data from BRM. Bruce said clearly the area of concern from a uranium perspective is that associated with the Taylor Soda Springs area. He said it would be curious to take a direct sample of the Taylor Soda Springs water so we don't have any question as to how that water compares to the stations nearby. He said there are natural springs that are brackish, and they are contributing a fair amount of contaminants to the water. Bruce explained that TDS exceeded standard in 18 of 40 wells. Uranium exceeded the standard at least once in 11 of 40 wells; 8 wells exceeded standard in all sampling events. Gross Alpha exceeded standard in 16 of 40 wells. He verified with Susan that there are 44 wells and that not all of them are always sampled in an event. He said quite a few wells exceed the standard for gross alpha but the trends are quite variable. He said gross alpha looks at the amount of alpha radiation in your water sample and is generally produced by uranium. He said when you sample and when you analyze are very critical. Bruce said the domestic well preliminary observations do no exhibit uniform trends. These trends vary from imperceptible to positive and negative with time. Some wells show seasonal affects and there is no apparent correlation of uranium concentration with well depth. Bruce stated he needs more time to review the data to be able to tell what caused the increases and decreases. Bruce said the uranium concentrations could be caused by natural background, Cyprus wells or BRM wells. He said there is no evidence in the data thus far to suggest well contamination from BRM wells. Most wells with uranium above MCL show normal fluctuations, not plume-like behavior. He said the concentrations in these wells even though they are steady aren't being impacted by past exploration. The point he would make is that if there is a location where past exploration wells are cross contaminating a shallow aquifer and are continuing to cross contaminate the aquifer today then the values you would expect to see would be relatively stable as long as that source would continue to exist. Bruce said that BRM proposed a new monitoring plan under the CUP Amendment for surface water,

domestic wells, and monitoring wells. Bruce said the Surface Water Monitoring Plan Proposed Revisions are:

Surface Water Monitoring Plan Proposed Revisions

- Add six surface water stations near the South T-Bar portion of the project for quarterly monitoring of water quality and flow rates.
- Change the monitoring frequency of six surface water stations in the northern area of the project from quarterly to annual (Fall) monitoring.
- Eliminate two surface water stations near South T-Bar (Hall Gulch) from further monitoring.
- Stations SW19-HG and SW-20HG would be replaced by two of the six new stations (SW-12HG and SW22-MT).
- Eliminate or reduce 18 parameters from the surface water analytical suite. Five parameters would be removed on a case-by-case (station by station) basis, according to a progressive

Surface Water Monitoring Plan Proposed Revisions

- Omit Ra226 analysis for SW samples having gross alpha values <30 pCi/L.
- Omit Ra228 analysis for SW samples having gross beta values <25 pCi/L.
- Omit thorium isotopic analysis (Th228/Th320/Th232) for SW samples having gross alpha values <30 pCi/L.
- Omit Pb210 analysis in all SW samples. Pb210 is a weak beta emitter and therefore included in gross beta screening analysis; Pb-210 was not detected above LLD in SW samples collected to date.

This set of revisions have been proposed before, he has looked at them and agrees they are reasonable. He said he is going to reserve further analysis on that until he has a better chance to look at the data. BRM may want to look at springs in this area before they finalize their plan.

Bruce said the Domestic Water Monitoring Plan Proposed Revisions are:

Domestic Water Monitoring Plan Proposed Revisions

- Extend the domestic water quality monitoring program to 15 wells located in and within one mile of the South T-Bar ranch boundary.
- Remove distant domestic wells in the Cotopaxi area (WP# 220542, 234359, and 215777) and Delilah Peak area (WP# 224604, 210858, and 268224) which are located across major groundwater divides and not associated with groundwater in the project area.
- Change the monitoring frequency for all domestic wells from semi-annual to annual. Wells would be monitored in the fall, and any wells that were unable to be sampled in the fall could be sampled the following spring to provide annual data.
- Eliminate 24 parameters from the domestic water analytical suite. Three of these parameters were previously approved for removal/reduction by the county's third party consultant.

Monitoring Well Plan Proposed Revisions

- Eliminate the proposed well locations in the original monitoring plan and focus on groundwater monitoring related to the Hansen and Picnic Tree deposits.
- Identify at least seven monitoring well locations associated with the Hansen and Picnic Tree deposits for routine quarterly groundwater monitoring. These locations may be new monitoring wells that would be drilled based on mineral exploration results or they may be existing monitoring wells that have been evaluated for integrity and feasibility for monitoring.

Summary of Recommendations

- As a condition of the CUP amendment, BRM should submit monitoring well plans that specify dates and/or conditions in time by which monitoring wells will be installed; evaluate the feasibility of installing one or more of these wells to directly assess potential contamination due to borehole cross-contamination in the shallow aquifers. These wells can also support a DRMS mine application.
- Pit liners are recommended where groundwater flows paths are relatively short (≤ 500 ft) between upgradient locations and a nearby source (stream, spring, or domestic well)
- Sample pit water at 1 in 10 pits for dissolved uranium
- Install temporary livestock/wildlife fencing during pit use (≥ 4 -ft high) (surface owner discretion)

Summary of Recommendations

- Approve all surface water and domestic well monitoring revisions except:
 - Reserve time to evaluate established radiological thresholds and the Domestic Well Program reduction to annual sampling
- Monitoring well plan subject to previously mentioned recommendation

In summary Bruce stated he needs more time to review the data. However BRMs well abandonment is better than what is done through out the state. He commends them for that as it will result in less cross contamination. They may want to look at wells near where they are drilling.

