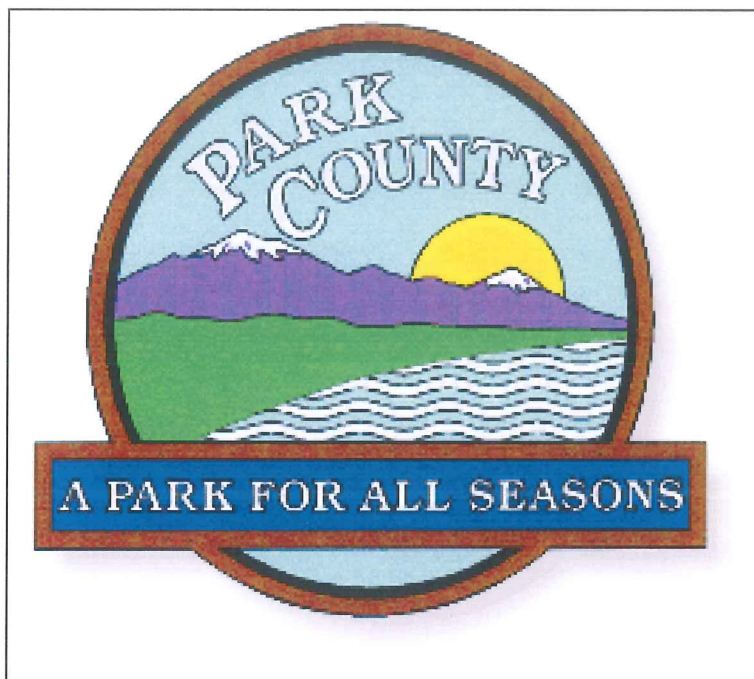


**REPORT TO THE COLORADO STATE
BOARD OF EQUALIZATION**

**PARK COUNTY RESPONDS TO THE
RECCOMENDATION OF THE AUDITOR**

TAX ROLL YEAR 2012



PRESENTED BY: DAVID B. WISSEL

PARK COUNTY ASSESSOR

CERTIFIED GENERAL APPRAISER #CG01315752

OCTOBER 25, 2012

CODE OF THE WEST

“Good old fashioned country common horse sense...”

- 1. Live each day with courage**
- 2. Take pride in your work**
- 3. Always finish what you start**
- 4. Do what has to be done**
- 5. Be tough, but fair**
- 6. When you make a promise, keep it**
- 7. Ride for the brand**
- 8. Talk less, say more**
- 9. Remember that some things are NOT for sale**
- 10. Know where to draw the line**

STAND TALL & SHOOT STRAIGHT!



DAVID B. WISSEL
CERTIFIED GENERAL APPRAISER # CG01315752
PARK COUNTY ASSESSOR
PO BOX 636
FAIRPLAY, CO 80440 – 0636
719.836.4331
dwissel@parkco.us

October 22, 2012

The Honorable Charles Brown, Chairman
State Board of Equalization
1313 Sherman Street, Room 318
Denver, CO 80203

RE: Recommended Order of Reappraisal – Park County
Implementation of HB 2011 – 1146

Dear Chairman Brown & State Board of Equalization Members:

I look forward to traveling to Denver to represent myself, and the circumstances regarding Wild Rose Appraisal – Audit Division, and their recommendation that Park County be ordered to implement the provisions of the above referenced legislative act.

I find the timing of Mr. Fuller’s “discovery” odd and out of sorts. I have in my possession the copy delivered to my Office of the Preliminary Report for the 2012 tax roll year. It lists ALL sorts of categories and property types being sampled, “audited” if you will, and finds that all facets of their conclusions are exemplary. Park County passes with flying colors.

He then “discovers” three days prior to the contract deadline to publish the Final Reports, this one recommendation for Park County. He goes on to identify Park County as the ONLY place where HB-1146 was not

implemented. I'm honored with that designation. I wonder what type of confidence level Mr. Fuller would apply to his statement?

What was the criteria utilized by Mr. Fuller and his firm, to determine compliance, or not, of HB – 1146? I've not been clear in his scope of work for this item of the annual audit. I request he provide that data at our hearing on Thursday afternoon.

When I requested, via an email, (copy enclosed) for his evidence, facts, work products, and any other basis for his change of position so late in the calendar, he said "he didn't have anything". Really? If that is the case, then why am I being forced to attend your meeting and defend my position versus an allegation that has no basis of facts?

Where is the proof? My words as of May 1st or my actions on June 27th? I did implement this law. I did review and interpreted the law for application within Park County. I stand on the conclusions of my decision.

I have NEVER been provided an opportunity, either with Mr. Fuller, or with my local Board of County Commissioners (BOCC) to have a discussion of all the facts. Unfortunately, our local BOCC has very little grasp if any, about this specific issue. They have decided to back the State.

I am defending the local folks against additional intrusion by local government into their personal lives and agreements.

Of course, this is a shining example what happens when County Commissioners are the main proponent and ultimately pass property tax legislation, in my opinion. This bunch never saw a new tax they didn't love, embrace, or try to pass. They had arrived at a "cure" for a disease that didn't exist until 2011.

The stars and moon aligned that legislative session. Look at the facts; a 5 vote majority in the Democratic controlled State Senate, and also a Democratic Governor. In the State House, a one vote majority by the Republicans, and the prime sponsor was Rep. Massy (R), our house member. Of course it passed with "bi-partisan support". The rich Ag people were going to pay "their fair share" finally.

“Legislation / regulations multiplied times implementation equals taxes!” (Legislation X Implementation = TAXE\$)

There is NO free lunch, especially in the local government world. We have created a system of “economic strangulation by excessive regulations”!

We are SO regulated at every turn, how can a free market have any capacity to thrive? Every time I turn around, a new mandate has been placed on our duties. We only have so much time each week for our regular tasks, let alone the “new, one more thing” requirements.

The circular firing squad continues to reload, and keeps on firing!

To make matters more “interesting”, local politics are being applied by our BOCC. They are using this issue to make as much “political hay” as they can. One Commissioner in particular is trying to scare the locals with wild stories of impending doom! County Commissioners don’t have to implement this crazy law, Assessors do!

This is nothing new for me to experience. It is tough enough to fight against the State of Colorado as an individual, without the home team working against you too.

The easy decision would be to be a good little liberal and just screw the local folks. I find the provisions of the bill to determine the “house” use very problematic. Frankly, it forces an unnecessary invasion into private lives and existing contracts!

The bill requires us to value people, not property. Not only are we supposed to “police” the “now not good enough” Ag people, (quasi – Ag?) we “should” (wink, wink) apply a punitive action against their pocketbook, “within our discretion”. Forcibly, to be sure. And what are the benefits to the other taxpayers?

We are simply readjusting the amount some folks pay. At what expense? Just to TRY and create more property tax revenue? In most instances, the total property tax revenue is capped. This bill may add more actual

value, but does it increase the total assessed value? Ask other “compliant” Assessors about their experiences implementing this law.

This new mandate is one of the most significant changes in public policy within my 33 year career in this profession.

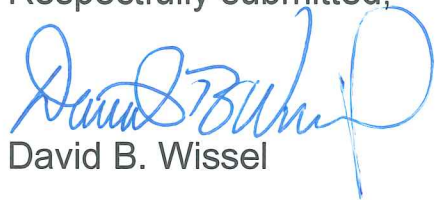
I will appraise any kind of property, real or personal, that you place before me! It may not be a valid total actual value, but I will provide my best effort to reflect the bricks and sticks. This is what we do.

When we are FORCED to police the actions of our local constituents, by the State, then I have to stand my ground. I feel compelled to make public objections and defend the “benefit for the taxpayer” concept.

I must stand up for my principles. I must be true to my beliefs.

I look forward to having the opportunity to provide my defense, and my own actions beyond what is contained on the Office web site.

