

TESTIMONY OF
GENE KAMMERZELL
BEFORE THE
HOUSE AG COMMITTEE

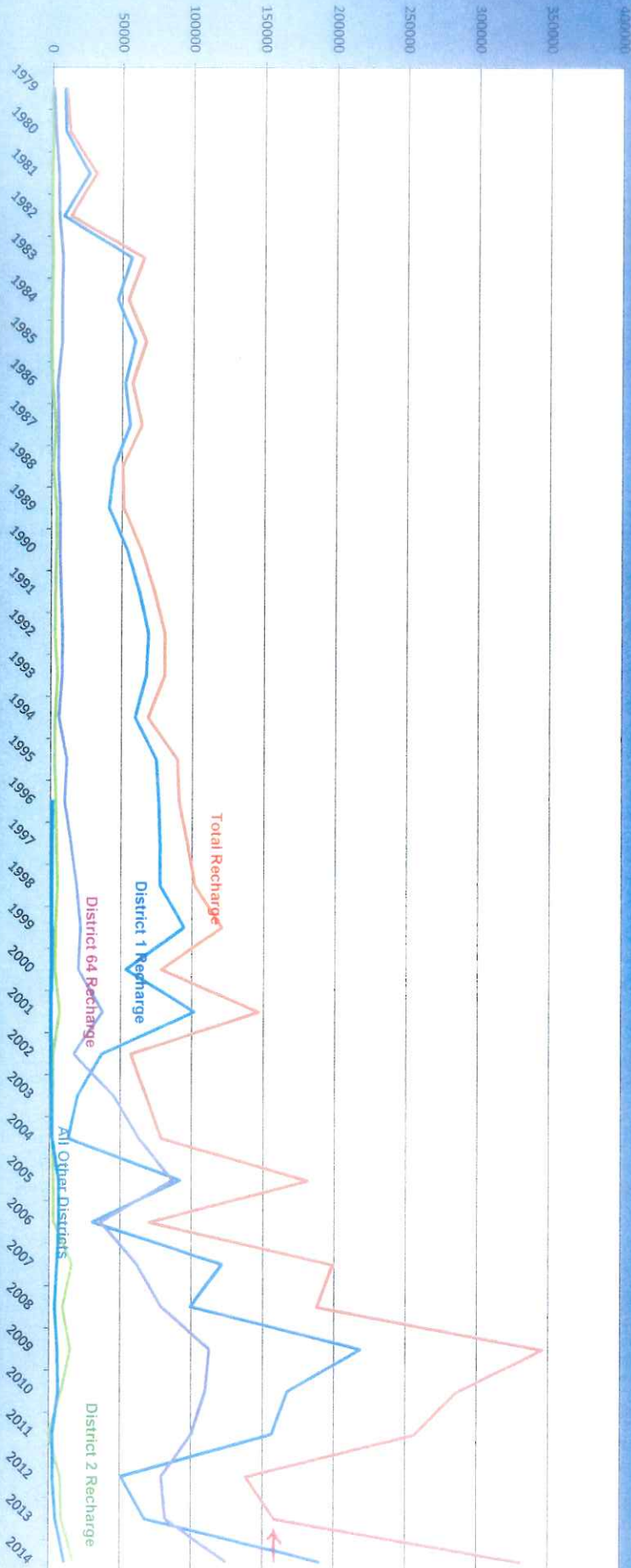
There is a demand for artificial recharge of the South Platte Alluvial Aquifer to accommodate the augmentation plans associated with the wells in that aquifer. The amount of water artificially recharged was specified in the stipulated agreements in the decrees for those wells. The water demanded for the recharge of the post pumping depletions goes back to 1974 - over forty years of calculated depletions.

Current observations by independent well measurements, the Colorado Department of Natural Resources, the Water Institute's Study under HB - 1278, and the USGS clearly show that under the current management protocol more water has been artificially recharged into the aquifer than is needed to replace the past 40 years post pumping depletions. This has resulted in high water tables throughout the South Platte River main stem causing property damage to structures, homes, crops and croplands. There has been the needless outflow of over 2.9 million acre feet of water to Nebraska since 2013 as confirmed by USGS records as reported by the Colorado Department of Natural Resources. There is no evidence of any malingering post pumping depletions in the river system

Artificial recharge records maintained in the State Engineer's Divisional Office in Greeley clearly show that the increased artificial recharge efforts since 2006 have annually increased through 2014 to where the latest records are now running off of the

Volume (Ac-Ft)

Year



Total For WD# 1,2,64
 2013 157,501 Ac-Ft
 2014 331,096 Ac-Ft

graph. There is a simultaneous reporting of high ground water during this time, with the amount of increased damages likewise increasing in direct proportion to the increased artificial recharge.