Commissioner Norden asked Bruce to give copies of the presentation to Mr. Decker and Kay Hawlee. He said he would like to clarify the concerns on repeated raising of the issue of violations. He said staff did some research in relation to when the Board approved the original CUP in July 2008 with conditions in place. And part of those conditions was reliance on the hiring of 3rd party water expert and the screening of applicants and the Board relying on that expert for coming up with what BRM should do in relation to monitoring. He asked is that correct; and he will ask staff in your review because the question we had, is we are aware of what the complaint was, The question directed to Bruce by the Board because we were hiring him as a third party expert, to interpret if there was an alleged violation of the monitoring plan. He asked, it was under his guidance in the language and the conditions that BRM would have to follow his review and recommendations? Bill Giordano said yes that is correct. Bill said the approval took place and the conditions were developed in July. He said the water monitoring plan was not received until October. Commissioner Stiehl said the monitoring plan was not for us, it was for DRMS. Commissioner Norden asked Bruce to expand on that, as he had the list of 12 proposed monitoring wells from BRM at 5

different sites. Commissioner Norden asked Bruce, in your assessment has BRM violated any terms of what was set out by you as the third party expert secured by the Board to guide what the monitoring plan should look like, has there been a violation in your mind of the CUP? Bruce said no, I don't think there has been a violation. Bruce said the CUP that he has read refers to the ground water and surface water monitoring plan and the jurisdiction of that plan by the state DRMS and CDPHE and others. He said the argument is, they proposed wells but they did not install them in the timeframe we are at to this point. He said under the sates rules, Rule 5 any operator who intends to apply for a mine permit to become a designated mining operation needs to submit as part of that permit 5 quarters of geochemical data for ground water. He said there is no requirement in the state regulations that say when you have to do it other than it has to be done before you apply for the permit. They can't get an approved permit until those data are received by the State as its part of the permit submittal. He said while BRM proposed these wells and he thoroughly looked at their proposal and plan it was submitted to the state and approved by the state in March 2009. He said they are not under a rule of the state to have those wells drilled in any particular time other than the fact that it would have to be done before they submit their permit. Commissioner Norden asked Bruce, if BRM did not violate any conditions set out in the CUP, did they violate any spirit of the intent of what the monitoring was intended as you had originally given a stamp of approval? Bruce said from his experience he would not say they violated any intent of the spirit of their intent of installing wells. He said the priorities of mining companies can change. He said that BRM's postponement of drilling wells because they were pursuing the Hansen Deposit, and Picnic Tree Deposit as a very legitimate reason to postpone that. He said if they had the opportunity to obtain those mineral rights with deposits of higher grade and greater value, logically they would want to put their resources toward that area first rather than installing wells a mile or two to the north and not involved in their main prospects. He said he did not see that as unusual or as an avoidance or an intention to avoid any other commitment in monitoring well installation. He saw it as common sense thinking of where they were going to spend their money to look at impact in the most likely places that they would mine first. Commissioner Norden asked if there are any other questions the Board or staff has on this issue? Commissioner Stiehl asked Bruce, if he thinks the monitoring that is being done now would be able to detect contamination and the source of that contamination if you found it? Bruce said as long as they maintain the Domestic Well program with time his answer would be yes. Commissioner Stiehl asked the second part of the question is do you think you would be able to determine the source of that contamination, and associated with that if we reduce the list of ions would that hamper us in that determination. Bruce said the common ions that are there are sufficient to fingerprint water and evaluate contamination especially if we are looking at waters from the Echo Park formation which has a very unique signature. He said as far as being able to determine where the contamination is coming from, the answer is maybe. Bruce said tracking down the contaminant source would involve examining the data to see where it is coming from. He said in most cases, that is not enough. Bruce said you would end up drilling more wells to try to detect where the source is coming from. He said this can involve very detailed hydrologic work where they inject tracers in the ground to determine where water goes after its injected, and using isotope studies to get an even more refined fingerprint of the water. Bruce said isotope studies are very useful for looking at specific ratios and it is almost like DNA testing done in humans. He said there are a number of tools available to use if they could be afforded to him. Commissioner Stiehl said so the sequence would be first to identify that we see contamination. He said the second step would be to do whatever work is necessary to identify the source of that. He said it would seem to him that if we have got data from wells being drilled in exploration that there would be data from those that they would each have their own fingerprint of the aquifers that they are piercing could be identified for and compared for contamination you are seeing in domestic wells that would be a strong direction wouldn't it? Bruce said yes, Commissioner Stiehl is absolutely right, that would be the best thing we would strive to do is what is the water quality at the point where the exploration are being drilled. Bruce said the problem with that is when wells drilled you mud it up with bentonite and it immediately changes the water quality. Bruce said what you can do is drill a well using air mist, you don't inject mud to mud up the wall of the borehole and attempt to get a more representative sample of what the ground water is at that location where the borehole is before you add additives to the injectant that you use when you drill. He said to characterize that zone you would need to build monitoring wells without