Respectfully submitted,



David B. Wissel

Park County Assessor

Certified General Appraiser #CG01315752

Dave Wissel

From: Dave Wissel
Sent: Tuesday, September 18, 2012 2:53 PM
To: 'Suzanne Howard'
Subject: RE: 2012 Final Report

Hey Suzanne... Is this a different version than the one you sent to me yesterday? Since I made your "bad" list, what is the supporting data / information / basis for your recommendation to the SBOE? I'd like to have my "accuser" show your evidence prior to my "trial"... Consider this a formal request for any and all information related to your recommendations, after the preliminary report of 8/15/2012. I thank you in advance... Best Regards, Dave Wissel

From: Suzanne Howard [<mailto:showard@wraudit.com>]
Sent: Tuesday, September 18, 2012 8:16 AM
To: Dave Wissel
Subject: 2012 Final Report

Good morning--

I just wanted to let you know that the final reports for the 2012 Property Assessment Study are in the mail. Attached, please find an electronic copy of your report. You should be receiving the bound version via snail mail very shortly.

I'd like to thank you so much for all your help this year. It is such a pleasure working with you and your wonderful staff.

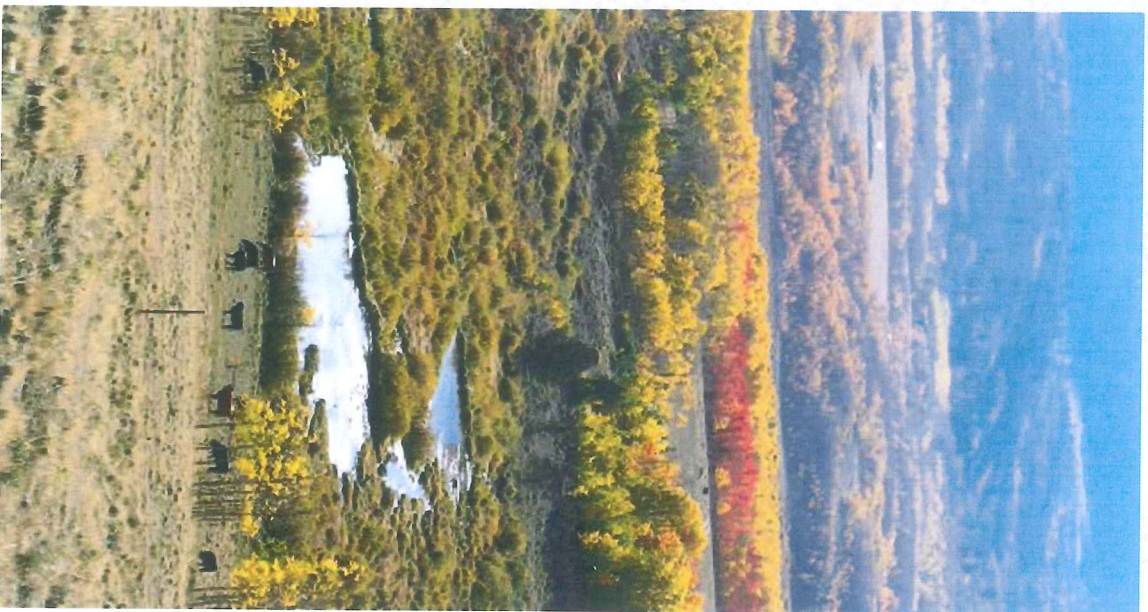
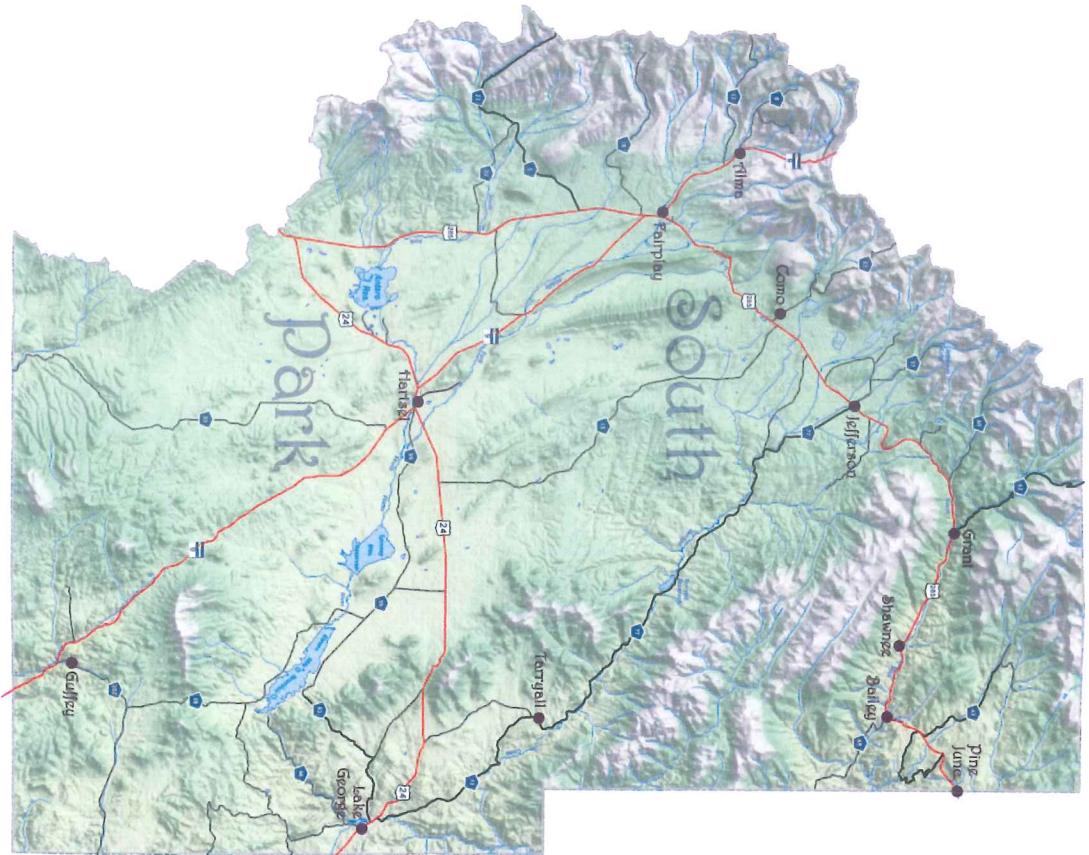
All my best for a beautiful Colorado Fall,

Suzanne

Suzanne Howard

Wildrose Appraisal Inc. - Audit Division
363 S. Harlan St. - Suite 103
Lakewood, Co. 80226-3552
720-350-4374
Fax: 303-955-8185
showard@wraudit.com

PARK COUNTY GEOGRAPHY



Finding of Facts and Supporting Evidence

Park County Assessor's Office

David B. Wissel, Assessor

Certified General Appraiser # CG01315752

Regarding the Applicability of HB 2011 – 1146

In Park County in 2012

“The Wissel Doctrine”

Effective this 27th day of June, 2012, I hereby find and declare that all Agricultural classified parcels, with Residential Improvements, are “integral” to the viability and survivability of the Agricultural industry and community for the tax roll year 2012.

All appeals have been filed with the Assessor's level of review, for the 2012 tax roll year. All Notices of Determination in reply to said objections have been delivered for mailing to the local Post Office located in Fairplay, the Park County seat.

The extreme drought that has occurred in Colorado during this water year, especially from the open winter of 2011, up and to this effective date, has caused great hardship in Park County's Agricultural community.

I have been contemplating the legislation since it was passed in the 2011 Legislative Session. I have spoken with many people, from a variety of backgrounds, about their impression of the bill, as adopted.

I spoke at length with Ms. Jenny Penginot, from Colorado Counties Inc, (CCI) the “owner” and main proponent of this act. Jenny was burdened with being the point person on passing this bill for CCI. I mentioned my concerns about the intrusion into the private lives of my local folks on several visits.