ALL of the decrees in the South Platte Basin contain the provision of retained jurisdiction for the state engineer to alter the amounts of required augmentation water should the hydrological conditions substantially change subsequent to the date of the original decrees.

Forgiving 40 years of post pumping depletions and allowing for a proportional increase in pumping will reduce the accretions to the system thereby lowering the water table and reduce the continually increasing damages as a result of a rising water level in the aquifer. More still needs to be done, this is just the beginning of needed change. A method of real time river management needs to be developed to manage our precious water resource. Our Governor is worried about coming up with 400,000 acre feet of water to supply the projected needs for Colorado by the year 2050 while we are currently throwing away one million acre feet of water annually. We do not have a water supply problem in Colorado we have a WATER MANAGEMENT PROBLEM.

HB16-1314 will not solve the entire water management problem. It is just a first step in recognizing that our current management method is wasting water and damaging property. Real world, real time observations have to overrule calculated projections.

The Water Rights Determination and Administration Act of 1969 integrated ground water rights with surface water rights. It clearly states that all water rights shall be administered in accordance with the priority system and no water shall be wasted. In a one on one conversation with the late Fred Anderson who was the President of the 1969 Colorado Senate when this bill was passed, told me that the two underlying criteria for this bill were to: 1) Waste no water, and 2) Harm no one. These provisions are today clearly being ignored and not enforced. HB16-1314 is in the spirit of the 1969 Act in that it will reduce the accretions to the river which will reduce the wasted outflow to Nebraska.

All wells that have appropriation dates in prior to 1965 are either severely curtailed or totally shut off due to the lack of sufficient water in their augmentation plans, while the aquifer is literally running over. Under current law it is impossible to bring these wells back in to productivity. The aquifer can not hold the water demanded by the augmentation plans!

Meanwhile, brand news wells in Logan County, which were drilled in the past two to three years, are allowed to pump unabated. Where is the priority enforcement for these wells? My own well which was appropriated on May 14, 1920, which is before the interstate compact with Nebraska, is curtailed to less than one week of pumping per year. HB16 -1314 is a starting point to bring the augmentation requirements down to a common sense level.

All of you have heard claims that senior water rights were being damaged under our previous system of water administration and that is why the provision for augmentation was included in all of the new water decrees. Just who is a senior water right holder? Simply it is anyone who owns a decreed right older than yours. The truth of the matter is that all surface water rights in Logan county date to the 1880's, but the priority dates of the upstream ditches are mostly older, many of them dating back to the 1860's, which makes them senior to the eastern end of the river.

The question arises if the irrigators in Logan county have historically had all the water they need for their crops. The answer is emphatically NO! The reason is that they are junior to the upstream senior rights and in most years there simply was not enough water to go around to satisfy everyone's demand. In fact, historically there was only enough water in the South Platte River to reach the eastern end of the system during either early spring snow melt run off, or after a major rainstorm. At other times the river was dry. The water simply was not there at the east end of the system for anyone to file a claim on. That is why the east end of the river has junior rights with respect to those senior rights to the west.

The development of surface irrigation by the upstream users established a more sustained flow in the river. Water started to fill the existing deep gravel beds under the river which created the groundwater to drain back to the river, pushing an active stream

flow further and further to the east end of the river. Once the river had a perennial flow in it, people started to file decrees for the use of the water. I refer you to the graph titled Water Supply and Delivery Records for the North Sterling Irrigation District. The bars clearly show how since the 1930's the water supply continued to increase. Some of this was due to the development of the Big Thompson Water Diversion Project, and some of it is due to the development of high capacity irrigation wells upstream during the drought of the 1950's which brought ground water to the surface and the return flows from the ditches returned that irrigation water back to the mainstream of the river.

For 70 years we in Colorado had a water administration system that worked. All available water was appropriated according to availability and priority. The drought of 2002 and the Empire Lodge Decision took away from the state engineer the authority and ability to manage the river according to science and put the administration responsibility into the hands of the courts which were controlled by the water lawyers.

What has since happened is chaos. Upstream holders of senior rights are now being denied access to water while downstream junior right holders are being given access to water which they have never historically owned. Previously productive croplands are now barren while 125 brand new wells are irrigating new acreage that used to be prairie grass and all the while huge amounts of water are out flowing to Nebraska and high water tables are destroying crops, fields and property.

I ask you to look about. Look beyond this hearing room and listen to more than the testimony given here. It is now general knowledge that something is drastically wrong with the water management in this state. Things need to change.

I urge you to vote in favor of this bill. Stop the injury to innocent people. Stop the wasting of our most valuable natural resource. Vote yes on HB16 - 1314.