mud and put in some simple 2 to 3 inch casing to sample it. He said those would be the best wells you could put in to get baseline in areas where exploration is occurring. Commissioner Stiehl said, you mentioned fracture flow can be quite fast but in one of your sentences you said if we had the data to support, is what you meant is that we don't have any data pointing to fracture flow is that what you are saying? Bruce said that is right. Bruce said there is very little data available to characterize the type of flow that's occurring in the shallow rock formation and the entire project area. Commissioner Norden asked if Mr. Vallerine or Susan Wyman of BRM had any questions for Bruce, there were none at the time. He said he would call on Mr. Decker at a later time. He said the questions for Bruce are to be addressed to the Board.

Michael Meyrick said the Board put a question to Mr. Smith of whether or not there was a violation to the spirit of the CUP and Mr. Smith answered that there was not. He said I would ask you to ask Mr. Smith if he read the CUP Which said that BRM was doing more than they were required to under the law by implementing this baseline water monitoring plan and if he read the plan that said they would drill up to 12 monitoring wells in the fall of 2008, and then ask him again if he thinks that's a violation of this spirit. Bruce said his answer is the same. Bruce said he doesn't see this as an excuse by BRM for not drilling wells. He said if you look at the wells they proposed, a good deal of them were deep and they were in the northern part of the area they were originally exploring in. He said it seems logical to him that those sights were not of interest to if they are changing their entire focus to the South T Bar area. He said even if they had installed those wells in the fall of 2008 would they be getting data that was useful? He said yes. Would it contribute directly to evaluating contamination in the shallow domestic wells, probably not. He said it is his belief that he does not think they intended to break the spirit of the plan, he said it was a change in the direction they needed to go. Michael asked if the change in direction did not take place until 2009, and the plan was to drill the monitoring wells in 2008, how does the change in direction affect the decision not to drill the monitoring wells? Bruce said the date he came on sight was in November 2008 when he visited the sight and they were drilling their last exploration well BRM informed him they were ending their drilling season for the winter. He said it was next spring in April that he was informed they would have no drilling this season because they are recessing acquisition of mineral rights in the South T Bar Ranch area. He said he doesn't know how much time in advance from when he was informed that they had been pursuing South T Bar Ranch area without him being informed about it. Michael stated that he continues to object to you limiting the comments in this meeting today to what Mr. Smith has said. He said he thinks you ought to allow full and open comments to anyone who wants to talk about anything since this is supposed to be the public hearing on this matter.

Kay Hawkle said she heard Bruce Smith say is that he can not say the past exploration isn't causing contamination today because of the stability in the trend. He also said it would take a large number of monitoring wells to be able to understand the ground water flow. She would like to object to them eliminating the old monitoring wells from their plan. She said that's pretty blatant that they don't intend to drill the monitoring wells at this point. She said we have absolved Mr. Smith of his duty to make sure they drilled their monitoring wells but what about you and your Board? She said you knew BRM was drilling before the baseline was being done. She said so Bruce wasn't on board yet so it falls to you all as it was a condition the county put on BRM. She said she believes her husband was on the phone with Commissioner Norden when you said that staff assured you that it was ok for them to go ahead and drill without the baseline being done. She said she will draw your attention to the title of it which is the Taylor ranch hydrologic baseline monitoring plan. So the intent to her was to establish a baseline before exploration drilling continued and that is not what happened. Commissioner Stiehl asked her to repeat this, and she did. She said if there was harm to people's water wells there could be some recourse for the people. Because BRM was allowed to drill exploration holes before any baseline was taken, that intent went out the window. She said because now they want to eliminate all of the old water monitoring holes that they promised now the intent is clearly not to have any baseline monitoring going on. She requested that Autumn Creek and Cottonwood Creeks just above the Capozella home in the exact location of the USGS testing in 1976 be tested. She said you would have to ask Bruce if this would help. She said the last time they were here they couldn't compare the data.

Commissioner Norden asked her to repeat the request and she did. She said she has the coordinates and now if we could go back and test the streams. She said the USGS tested for Gama radio activity back then, and could it be tested now. Commissioner Stiehl said it is not true that the monitoring wells were a County condition put on BRM, the state did that, and he thought that was clear from the discussion earlier. He said the state required that condition with the 5 quarters of data. He also said Kay said the clear intent was to establish a baseline and that is not true. He said our clear intent was to protect the ground water in the best manner that they could, and we didn't include the baseline in that too. He said some of the statements that have been made several times and repeated several times are not really true and those are two of them. Commissioner Norden asked Bruce do you lose any important baseline data if BRM eliminates the well location in the original monitoring plan? Bruce said they would be post exploration activity and they wouldn't represent a background condition because they would already be in an area already drilled by Cypress and in the area that was drilled in 2007 so the reliability of those data and the interpretation of those data would always be in question. He said he saw the value of not putting in any wells as the way to go as far as shallow wells go but again the wells that were there for monitoring were domestic wells.