I spoke on several occasions with Sen. Kevin Grantham, the Republican Whip in the State Senate. We have discussed my concerns, not only to

Park County but other rural areas too. I also indicated that I was philosophically opposed to the mandates of the bill. He had heard similar objections from other Assessors in his district.

I sought out the prime sponsor, Rep. Tom Massey, our state representative in HD – 60. I have great respect for Rep. Massey. I believe he was one of the best to ever represent us in Denver. We simply agree to disagree on this subject.

I was involved with Rep. Massey discussing this issue beginning in 2009. That is what led to the 2010 Task Force, and ultimately HB – 1146.

I chair the Legislative Committee for the Colorado Assessors' Association (CAA). I've held the position for several years. Our Association took a "neutral" position during the session. We could never arrive at a consensus position. What we did agree to was for a "may" option, so those Assessors who wished to pursue the parameters of the bill could do so with legal support. That never was an option in the CCI bill.

To be sure, we had 2 individual Assessors who did testify in favor of the bill, as representing themselves. I won't throw a stone at another peer for taking the actions they believe are necessary for their county.

I sought out several of my local ranchers and talked at length about how they operate. We discussed the questions that I am "supposed" to ask them. I had several folks inform me that my manners were sure lacking, and how dare I ask about those personal and private matters. The most vocal complaints were from those whom we sent the questionnaire to.

I have legal possession of the Park County tax roll from January 1st until June 30th each year. I use my Constitutional authority as the duly elected Assessor of Park County to so adopt and apply equally this finding of facts.

With the vague and confusing language contained in said legislation, I am responsible to interpret this law to the best of my abilities and experience. I hereby declare to have read and studied the statute, and do now interpret the law to be applied throughout Park County, fairly and uniformly, within the law.

I do take this action after a significant amount of soul searching, reflection, and thought prior to arriving at my conclusions. I did what I thought was in the best interests of the people of Park County.

The lack of a normal / average surface snow runoff water supply this past winter, especially in our headwater county, was well below average. Our western border is the crest line of the Continental Divide, where the Upper South Platte basin originates. This river basin contains the greatest portion of the total land area / geography of our county, and is also referenced as Water Division # 1.

Park County is also unique as the southern portion of our county located below 39 Mile Mountain is situated within the Arkansas River basin, or Water Division # 2. This smaller geographic area is centered by the Guffey community. This area is a part of the Headwaters of the Upper Arkansas Basin. The ground is gentler with rolling hills, and much lower in altitude than South Park.

I am a native of Colorado, being born and raised in Kiowa County, on dry land wheat fields, wind and sagebrush country on the eastern plains. I have lived in Park County for over 34 years. I have been coming to the Fairplay area all of my life. I can see for myself the conditions inherent in this very dry year. I travel through all portions of this vast and diverse county in the normal duties of my Office.

I have spoken with our friends and neighbors about the lack of surface water, and have been told by "old timers" that streams and springs which have always run, even with diminished flows, have gone completely dry this year. Division # 2 has significantly less surface water courses than the North Fork, Middle Fork, and South Fork of the South Platte River system within Division # 1. These findings of fact are applicable to both river basins of Park County.

Typical practices of our grazing operations, (the most common use utilized to qualify for an Agricultural classification), requires well water supplies, for all permanent or seasonal operations. Every Residential improvement located on Agricultural classified land is entitled to a developed water right,

as recognized by Colorado law. They are operating within the set limits of a Domestic well permit, an Agricultural well water right with an approved augmentation plan, and natural and adjudicated springs. Legal water storage structures, mostly non-jurisdictional, as well as off stream water storage devices (known as and registered as Livestock Water Tanks), are also necessary to capture any available rain fall. These structures occur from past grazing operations as well as Mother Nature offering natural depressions and arroyos that man has modified for his uses.

The typical practice in Park County is to locate the main well near the residential structures, as it serves both the household needs, in addition to providing for the legal watering of domestic livestock. No Agricultural operation can survive without a consistent fresh water supply, even if that requires the hauling of water from other locations.

Beginning with the McDowell transfer in 1966, the vast majority of the historic surface / flood irrigation water rights have been purchased and removed from South Park, (Middle Fork and South Fork stems, respectively).

The overwhelming majority of these historic surface waters were purchased from willing sellers by downstream municipal governments. After water court cases, the lands were “dried up” and quantified consumptive use water was removed from the upper basin (Park County). Therefore, ground water is our last reliable bastion of controlling our own future destiny, and continued growth of our county community. Without available water rights, no growth can or will occur.

I am not aware of any grazing operation that doesn't utilize leased land, either private or government owned. If they didn't have access to this additional forage, they could not continue their current livestock grazing business model. Their options are to downsize, or leave the area for “greener pastures.”

At this time, only approximately 10% of the historic surface water rights remain within South Park. The North Fork area (Platte Canyon) has a higher density of small tract subdivisions, and contains approximately 2/3 of

our total population. The remaining ranches and meadow hay operations are few in number. The main source of all fresh water supplies is from wells.

The North Fork has also experienced the selling and removal of the vast majority of their historic flood irrigation ranches over time. With so few large parcels remaining, the local grazing community is hindered by a limited amount of private forage to utilize.

I reference supporting statutes contained in CRS Title 37;

Section 37-62-602(1)(b) and (3)(b)(II)(A) covers wells not to exceed 15 gpm for ordinary household purposes, fire protection, watering of poultry, domestic animals and livestock on farms and ranches and irrigation of not more than 1 acre of gardens or lawns on a parcel of more than 35 acres. A rancher can get as many exempt wells as he has individual 35 acre parcels.

Section 37-62-602(1)(e) covers wells operated as of May 22, 1971 not to exceed 50 gpm for ordinary household purposes, fire protection, watering of poultry, domestic animals and livestock on farms and ranches and irrigation of not more than 1 acre of gardens or lawns.

Generally, it is accepted practice that each head of livestock consumes 12 gallons per day.

The limits on diversions of surface water and ground water for irrigation and/or stock watering are defined in the decree for the water right.

It is my determination and finding that each and every Residential property located on Agricultural land is an integral and critical partner in the total Agricultural operations located in Park County. Therefore, no application of HB 2011 – 1146 requirements to classify an extra Residential land component is necessary or appropriate in Park County for the tax roll year 2012.

The basis for my direct knowledge and facts of water issues is due to my 27 years of service on the Board of Directors of the Upper South Platte

Water Conservancy District (USPWCD). This Title 37 special district was formed by the Agricultural community to protect their surface water rights in 1955. The geographic area contained in the District is generally from the small community of South Platte, located in Jefferson County, (the confluence of the Middle Fork and the North Fork rivers, AKA Two Forks Dam site), upstream to the Continental Divide. We serve all or portions of 5 counties; Park, Southern Jefferson, Western Douglas, and the Northwest portion of Teller. We also have a very small portion of Clear Creek, downstream from Duck Lake which is a tributary into the North Fork of the South Platte.

I am chairman of the Headwaters Authority of the South Platte (HASP) Board of Directors since the Authority's creation in 2007. HASP is a joint business venture between the USPWCD and our sister agency the Center of Colorado Water Conservancy District (CCWCD). HASP operates as our "business arm" and administers the two entities water rights portfolios as one unit. We have joined together as partners to utilize our combined physical water assets and storage vessels to the benefit of the citizens. The Authority is in the business of selling, leasing, and purchasing augmentation water rights within our USPWCD territory.

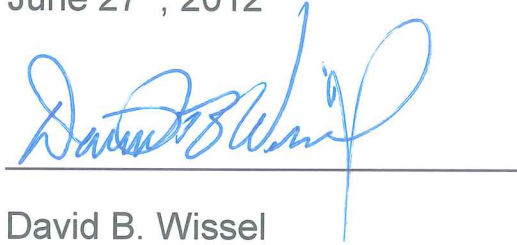
The Authority operates our joint "blanket plan of augmentation" under the decree granted in Division # 1 Water Court, in case 02CW389 issued in 2007. Every transaction where HASP is involved must be reviewed and signed by myself. I know from these experiences the monthly conditions of the river system. I have direct knowledge of several existing water rights we have evaluated for purchase through both basins.

