



UPPER ARKANSAS  
WATER CONSERVANCY  
D I S T R I C T

Via Email & USPS

April 17, 2009

Mr. Frank Holman, Chairman  
Board of Chaffee County Commissioners  
P.O. Box 699  
Salida, CO 81201

Re: Nestle Waters 1041 Permit

Dear Chairman Holman;

It is the understanding of the Upper Arkansas Water Conservancy District, "District", that Nestle Waters is planning on leasing water from the City of Aurora as a replacement source to augment impacts to the Arkansas River from their proposed operation near Buena Vista. As part of this project Nestle is required to procure a 1041 permit from Chaffee County. The intent of this letter is to advise the County Commissioners about the negative impacts that would be associated with the utilization of the City of Aurora's water supplies to augment impacts to the Arkansas from Nestlé's exportation of water from the basin.

The City of Aurora is the only exporter of significant water from the Arkansas Basin as well as other basins. Aurora removes its supplies of water via the Otero Pipeline located at the North end of Chaffee County. In 2003 the District and the City of Aurora entered into multiple agreements as part of a settlement to several water court change cases affecting Arkansas Basin water rights brought by the City of Aurora. The intent of these settlements was to limit the amount of future transfers of water out of the basin by Aurora. The agreement stipulates that, during the term of the agreement, Aurora will not purchase water rights from the Arkansas Basin. During drought and recovery years it will be allowed limited leasing of water from the Arkansas Basin to meet the demands of its citizens. While leasing additional Arkansas Basin supplies it agreed to limit its water demands by imposing city-wide conservation measures in order to buffer its reservoir storage levels. Further leasing is restricted to three out of each ten year period during the 40 year term of the agreement. Generally the agreement is intended to compel Aurora to maximize the use of its water supplies to meet the demands of its citizens and thereby reduce reliance upon Arkansas Basin water.

Page 2 of 2

Nestle 1041 Permit

Chaffee County Commissioners

Although the leasing of water to another entity, notwithstanding an entity who will export water from the Arkansas Basin, is not specifically prohibited in the District-Aurora Intergovernmental Agreement it will have the affect of reducing the amount of water Aurora could have available in a drought. Dry hydrologic cycles historically occur every five to seven years. Assuming a five year cycle the proposed Aurora lease to Nestle will reduce Aurora's supplies (including non-Arkansas Basin supplies) by 1000 acre feet. This shortfall could very well create an additional 1000 acre foot demand by Aurora upon the Arkansas Basin waters. Thus, the amount of water previously utilized to mitigate the impacts from the Nestle water exportation would be removed from the basin in one year. The accumulative impact from Nestle coupled with an Aurora draft via a dry year lease in a five year cycle could easily total 2000 acre feet with a 1000 acre foot impact in a single drought year. And, this would happen when the Arkansas Basin would be most vulnerable to the deleterious impacts of drought.

The District encourages you to consider the potential impacts of the type of arrangement being proposed to augment the Nestle well(s) as you consider the subject 1041 permit application. Although the requirements of Colorado Water Law is the augmentation of the impacts from the well pumping by amount, time and location, the utilization of the proposed source could easily have far reaching impacts outside of the requirements of water laws.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ralph Scanga", with a stylized flourish at the end.

Ralph "Terry" Scanga  
General Manager

Enc: UAWCD-Aurora IGA  
Reuse MOU