Commissioner Norden called a recess at 11:50 A.M. He called the meeting back to order at 12:00 P.M.

Tim Decker a hydrologist for more than 35 years said he was asked by TAC to become an independent reviewer of information. He has only been involved with this issue for the past 2 weeks. He said BRM uses the word "will" and we don't know when that is. He said testing of aquifer zones was the intent of the monitoring. Cypress data shows the flow of water in each well and at the depth of those wells. He said Taylor Soda Springs should be sampled as the intent of monitoring wells is to provide aquaphoric data. He said Bruce is correct that more time is needed for data analyzation. Monitoring wells are important for GIGO artesian system and data analyzation. Permeability of Whetstone Plan Section 4.3 states testing will be done for various things. How will we do these tests if there are no monitoring wells? Section 4.4 states groundwater monitoring is to be performed quarterly. He said sampling of wells in "B" Report stating. Measurements are a problem. His direct question for Bruce is the protocol set forth in the plan. PH account activity and how samples are being taken. (insert from tape). He said the protocol in the application was not justified. He said a new permit should be submitted if BRM is going to a new area. He said monitoring well procedure is essential to this BRM project. He said they need to know why the dramatic increase in domestic wells is being caused. Commissioner Stiehl said the county required two years of sampling in the proposal. Calculating volume in casing in tributary water characterization, the State and County assume it is tributary. Five quarters of sampling is set by the State not the county. Tim said (insert). Commissioner Norden asked if five quarters would be a more reliable baseline? Tim said it should be monitored through out the drilling process, not just for four or five quarters. He said samples should also be taken where the soft water is treated. Bruce said he agrees with Tim, some samples may not be obtained if people aren't home, or not available. He asked Susan Wyman to address the reason for this. Susan Wyman said the ground water and domestic wells protocol vary. Normally 15 minutes of purging from a spicket of a home is done. BRM abides by Bruce's recommendation of 25 minutes of purging be done for the sample. Commissioner Norden asked if Virgil Burkes well is to be monitored? Susan said external samples from the spicket, and inside samples will be obtained. Tim asked Bruce if BRM did what they were supposed to do before Bruce was on site. Bruce said he was not sure of what was done prior to him being on site. Commissioner Norden said that Virgil Burke was not able to stay for the hearing and said he has a need for his well to be tested now.

Ed Franz said he lives within one mile of the CUP boundary. He said he needs more time to review all of the information Bruce gave today and that you should not rule on the amendment today. There are a number of reasons, one is the information is very technical, and it was hard to hear Bruce, or see the data on the overhead presentation. He requests that electronic copies and minutes be made available to them so that they can recall what was said accurately. These things take time to think about and we should not be expected to respond in a matter of completeness at this time. He said the Tallahassee residents are the ones whose water is impacted and they have done research and be

factual on what is occurring. He said the residents do not want to have a quick reaction and not have an opportunity to completely understand what was presented; therefore we request that you do not rule on the amendment today. Commissioner Norden asked the Clerk to make a sheet available for sign up of email addresses for those who may want an electronic copy. He then said it is too big to email, so they will make CD ROM copies available. Commissioner Stiehl said the difficulty will be in producing the minutes as that takes a lot of time. He said they did not even approve the last meetings minutes as we did not think they were adequate.

Paul Carestia had to leave but is against the issue.

Denise Wilson said she lives in Williamsburg. She wants to know how can you know the change in state of anything without knowing what the state was before the change? She said BRM wants to change the frequency of monitoring wells to annually, she said no; you don't get good data doing that. She said they want to abandon the monitoring wells, she said no you don't get good data from that. She said they want to change the area from north to south, she recommends you start the process over and start with a whole new CUP in her opinion. She asked Commissioner Norden if it was true that she could not talk about what was going on in the previous meeting of September 14th? She said she did not know that meeting was going on. Commissioner Norden said we concluded that public hearing with the intent to focus this hearing on water issues and the issues that were addressed by Bruce Smith. He said that was the limitation of the motion to continue the public hearing. Denise said she will ask the question any way. Has BRM has provided a letter from the Tallahassee Volunteer Department? She asked, have they updated their fire plan according to the new area? She asked if they provided that plan in writing? Commissioner Lasha said they provided the Fire Plan initially to us. She asked over the northern area? Commissioner Lasha said they did. He said they did not drill after the fire plan went in, and we haven't heard any more from Tallahassee as there hasn't really been a need at this point. Denise asked will they have one before they start drilling in the southern area? Commissioner Norden said its part of the original CUP.