I have unique knowledge that no other Assessor would normally have access to or participate in, during their normal administrative or appraisal duties.

Based upon all of the considerations and facts, I hereby declare this Findings of Facts and Supporting Documentation adopted effective June 27th, 2012.

I hereby declare and affirm that all of the data and information contained within this document are true and correct, to the best of my abilities.

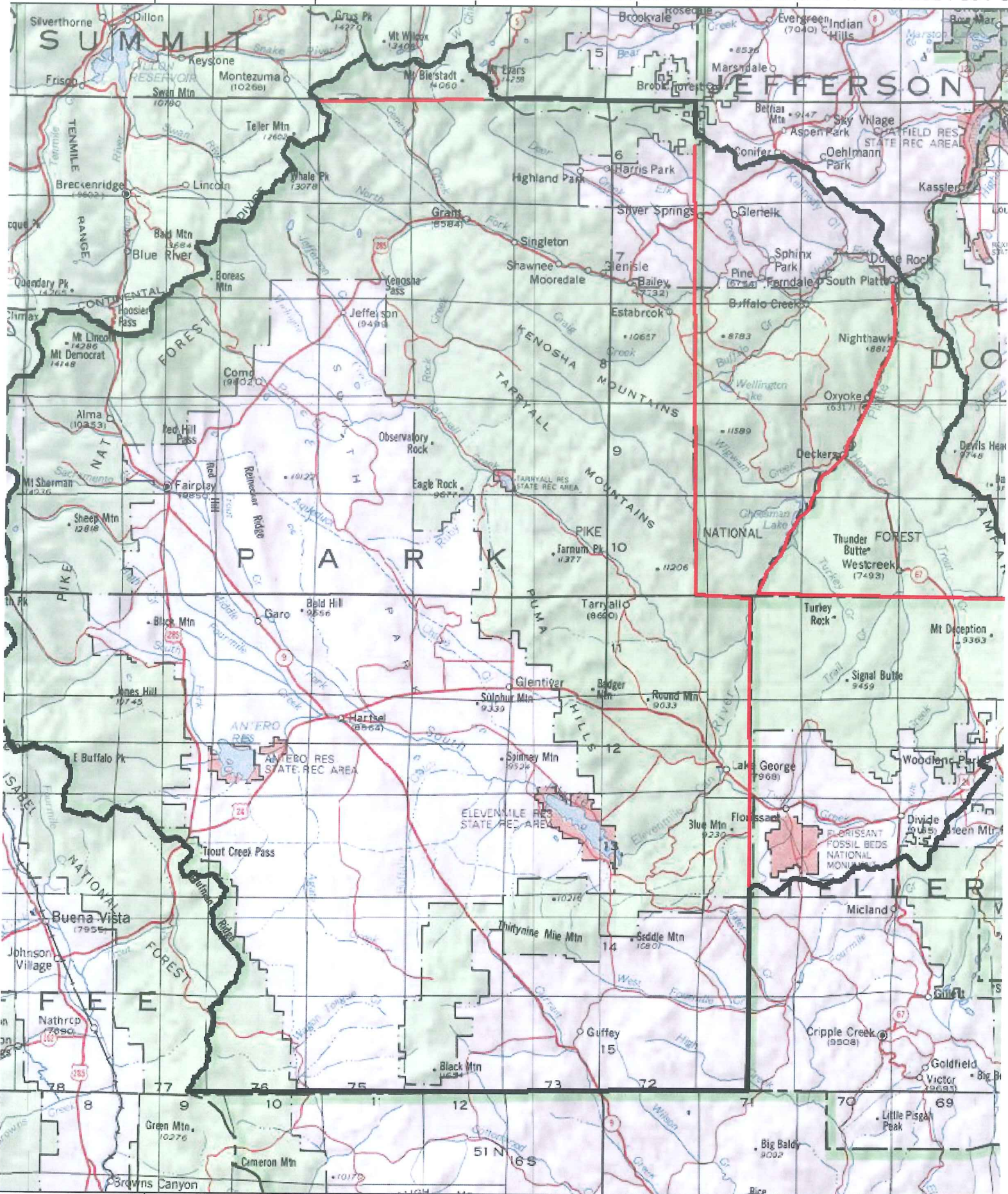
Date: June 27th, 2012



David B. Wissel

Park County Assessor

Certified General Appraiser #CG01315752



Hotmail

New | Reply Reply all Forward | Delete Junk Sweep ▾ Mark as ▾ Move to ▾ Categories ▾ |

Inbox (367)

Folders

Junk (16)

Drafts (38)

Sent

Deleted (41)

Brandon

Debi Willis

FSI Issues

[New folder](#)

Quick views

Documents (61)

Flagged

FSI Issues

Photos (36)

Shipping updates

[New category](#)

Messenger

You're signed in to Messenger. To change your status, click your name in the upper right corner.

[Keep me signed in](#) | [Sign out of Messenger](#)

Search contacts

Your friends are offline right now.

[Sign out of Messenger](#)

Home

Contacts

Calendar



Re: I need your Help!

[Back to messages](#) |

Garver Brown
To DAVE WISSEL, Steve Spann...

10/11/12
[Reply](#)

Dave,

You are correct that it was a very dry year here in District 23. Streamflow was certainly at a low level after we experienced one of the poorest snow years on record. Given the short amount of time that you have given me to reply, I will try to address the questions and concerns in your message.

Regarding streamflow data, DWR does not tabulate a running multi-year average of streamflow rates or volumetric totals at individual stream gages. DWR does publish annual data for some gages. This data includes daily average flow rates and monthly and yearly volumetric totals for these gages. I asked District 23 Hydrographer Mike Wild to do a comparison at several sites within District 23 to compare data from previous years to 2012. He looked at two gages, one on Tarryall Creek and one on the South Platte, to try to put this year's numbers into perspective. Here is his comparison (data is provisional and some values were estimated).

PLASPICO

30 year average ac/ft = 70,266
30 year average peak = 503 cfs

2012 ac/ft = 26,660
2012 peak = 121 cfs

TARBORCO

8 year average ac/ft = 32,862
8 year average peak = 193

2012 ac/ft = 9.340
2012 peak = 81 cfs

Average includes estimated winter data for both gages. (I estimated TARBORCO winter data that was not on CDSS).

As you can see from this comparison, 2012 streamflow at these sites was only a fraction of the "average" flows.


Regarding streams and springs running dry in District 23, I can confirm that many small streams are dry at this point in time. I have also heard reports of springs running at below average flow rates, and in some cases going completely dry.

Regarding ag wells, there are no high capacity wells within District 23 used primarily for irrigation. There are numerous stock wells used to water animals here in District 23, but I do not have any analysis that compares the percentage of grazing operations that use stock wells versus surface water. You can do some data mining using the DWR Well Permit Search Tool at <http://www.dwr.state.co.us/WellPermitSearch/default.aspx> For example, you could use this tool to view all records for stock wells

Romney wants to take away a woman's right TO CHOOSE.

VOTE EARLY FOR BARACK.

CONFIRM YOUR VOTING LOCATION



PAID FOR BY OBAMA FOR AMERICA

[Ad feedback](#) | [AdChoices](#)

within a PLSS section or within a radius of a UTM point.

I hope this info helps. Please let me know if there are other questions or concerns.

Best Regards,

Garver

© 2012 Microsoft [Terms](#) [Privacy](#) [About our ads](#) [Advertise](#) [Developers](#)

[Help Center](#) [Feedback](#) [English](#)

Garver Brown
District 23 Water Commissioner
PO Box 1949
Fairplay, CO

New | Reply Reply all Forward | Delete Junk Sweep ▾ Mark as ▾
Move to ▾ Categories ▾ |

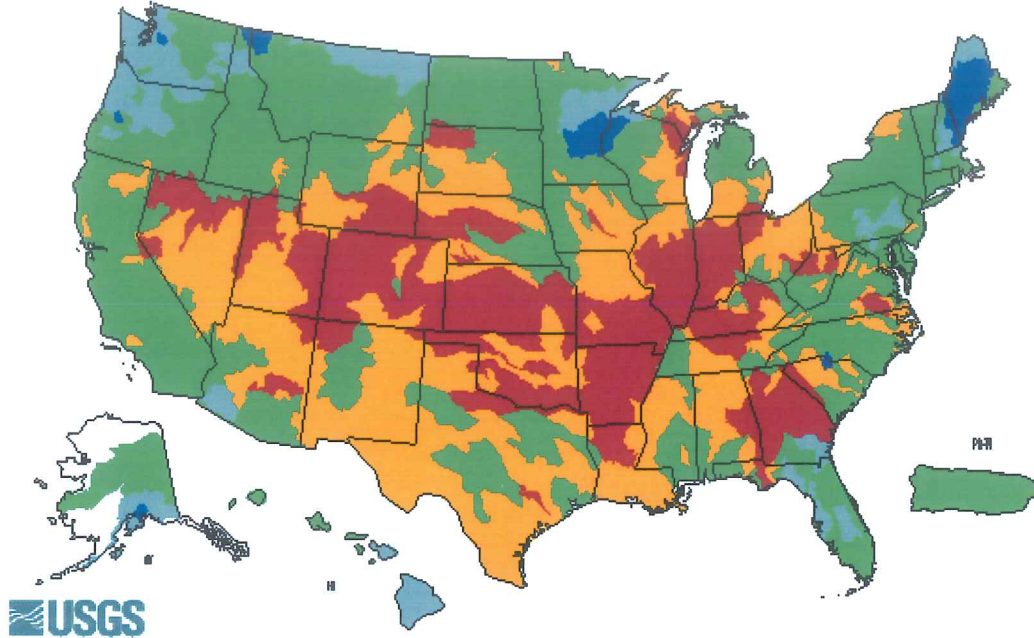
WaterWatch

Map of monthly-average streamflow for the month of year

June 2012

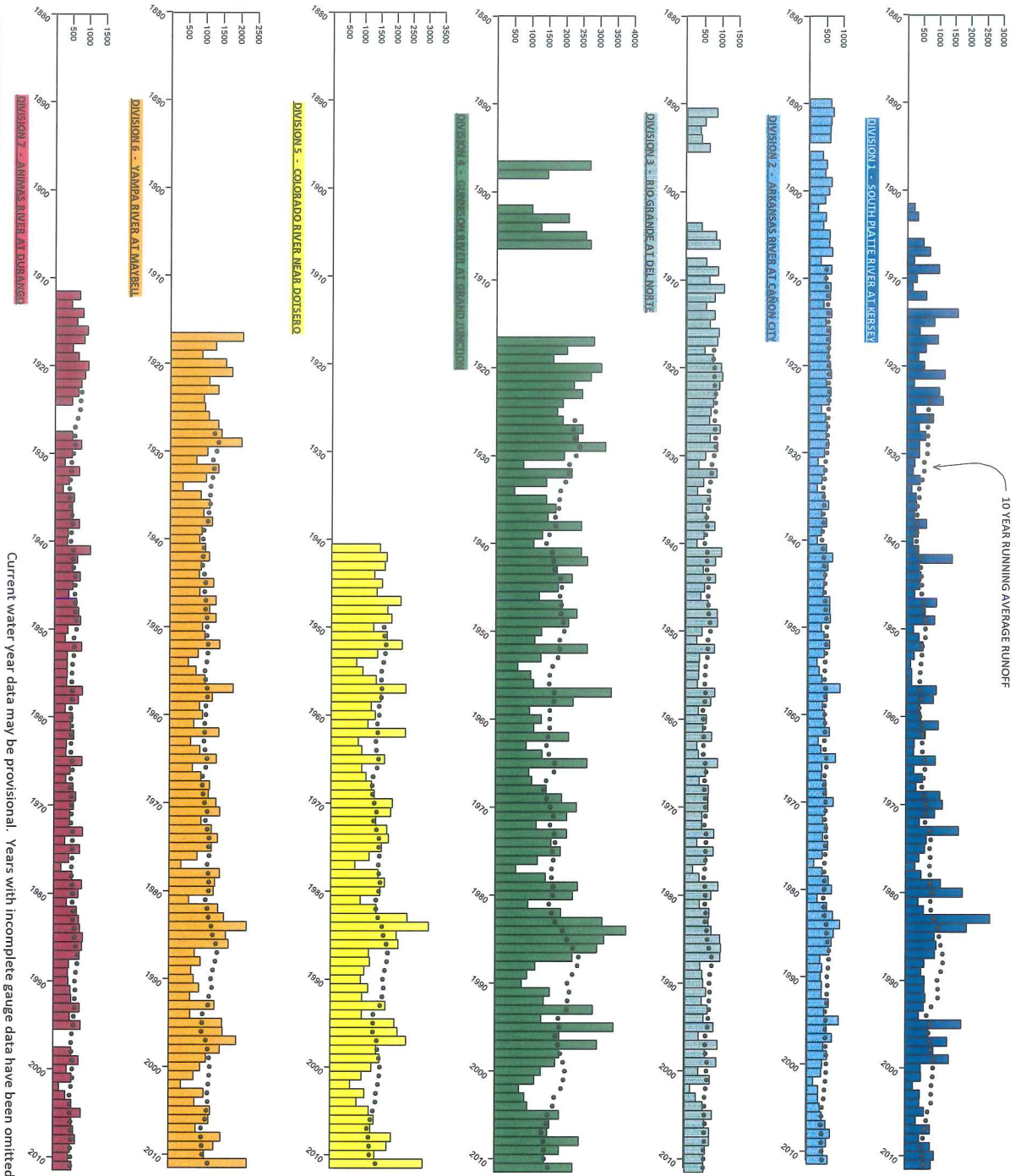


June 2012



Explanation - Percentile classes							
Low	<10	10-24	25-75	76-90	>90	High	No Data
	Much below normal	Below normal	Normal	Above normal	Much above normal		

ANNUAL RUNOFF IN 1,000 ACRE-FEET



The Natural Resources Conservation Service water supply outlook, as of May 1, 2012, contains the following estimates of runoff for the April through July 2012 period at the following gauges. (Note: Not all gauges shown to the left are forecasted, in which case a representative gauge from the outlook report was chosen):

Div.	River	April-July Forecasted Runoff (1,000 AF)	Percent of 30-year Average
1	So. Platte River at South Platte*	63	25
2	Arkansas River at Pueblo Reservoir Inflow*	160	33
3	Rio Grande River near Del Norte*	290	55
4	Gunnison River near Grand Junction	450	29
5	Colorado River near Dotsero	625	43
6	Yampa River near Maybell	400	40
7	Animas River at Durango	230	52

* Runoff forecasted for April - September 2012 period.

COLORADO RIVERS
HISTORICAL
ANNUAL RUNOFF

2000 Clay Street, Suite 300 | Denver, CO 80211
303-455-9589 | 800-453-9589 | Fax: 303-455-0115
www.lric-engineers.com

NARRATIVE REPORT OF MY IMPLEMENTATION OF HB - 1146

BACKGROUND

I must be approaching being labeled a fossil. I am one of a few people in the State that has lived through more than 30 years of history.

Each year since 1983, an annual 1% compliance audit, as required by Amendment # 1, referred to people of Colorado by the General Assembly and adopted by the voters in 1982. The “annual audit” is a Constitutional mandate to insure the equalized distribution of K – 12 education funding. The primary factor was a legal challenge to the method of allocating the State of Colorado’s share of K – 12 school aid, via the Lujon case. This suit was brought forward from schools located in the San Luis Valley.