Ben Vallerine of BRM said they had updated their fire plan in May. He said they submitted it on June 8th. He said they also emailed it to the president of the Tallahassee Rural Fire Protection District and to Eric Johnson. He said he has never heard back from them aside from an email from Eric Johnson saying good luck. He said that was incorporated in June 2008 with the extra area added to it. Denise asked if they need to have that in writing. Commissioner Stiehl said it depends on what they decide. He said typically they would require it to be in place prior to the beginning of the operation. Commissioner Norden said it would need to be a condition that we would get a response of the adequacy of the plan from the Tallahassee Volunteer Fire Department.

Commissioner Norden called a recess at 1:00 P.M. so that the Board could have the Board of Health Meeting. He called the Board of County Commissioners meeting back to order at 1:25 P.M. and resumed the public hearing.

Frank Groome said he lives in South T Bar Ranch just off the Hansen Ore Body, which is just below his house. He said our well is in about the same location as the house. He said he can assure the Board that when BRM or Whetstone come out to take a water sample that they do get it before the water softener and their filter. He said they are always home, and he hooks the hose up for them to make sure a good sample is taken. He said he also does this for one of his neighbors to make sure that they get a good sample there as well. He said we drink our water and have since they moved in 2003. He said it is tested by the Health Department and it is suitable for drinking. He said he wants to give the Board copies of their water analysis for his house and his neighbor's house. He said his neighbors sample is terrible, and they are like a mile from his house. He said he has one from another neighbors that is North by the Hansen Ore Body and their water is great like his. He gave this written data to Bill Giordano for the record.

Gail Palmgren thanked Bruce and Mr. Decker for all of the information they provided. She said she was not at the Board Meeting on September 14th and she wants to know if BRM is not harming property values in the area with the entire dispute going on? She

asked do you have any idea of that and was it brought up before? Commissioner Norden said there was some record made in some of the written comment by people who wanted to be heard on the record. He said he does not know if BRM has addressed this. She said she would like that question on the record.

Joe Marchiani said for clarification with regard to the Taylor baseline monitoring plan does the Board believe that BRM is not in violation for not having constructed the monitoring wells because they are not required by Colorado Law to do so although condition J and K of the original CUP require it? Brenda Jackson said the complaint is still pending and they can't comment on how the outcome of the complaint might be, and it's not before the Board. Joe asked; so BOCC can't state yes or no as to whether they do in fact know whether they are in violation because of their lack of knowledge of Colorado state law or of condition J and K? Commissioner Norden said procedurally, any complaint on any permit, a complaint of non compliance goes to the zoning department. He said that complaint was already referred to the code enforcement officers back in August when Mr. Meyrick first filed the complaint. Joe said the reason for his question is that you had asked Mr. Smith previously what he thought as to whether he thought BRM was in violation of that portion of the original CUP? Commissioner Norden said that's because the complaint of the alleged violations were made part of the record and since the Board relied on Mr. Smith. He said that's why he outlined at the very outset the timing of when conditions were adopted as to Condition J of review and recommendation of western water and land to establish what the monitoring would like. He said that is why he wanted to make a record with Mr. Smith in attendance, because the Board was relying on western water and land for guidance on whether there was a violation or not. Joe said, so you wanted Mr. Smith to go on record as opposed to the Board with regard to the issue. Brenda said Mr. Smith does not determine the outcome of the violation. She said Mr. Sapp from Code Enforcement was present during Mr. Smith's presentation. Commissioner Norden said the Board never determines if there is a violation because if there is a violation then the applicant is called before the Board for a hearing to determine if indeed a violation has occurred. Joe asked is it clear to the Board whether State law predicates that? Commissioner Norden said we will get a recommendation from the code enforcement. He said Mr. Sapp sat thru Mr. Smith's presentation. Brenda said he is doing an investigation. Commissioner Stiehl said he isn't sure he understands the question with regard to State Law? Joe said with regard to the Taylor baseline monitoring plan does the Board believe BRM is not in violation for not having constructing the monitoring wells because BRM is not required by Colorado Law to do so because of conditions J and K of the CUP require them to do so. Brenda said complaints are evaluated under the conditions of the permit.

Karen Barton did not want to speak, but wants to be on record as against the application.

Jim Barton said he wants to thank Mr. Smith for the information provided. He said he was confused by all of the information and data presented today. He wants more time for further public input. He thanked the County for receiving information. He said he would suggest that they have more time so that they have transparency and postpone for further public input at another time.

Catherine Meyrick asked Bruce if there are 40 wells being tested, and they are not all being tested all of the time, then how can you get a true statistical mean? Bruce said ideally yes, it would be ideal to sample all of them all of the time. He said that samples are not always available every time if owners aren't home or have requested to be removed from the program. The statistics are from the data we have. He said some of the wells were only sampled one time, and others were sampled all four times. Catherine said the problem she has is with the wells that were only tested one time, how does that provide an accurate mean? She said this will skew the statistical mean. Bruce said it may skew the mean, but we don't know how it will skew it. Bruce said to his recollection there were not any wells that were only sampled once or twice that were anonymously high or low. He said he could rearrange the data to compare with the data they have today. Catherine asked if they don't do all of the extra research and the data he had suggested as far as ground and surface flow rates and fracturing, would there be a possibility without that additional data would the possibility of disturbing the hydrological balance of the area be increased? She said if they don't do the research prior