Isn’t it ironic, that some 30 or so years later, we have another challenge from the San Luis Valley, objecting to the method of distributing K – 12 school aid? It was filed as the Lobato case.

That set forth for the past 29 years an annual process, conducted by the Legislative Council, to insure that each of our 64 County Assessors are in compliance with generally accepted appraisal practices, standards, laws, and guidelines. This system has worked very well to eliminate the vast differences between counties that existed prior to November of 1982.

In the first year of the audit, 1983, 62 out of the 63 counties (Broomfield wasn’t created as a City / County then) would have failed some portion of the audit. The effective date of tax rolls ranged from the 1947 level of value to the 2 other counties with Park, at 1973. There was no consistency at all.

The effect of this new “annual audit” process was to elevate the expectations and application of professional appraisal standards. This applied for both appraisal quality, as well as verifiable equalization within each county. Ultimately the goal is to have equalization throughout the State.

Our Standards of Compliance are based upon the International Association of Assessing Officers (IAAO) adopted Standards on Ratio Studies. Colorado's standards are twice as stringent as the published IAAO standard. In other words, our measures of uniformity and assessment levels are half of the IAAO measures. I know this from personal experience, as I chaired that advisory committee with the Colorado Assessors' Association (CAA) and the SBOE.

I have served as the Park County Assessor since October 6th, 1980. I began working at the Office on June 18, 1979, as an entry level employee. I am one of two Assessors still serving in the State who has seen our evolution over time until today. The advances in techniques, work flows, automation, and technology are significant.

I believe this audit / review process has had a tremendous positive outcome for this State. I believe each county has the knowledge and skills to perform their duties to the best of their abilities, and tools available. That isn't always possible, as we are slaves to the BOCC appropriations!

LOCAL POLITICS – PARK COUNTY STYLE

I know my story is the same as most small county elected officials. The Board of County Commissioners generally have zero idea what we do, nor why. And worse, they make NO effort to educate themselves. All they see is that we have to spend money developing our staff appraisers. We have to invest time and financial resources to ensure our staff appraisers are licensed in the State of Colorado, as required by law. The BOCC must appropriate necessary funds (by law, SB 90-34) for these courses and license fees.

New mandates from the Federal Government (who else?) have imposed additional and more expensive requirements. A college degree is currently required to be a Certified Appraiser. To be a licensed appraiser in 2015 will also require a college degree. Background checks and fingerprints are now a part of the application to obtain appraisal credentials.

Our pay scale is not adequate to compensate our staff, especially as they gain experience and achieve a higher license level. This fall, the Department of Regulatory Agencies (DORA) has submitted a proposal to impact our ability to remain in our historic state appraisal licensing program. This is an issue I would like to further discuss at a later date. It is another "bump in our road".

I have to fight each year to compete with the County Sheriff, and other mandatory funding activities. How can you go to a gun fight with a calculator? I see for myself how our Sheriff can receive an annual subsidy of over \$1.8 million dollars to prop up his failing jail. Of course, it isn't his fault the State doesn't have more prisoners to house for their big building. The Jail deficit has been at this amount for the past few years. What I could do with an additional \$50,000 or \$75,000 per year. No, that isn't possible, as I don't kiss BOCC gluteus maximus!

I have served with 31 County Commissioners, 6 Sheriffs, 6 Coroners, 4 Clerks and 4 Treasurers in my time as Assessor. Commissioners are simply a necessary evil. I outlast them.

I had requested that the BOCC join with me on my stand of principle, and to say NO to the demands of the State, specifically HB - 1146. That wasn't possible. Instead, they had their County Consigliore, Herbert Lee Phillips, Esq., draft their press release objecting to my position.

I was able, via a Freedom of Information Act (FOI) request, to obtain the initial draft copy of the position statement. Isn't it tough talk to say I can't spend public money to defend myself? What amount of county tax dollars was spent for his time writing a press release? Compare the original with the copy published in the Flume newspaper.

The individual members of the BOCC are nothing less than cowards! They didn't have the professional courtesy to deliver their position personally, by voice mail, or even an email. No, they sent it just prior to the weekly newspaper submission deadline. I got my copy from the local newspaper reporter. You can track the stories about this issue at (www.theflume.com).

The Park County BOCC has decided to stand with the State. They won't assist me, even with moral support, to protect the local folks. They now OWN that decision, and let the cards fall as they will. If I am going to be accused of defending my local taxpayers, then I'll take that rap any day!

It is hard enough standing up to the State of Colorado and their unlimited resources, for me. When you do it without the home team on your side, especially for the benefit for our local taxpayers and citizens, which is a position for them to defend.

These elected "equals" have demonstrated time and again, that none of them are able to provide dynamic leadership for the citizens of Park County. We are fortunate to have such fine and dedicated County employees, who keep the "ship of state" afloat, bailing water every day. The BOCC are trying to make as much political hay as they can muster over this recommendation of a reappraisal order. They are having a "hissy fit".

That is truly odd, as I have not encountered ONE person in this entire county, who isn't supportive of my stand on principle. I'm told daily that "they have my back, what do you need, and how can we help"? What citizens are the BOCC listening to?

THE FACTS:

The current audit firm has recommended an Order of Reappraisal be brought forward and to force implementation of HB – 1146 by the Park County Assessor's Office. This is based solely upon an open and honest communication and informational module located on my Office web site, www.parkco.org. According to the auditor I am apparently the only Assessor in Colorado who didn't implement HB– 1146. If so, which I greatly doubt, I will accept this designation as a badge of honor!

I find the recommendation extraordinary, and simply amazing! I am in possession, effective on August 15th, 2012, of a copy of their Preliminary Audit Report for Park County, as required in their contract.

All facets of the August report on Park County were exemplary. All categories sampled and “audited” were found to have no recommendations or issues. I have been a part of every annual compliance audit for the past 29 years. If you have a “clean bill of health” in the preliminary report, then no one anticipates any other findings on the Final Report. This “early notification” is also to allow the county to try and mitigate or fix the issues that have been raised.

On the afternoon of September 12th, I received a telephone call from Mr. Harry Fuller, Wild Rose Appraisals – Audit Division, informing me that due to the data and positions contained in my HB – 1146 Policy Statement, I was now in non-compliance. Did I mention it was just 3 days prior to the Final Report completion deadline? Curious timing, I suppose? Coincidence?

Why did it take from May 23rd when the Policy Statement was placed on my Office web site to that date months later, to “discover”? This is an unprecedented act by the auditor in our situation. I am not aware of any other occasion where these auditors, or any of the numerous other firms I have worked with during all of these decades, have had this “backwards” time line!

When I inquired what took him so long, he mentioned that they were just “surfing the web” and came across my web site. I have nothing to hide, or why else would I publish my opinions to the world? He said that if I wouldn’t change my statement, then he would have to recommend an order be issued. I said I was committed in principle to my statements, and no, I wouldn’t change the words. I also told him “he had to do what he had to do.”

He has never offered me an opportunity to explain my activities, if any, AFTER the date of my policy statement. He plainly “shot first, and aimed later”. It is my opinion that he is simply conducting a CYA move, with a motive to justify their existence as the property cops. If we don’t bust anyone, then how can we justify their expense each year?

I had requested from him via an email (enclosed), what is the basis of their facts, documents, evidence or other supporting data to assist their “new” conclusions? He said in a telephone call he had “nothing”. Then how can he offer his findings with any confidence?

Regardless, he followed through and submitted his recommendation for an Order of Reappraisal. I was out of town at the time, staying with my 91 year old mother Ruby. I didn’t return to my Office until September 17th.

It was fitting that I should be notified while in my hometown of Eads, in Kiowa County. It was also very prophetic that I had just returned after spending time with my long time and main mentor, Jimmy Bendorf. Jimmy was the Assessor of Kiowa County for 44 consecutive years. I had mentioned the bill to Jimmy, and he said “that is the dumbest thing I ever heard of”. I wholly agree!

As required in their contract, the Auditor then asked to meet with the Park County Board of County Commissioners. I gave him the telephone # for the Chief Administrative Officer, Tom Eisenman. A meeting was arranged for high noon, on September 19th, 2012.

That meeting occurred. I have an audio recording of the discussion. I am including a copy for your listening pleasure. I believe it also sheds more light on this very gray situation.

The purpose of these meetings is to inform the BOCC about the recommendation for the county. Nothing more or less. Mr. Fuller went on and on, at the urging of Commissioner Tighe, suggesting that NO ONE ever “gets out” of an auditor recommendation. He offered other misleading and personal opinions. I feel these statements were outside the scope of his assignment. In my opinion, after the fact, I believe he was out of line.

That wasn’t just my observation. I had two staff members, my wife (a former County Commissioner), the county budget director, and a local citizen also attending. They all mentioned to me his inflammatory rhetoric and demeanor. I know my wife complained about his actions to the other two employees of the audit firm, who were sitting directly behind her.

At the meeting with Auditor on September 19th, we had a combined 18 years of experience as a Commissioner sitting at the table. Tom Eisenman was there. They had to call our County Consigliore, Herbert Lee Phillips Esq. to attend the meeting too. He hustled into the room after a telephone call from Commissioner Tighe, after we had started.

Listen to the recording, and hear their comments for yourselves. They continually said that they didn't understand, and to slow down. Our conversations are going too fast for them to grasp.

If the 3 members of the BOCC had a clue about this issue, then I might be better able to understand their position. Certainly not their actions, but in principle, I would have some respect for them. They don't know anything about our Office, except to deny raises for staff, and to try and cut my budget every year. Regardless of the need or not, they don't understand our mission, and our purpose.

They have declared to the citizens of the county, that they won't ALLOW me to spend public funds to defend my position. Really?

I thought each and every "charged" individual in the United States of America had the right of due process? Don't I still have that right, as a citizen, let alone an elected official in the county for over 32 years?

The ONLY authority they have over me or my Office is the budget. They have approved my appropriation for 2012, and I will spend it accordingly.

I take pride in the fact that over the past 32 years, I have returned excess budget amounts to the BOCC. What other Office or Department has that positive track record?

Knowingly or not, Mr. Fuller provided the perfect firestorm to ignite Commissioner Tighe. He has acted in a hateful and vindictive manner since that time. This is nothing new for my "relationship" with him. As an 8 year veteran and senior Commissioner in time of service, I would think he had developed more dignity.

I don't work for this BOCC, or any other set of Commissioners, past or future. I stand on my own two feet, and my principles. That is why I am taking this outspoken stand against HB – 1146.

I am "old school". I have great respect for our institutions and the rule of law. I value our representative republic, and respect the Office each person occupies. I value the legislative process, as imperfect as it is. I also know that I have a duty to represent the people of Park County. They are my employer first, the State comes second.

I am not trying to be cute, or to grandstand, or to bloviate! It is because this act is an infringement into the private lives and agreements between individuals. Local government, especially the Assessor's Office, should not have to pry into private matters, just to raise more property tax revenue!

PHILOSOPHICAL AND PRACTICAL OBJECTIONS

This brings me to the core of my personal and philosophical objections to this statute. To what other class or subclass of property do we apply the individual occupations of residents? When did this become the main criteria to arrive at a classification of real or personal property? I can't think of a single example that would fit this template, as required with this law.

Do we as a State really want to drill into the layers of the tax roll, to find classes of people to single out for "their fair share"? Are we required to "police" the folks and see if they pound a fence post or stretch a section of barbed wire? How much time do we spend on each property, watching for activity on the farm or ranch? Can we get a drone on loan?

If so, who will be next? If this trend expands, or is allowed to continue, then liberty and individual freedom has once more been diluted. For what?

The "good of the State and their political subdivisions, at the expense of the few" was uttered by Marx, wasn't it? Who exactly has been "getting away with something"? How is that possible, when people use the existing law to their benefit?

Do we create a new classification of Quasi – Ag; Almost Rich, Rich, Filthy Rich, and lastly Filthy Stinking Too Rich?

Is the State SO thirsty for new property tax revenue? I believe the obvious answer is yes, it is. Whatever happened to the concept that I was taught early in my career to always give the benefit of the doubt to the taxpayers?

I have found in my three decades of public life as an elected official, that government doesn't do anything very well. I have arrived at a conclusion that the thirst of government, regardless at what level, can never be quenched. Government will never have enough tax dollars to meet their pet projects.

Let me be very clear. I wear several hats with different local government entities. I know that I try to improve these organizations from within, and to make them a "great" unit of government. Government does perform necessary and needed services. But government, at any level, continues to demand more and more mandates, self inflicted or by "trickle down government" from those above.

That is undeniable for the past 4 years of Federal Government actions, with thousands of new regulations and rules. These new policy revisions then cause tens of thousands of new documents to be printed and provided for public consumption. Who can keep up with the three-headed monster, (Federal, State, and Local Governments)?

At the County level, there is no one left to "pass the buck" except our local officials. We have to try and SOLVE the funding problems. And how are we locals in the rural areas supposed to pay for these mandates? Good question; we have to figure it out, and make the dollars stretch wherever and however we can.

It is easy to fall into the trap of "not making waves." It is hard to stand up for what is right, versus what is legal. "Just go along, it will pass, why do you care?"

That brings me now to my campaign to fight against stupid laws, like HB – 1146, and what I refer to as the "***Bureaucracy of NO!***" It is prevalent and

growing at each level I work with. Take your pick of the “three-headed monster” agencies which have imposed regulations on top of regulations. When will it ever end?

NEVER, until the folks stand up and say NO. That is what I did with my HB – 1146 Policy Statement. This is merely a symptom of the disease of big government.

Will we stand for “from the cradle to the grave” nannyism of Big Brother? “We know what is best for you little children, and follow your government leaders off the cliff.” What happened to individual responsibility and the freedoms our founders envisioned? They would have no ability to comprehend our governments of today.

I will offer specific examples during my oral testimony on October 25th, from my local area and personal experiences of these excesses.

I have other objections and areas of concern also related to HB – 1146. This is the Principle of Unintended Consequences working overtime.

MY SPECIFIC OBJECTIONS AND PREDICTIONS OF UNSEEN PROBLEMS

1. We have now been forced to identify a class of people that aren't “good enough” Agricultural operations. This causes an unnecessary split between my taxpayers, with me and my staff. If I won't ask local residents these personal and invasive questions, I certainly won't ask my staff to do so either. Once these “quasi – Ag” parcels are identified, via their new Abstract Code, then what? How are these folks supposed to perceive their new occupation, “Big Hat, Not Enough Cattle”, or how about “Rexall Ranger without a Cow Habit”?
2. There is NO remedy for the 2012 Property Tax Year. Why in the world would I institute a significant change in the 2nd year of our current two year cycle? I have generally made large policy changes effective on the first year of the bi-ennial cycle. Why would I want to aggravate the “lucky” property owners for a one year value? That is just illogical.

I'm also dismayed with the requirements that this law be applied so soon after passage. In my long history, I don't recall ANY punitive action for any county on the first year of such a massive change in public policy!

Besides, the values have been set, the totals are certified to the taxing authorities, and the tax roll is complete for this year. NO NEW money will be generated, as the total amount of property tax funds are CAPPED, either by the statutory revenue limit, or TABOR.

This is just an exercise of "hide the peanut" seen at the carnival or the circus. This is simply the redistribution of existing property tax collections, on our new exclusive people class of "quasi - Ag."

I have 2 school districts within Park County. Platte Canyon, (Bailey), the smallest in value and geographic land area, receives 60% of their funding from the State Education Fund. They have the largest population of both residents and students. They operate 2 campus locations. Their total assessed value is lower.