to drilling? Bruce answered if they don't do those studies prior to further exploration holes that there would be a possibility that the hydrological balance would be affected negatively, because we don't have the data to make the call on groundwater's flowing in a certain direction at what velocity for example. He said those data are typically data that are required if they move into a mining operation phase. He said that BRM would have to make that decision on whether they would collect that data early in the exploration phase. Commissioner Norden asked Bruce how does this impact your evaluation of the request to go to only annual monitoring? Bruce answered that is part of what he is evaluating now before he makes a decision on that. Commissioner Stiehl asked do we have data that suggests we need to do additional drilling, based on what we have seen now do we suspect contamination? Bruce said based on the data we have now he does not have evidence to say there has been contamination as a result of BRMs drilling. Catherine asked, but you don't have any baseline data to base that decision on? Bruce said the baseline data they do have now is the domestic well network. Catherine said in Ms. Wymans presentation she stated they needed both types of monitoring wells because domestic wells alone were not sufficient because they were not sure how they were drilled. Commissioner Stiehl said the beginning of Mr. Smith's presentation this morning constitutes what is baseline. He said the reason for the hearing is for the Commissioners who need to make the decision to gather information. Catherine said on the lawsuit on the prior CUP lawyers from both BRM and the County represented to the court that the health and safety of the residents of the Tallahassee area was not in jeopardy because BRM was fully complying with aspects of baseline water monitoring program. She said that alone should tell you the spirit of the CUP conditions were set. She said she understands that BRM would want to save money by not drilling the monitoring wells. She said the Board should be concerned with the safety of residents. She asked if the Board can rule on an amended CUP while a complaint is still pending? She said it's an amended portion of the complaint. Commissioner Stiehl said he believes those are separate issues. Catherine asked if they are not compliant, then what happens? Commissioner Stiehl said those are separate issues.

Roberta Herring said she was not able to see or hear the presentation. She said she still doesn't know why BRM decided not to have monitoring wells and go only with the domestic wells? She asked why the wells of Jim Barton, Virgil Burke, and Vince Capazelli became so contaminated after drilling started, and Mr. Lightys well was depleted. She asked if baseline will be accepted for the 3 wells that they know are contaminated as opposed to what BRM comes up with as it is after the fact now. Commissioner Norden asked Bruce if he could establish any single trend analysis on these single domestic wells? Bruce said yes he can run a trend analysis on four sample points from any given well; yes. He said based on a statistical test where he looks at trend analysis he can arrive at a coefficient that is used to judge what a trend is whether it's positive, negative, small or large. Bruce said yes he can run numbers, and those numbers would give us indication if there was a significant trend. Commissioner Norden said he wants to know, and he is sure Virgil Burke's neighbors want to know what the cause is and what contributes to this and can we draw any conclusions as to connecting these Gross Alpha spikes in these wells with activity BRM activity? Bruce said so your question is are the spikes were seeing related to BRM exploration. Commissioner Norden said he gathers that's what the neighbors want to know. Bruce said the earlier question of Mr. Stiehl was how we can show the contamination was related to an up gradient source. He said additional testing would have to be done and you would have to determine what up gradient is and determine where the water is coming from that flows thru the well, that's the first step. He said the second step is to start looking at water quality and see how it varies up gradient from your point of contamination. He said there are numerous other factors to consider such as the potential flow path to potential contamination. He said to address the question of was it caused from BRM wells, your basically looking at ground water flow path from presumably the closest line to Mr. Burkes well. Commissioner Norden asked Jim Barton the location of Virgil Burkes well. Jim Barton said it is approximately $\frac{1}{2}$ to $\frac{3}{4}$ miles from the drill site. Bruce said the distance is worth looking at but it still doesn't change your approach. Bruce said you still are looking at the assessment of ground water that you know between that point and the point of alleged contamination. He said if he were going to prove this it would involve starting a drilling program down gradient of the BRM wells to see what your levels of constituents are there and progressively down the hillside to see if you can quantify those

contaminants as moving from one point to another. He said it is a very complicated system. Commissioner Norden asked if he was referring to slide #41 of domestic well preliminary observations? Bruce said yes, this is exactly the case that we could be looking at a natural background condition, a cypress well or a BRM well as potential causes. Roberta said for the record she would like the Board to vote no on the CUP, but if they vote yes, to dig monitoring wells next to the boreholes. Bruce said yes he was talking about part of their monitoring plan should address baseline before they start their new exploratory drilling, because now we have a chance to be in front of it. He said we would have a chance to look at baseline before activity progresses. Bruce suggested they look at the feasibility of installing wells in the shallow ground water system which would be the same system as domestic users would use. Roberta said she hopes they are given time to study the information presented today before a decision is made. Ben Vallerine said Virgil Burke's property sits on top of a uranium site discovered by Cypress, referred to as "Shallow Taylor". Ben said there is an increase in drill holes that go along Buddy Taylors driveway and cross County Road 2 onto Virgil Burkes Property. He estimates there to be 20-25 drill holes on Mr. Burke's property. He said both of these properties are next to Uranium bearing strata that is much closer to the surface. He is not surprised these wells are contaminated due to the numerous historic Cypress drill sites. Commissioner Norden asked is this new information for the neighbors of Mr. Burke of what Cypress did previously? Ben said if Mr. Burke would like a copy of the map with the drill holes he would be more than happy to give it to him. Ben said he would be hesitant to give a copy of the map of the Taylor Ranch drill holes. Commissioner Norden said if its good information for the neighbors to see what happened historically it may be a benefit. Susan Wyman of Whetstone Associates said the 2008 monitoring plan did include a figure that showed where all of the historic Cypress exploration holes were. She said they did not put on the same map locations of domestic wells; they were on a separate map. She said they could build a map with all of that information if people think it would be useful tried to protect the homeowners by keeping the data confidential. Commissioner Norden suggested the homeowners speak to Susan if they need that type of information. Ben showed a map to the Board of the location of Virgil Burke's property sits. Commissioner Stiehl asked Bruce if he based on the data he has on the four wells of Mr. Barton, Mr. Burke, Mr. Capazelli, and Mr. Lighty could he say that they have been contaminated recently? Bruce said he would have to go back and look at the data to determine that.

Donna Young had to leave; she was against the CUP amendment.

Anita Mitton said she objects to this public hearing limiting our voices questions and questions for the record. She asked if BRM given the Board a renewed water administration exchange? She asked have they given you proof of water for the permit period? She said it is her understanding that it expires tomorrow? Commissioner Norden said he could not answer that question, but it will be on the record. Anita said she strongly hope they deny this CUP.

Leslie Suleiman said if the monitoring wells weren't appropriate for Taylor Ranch then why they would now be appropriate for the Hansen project. She said BRM chose not to follow thru with the wells for Taylor, how we can assume they will for the new project. She asked how can we possibly rely on the promise of future compliance from BRM?

John Suleiman said he opposes the CUP. He said he can't see how it can be granted with all of these unresolved issues. He said Ben Vallerine said they did not drill the wells because of the pending law suit. John said Susan Wyman said BRM did not drill the wells because they were shifting their focus to the Hansen Deposit. He said Jim Barton told him of a conversation with Commissioner Stiehl who told him that the County authorized BRM not to drill the monitoring wells. John said today we are told a fourth story that the monitoring wells are not required under the law. This is his comment for the record.

Lee Alter said he assumes his comments by email were received by the Board that he submitted over a week ago, and that they will be considered in any decision made. He said when BRM first submitted their application two years ago, one of the concerns was whether or not this new activity would pollute water. He said the answer to that in the

CUP format was yes. He said BRM stated they would do whatever they could to mitigate the potential for polluting the water. He said in Resolution #47 the Board relied on the best industry practices that were cited by BRM and their water consultant. He said part of what BRM said they would do was the comprehensive three page water monitoring program that was not required by the state, but submitted to the Board. He said this was credible information the Board relied on in making the approval decision. He said one third of the program was not performed. He said the question has been asked numerous times; who approved this modification of the CUP. He said in the testimony of Susan Wyman she made it very clear that the sampling domestic wells solely was not reliable in order to determine what the hydrology was and what the status of the aquifers was. He asked Mr. Smith does he agree with Susan Wymans statement then, or does he agree that it was not necessary to drill monitoring wells in order to determine what the hydrology of the area and the potential for contamination. Bruce said if you look at the wells Susan had in her plan, a number of them involve aquifers below the shallow aquifers that domestic wells that they are currently using. Bruce said you definitely need deep wells so that you can get a full understanding of those deeper aquifers. He said in that regard those wells would still be needed. He presumes that when BRM submits their plans on any new monitoring well design, it will show they will be tapping into multiple levels of aquifers. He said to assess boreholes drilled in 2007 and 2008 is that any drilling of wells in the shallow aquifer would have been two years after the wells were installed would have added mixed interpretation to the data. Bruce said it was his decision at the time; he looked at the monitoring wells as the key system that will evaluate whether or not there's any contamination that's occurring as well as the surface water sites. Lee said Commissioner Norden sent an email in October 2008 to the community saying that two monitoring wells had been drilled and that three more would be drilled before the snow flies. Lee asked where did that information come from. He said if the decision had already been made not to drill monitoring wells why wasn't there notice of that even when the question was being asked. Lee said the expert from BRM stated that in order to comply with what she had submitted to the Board as the credible information that they would mitigate any water contamination was not complied with. Lee said the information in the PowerPoint was submitted in 2009. He said a letter was sent to the Commissioners in April 2010 with a request that it be forwarded to Mr. Smith, specifically requesting clarification on some of the data. Lee said these are the same questions that are being asked today by Commissioner Norden. He said what's the status in the Tallahassee water shed. He asked if there's a way to determine change or any contamination in that water as a result of Cypress drilling, or the unpermitted and unlawful BRM drilling in 2007 and 2008 or the limited amount of drilling that was done in 2009? He said those questions were asked in April. Lee said he received an email from Commissioner Stiehl saying those questions would be considered to see if they were relevant or not to be submitted to Mr. Smith and that the Board itself had questions to ask Mr. Smith. Lee said as far as he knows these questions were never asked. He said it's not in the public record. He said his question to the Board is what happened to the questions they had asked in April? Commissioner Norden said he was trying to recollect email communication. He said the protocol they follow is that the questions are forwarded to planning and zoning department, and the communication is typically from planning and zoning to Mr. Smith. Commissioner Stiehl said our judgment at the time was those questions were addressed toward individual wells and that we recommended you obtain your own hydrologist to interpret that data. He said historically when we have given data from our hydrologist all you have chosen to do is argue with it rather than accept it for what it might be worth. Commissioner Norden said Mr. Alter you have made your record as to the complaint that you proposed in April and weren't answered. Lee asked Mr. Smith what two wells he was talking about in he summarized in his report as there were no new wells drilled. Bruce said they were old Cypress wells that were used as it was just an instrument placed in the well. Lee said that in order to open an old well a permit has to be granted. He said a permit was never granted by the well permitting agency, therefore the data was gathered unlawfully. Commissioner Stiehl asked Lee if he is certain that the well wasn't classified as a monitoring well by Cypress back in 1979? Lee said regardless of how it was classified in 1979 the permit would have expired. Commissioner Stiehl said we will need your proof of that statement. Lee said he has the proof. Lee said his request is it proper to allow new human activity when it is already acknowledged that the old activity may have increase the uranium concentration in the water level that is above standard that is accepted worldwide. Commissioner Norden said

when Lee made a reference to a modification of the CUP the procedures followed by the Board were that a draft of conditions was presented, and when it was finalized it was never modified after that. He said there has not been a modification of the CUP once it was accepted by the Board.

Nancy Seger said she lives on the side of Waugh Mountain. She wants to know if Mr. Smith can say whether the contamination is because of BRM drilling and she would like a yes or no answer. Bruce said he does not have enough information to say whether contamination is natural or un-natural has occurred in any well. Nancy asked was the decision made by Bruce Smith not to drill monitoring wells? Commissioner Norden said the Board in drafting the conditions took guidance from Mr. Smith and is referenced in condition J; we accepted the review and recommendations of Mr. Smith. Nancy asked when that was. Commissioner Norden said there was a staff briefing yesterday on the timing of when the conditions were formally adopted and that was the record they tried to make this morning in reference to the complaint of the alleged violation. Nancy asked if this was held in private. Brenda Jackson said no, it was public and the notice had been posted for a week.

Ed Franz said that he was under the understanding that the data would be made public. He said he doesn't know why a well owner who signed onto the program wasn't given a release of data form to sign and why this restriction of data and confidentiality is happening. Ben Vallerine said it was not their intent to make personal water wells data public. He said BRM has only shared this data with Bruce Smith only and he doesn't want it to be public record. Commissioner Norden asked if the data shared with Bruce Smith and Susan Wyman is nondescript to location or property owners? Bruce said it is confidential information and he does not refer to well numbers in his data.

Jim Barton asked if the data is used but does not show their names on specific wells. Bruce answered yes.

Ben Vallerine said that BRM fully intends to drill monitoring wells for conditions J & K and they are not out of compliance. He said if the Board wants to put a milestone on BRM to drill the wells, they would accept it. He said section 1.4 from the ground water monitoring plan was never designed to be done as a baseline exploration. BRM is willing to start a monitoring program early as a way to satisfy the public. Ben asked for approval contingent upon Bruce having more time to review the monitoring plan and Bruce and Susan working together as in Condition J.

Commissioner Norden closed the public hearing at 2:55 P.M. He said the Board has received 14 letters in opposition of the amendment and 33 letters in favor of the amendment. He said he would like to be able to reflect on Bruce's slide 51, summary of recommendation of more time to evaluate the information. Commissioner Lasha asked Bruce how much time he would need to evaluate the data. Bruce said he would need a minimum of two weeks. Commissioner Stiehl said if he is going to vote for or against the CUP he will need a few weeks to review the data. He would like at least 30 days. Commissioner Lasha said he is not opposed to two weeks for Bruce, and 30 days for the Board to review the information, and put on agenda for next meeting. Commissioner Norden said he does not want to approve the CUP today until conditions can be drafted. The Board will allow additional written comment from the Public until the next Board Meeting on October 12, 2010. Commissioner Lasha said this is an important issue and we need to take time to make a decision. Commissioner Norden said the CUP will be on the agenda for the November 9th Board Meeting. He said the C.D. copies of Bruce's presentation will be available to the public by this Thursday afternoon. Commissioner Stiehl moved to postpone the decision until the Board Meeting on November 9th, 2010 and hold written public comment open to all topics until the next Board Meeting on October 12th, 2010. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden said the public comments are written only; there will not be another public hearing on the issue. Commissioner Norden adjourned the meeting at 3:05 P.M.

Clerk and Recorder