Our other district, South Park, (Fairplay), takes up the remainder of our county. This district is 100% locally funded from the local property tax. It receives NO direct state aid. It operates a 3 campus system, with 2 charter schools each for K – 6 respectively, in the communities of Guffey and Lake George. Their total enrollment is less than Platte Canyon. Their total assessed value is the higher of the two.

A couple of years ago, this entity had to pay back the State for previous funds "mistakenly" provided. Because it has a high assessed value to pupil count, then on paper, it is "rich". Again, by State standards.

The REAL reason for our existence, and to maintain a level property tax roll, via these audits, is the distribution of the \$4.7 Billion in K – 12 School Aid! The rest of our work products are side benefits.

3. Constitutional validity is questionable. In wearing my many hats, I also have contacts with several different communities and organizations. I have asked a very experienced attorney on 16th street in Denver to look at the bill for me.

His research and review of HB – 1146 indicates that there are paths available for a Constitutional challenge. He had a hard time trying to understand the bill. He agrees with my conclusion that we have created a “special class of individuals” in law.

Ultimately, a legal challenge will be the necessary path to determine via the Courts whether this law is valid, or not. My personal opinion is the law doesn't meet valid Constitutional grounds. What about the right of free assembly?

He also pointed out complications for the Conservation Community. Their business models didn't contain any provision for a “new” property tax assessment. Increases in total property tax amounts, especially significant value changes, were not anticipated. This may cause a hardship on the owners in following the terms of the easement. I would expect this group to also take a much closer look at the provisions of this bill in the future.

4. The Auditor has no evidence, other than an anonymous “third party” telephone call. This contact to Mr. Fuller by the “invisible man or is it a woman” is his only basis for his recommendation, as I understand the situation. I requested via email (enclosed) what his evidence was, prior to our meeting on September 19th, so I could at least know who my accuser is / was.

Since this issue has become very political in Park County, I believe I am entitled to know the “mysterious messenger”. Mr. Fuller flat lied to me on September 12th, when I asked the same question. He stated that “they were just surfing the web”, and came across my web site. They just happened to find my web site by accident?

His comments to the BOCC on September 19th, when asked by Commissioner Tighe at the start of the meeting, “did Mr. Fuller get a telephone call?” Mr. Fuller’s reply was that “it didn’t matter how it happened”. Later, towards the end of our discussions, Commissioner Tighe again asked how Mr. Fuller became aware of my policy statement.

His answer was it came from an “anonymous third party”. I asked him again last week who it was. He still refuses to reveal the person. I believe I am entitled to his answer of a basic question. Who is it? Is it one of my fellow elected officials, a county staff person under direction from their supervisors, the county attorney, or a former employee? It certainly didn’t occur in a vacuum, and it is a reasonable request for that disclosure.

If Mr. Fuller won’t willingly provide the information, then I respectfully request that the Chairman place Mr. Fuller under the Oath, and ask for the name within the requirement to tell the truth.

5. I was offered absolutely no opportunity to tell “the rest of the story”, to either Mr. Fuller, or to the BOCC. No one asked me if I did anything after the publishing of my policy statement. I stand by my comments and my objection to the mandates of the bill.

I did implement the bill, within my interpretation of the law, and my Constitutional authority. I created a Findings of Facts and Supporting Documentation (FOF), on June 27th, 2012.

I appreciate this opportunity to offer my defense of my actions, and to prove that Park County has no reason to be burdened with an Order of Reappraisal. I will explain further in person on the 25th.

6. The minimum lot size per the Land Use Regulations in Park County is 5 acres, and it could be larger depending upon the slope of the ground. This is also creating a fictitious parcel under the Residential improvements, which has neither transferability nor utility on its own. It still requires the “surplus land” to support the Agricultural operation /

lease. My guidelines are the limited criteria provided in the law. I made a determination applicable to Park County. It should be final.

7. I am operating on 1.5 FTE's (Full Time Equivalent Employees) less than appropriated 3 years ago. I have continuously requested to gain back at least 1 staff position. The work never ends, and the only way our staff of 10 employees, who administrate over 42,000 accounts, covering 2,200 square miles, of which 60% is owned by a unit of government is to work more than 40 hours per week.

I need more staff, not less just for our current activities! I spent almost \$40,000 in overtime during 2011, a reappraisal year! We currently operate on \$16 per parcel per year, to appraise, administrate, and manage. I know I'm not alone in my frustration with local BOCC members who are unconscious. You just can't communicate with unconscious people.

8. Creating problems for individuals who have conventional financing with a large tract. Banks and lending institutions have discovered our county assessor web sites. They rely on our data and values for many different uses, including a yearly review of the listed characteristics of the subject property(s).

We already have complaints from lenders who look at our data, and dispute what we provide on the tax roll. Our purposes are outside the scope of their duties, as we don't represent current market value. However, if they see a "new" 2 acre or other size classification for Residential land, when it has always showed all land as Agricultural, those folks are likely to get hassled by their lender. I've experienced these conversations from my taxpayers on the telephone first hand.

Are they going to send some desk bound bureaucrat down to Park County to tell me where I'm wrong? OH, they did that already!

9. This is Colorado's attempt at "social justice" like our President supports. It is nothing less than the application in law of "beggars thy

neighbor” for the mere fact that some people have more visible tangible assets than others.

I thought we celebrated the American dream, not take punitive action against those who have the ability to utilize their sweat equity for their enjoyment and investment. What happened to “life, liberty, and the pursuit of property (now liberty)” mantra?

This bill is an extension of class warfare. Why else would the Auditor have to shoot first and aim later, in his recommended order to “cover his fanny may”?

10. Last but not least of my Top Ten Objections to HB – 1146. The Agricultural community completely “rolled” (screwed) the people they lease from. This is directed at a specific sliver of the tax roll, and those people had no voice in the legislative process. Bi-partisan approval I’m told, with both urban and rural legislators agreeing this is the way to proceed. Really? Let’s take this out a few years, in a logical extension of these parameters. My example;

Let’s say I was leasing my lot, (the whole lot, like the lease states) to a rancher for the past 10 years. He has gained my forage and water, and I have gained a lower property tax bill. A typical example of a fair exchange of actual Ag use with tangible benefits for both parties. Now, with the imposition of HB – 1146, I have a house on this same tract, and my taxes were raised as high as possible by the Assessor.

Do you really think that the lessor won’t recapture his increase in the total tax bill? Do you expect our new special class of “quasi – Ag people” to not increase their lease fees in kind? What happens to the bona fide rancher who loses his leased pastures? These picked on people will find a way to mitigate the impact to their bottom line. They will work together to start their own grazing operations, and go back to the way they were before all of this brain damage! Did the “mainstream Ag” folks take that situation into consideration? This is purely cutting off their nose to spite their face!

CONCLUSIONS

I have offered my defense. I have listed my main concerns, both personally and professionally. Let's cut to the chase, and get to the meat and potatoes of the recommendation.

What is the magic number of our new "special people" I need to sacrifice at the Altar of the Revenuers, to make sure they pay more property taxes (the higher the better, wink wink)? What is the "correct" number of "quasi – Ag" for Park County? Is it 1 or 5 or 1,000? What is the "magic" number to get the State off of my back?

I asked that question of Mr. Fuller on September 19th. He told me he didn't have that number. Really? If there is no better number than my number, then my number should be correct for Park County.

My preferred number is "0", as to the "expected" provisions of HB – 1146. I didn't follow the "typical" application of the law, as other counties chose to do.

For the record, I did apply the bill as the guidelines require. Per the Division of Property Taxation (DPT) recommendations our staff created a list of potential "special people". We did send the invasive questionnaire to those owners. I did review each and every returned document. I chose not to move forward on May 1, 2012, to apply the requirements of increasing property values. No classification changes or value increases were included in Notices of Valuation on the tax roll.

I did interpret the statute with a Findings of Facts and Supporting Documentation effective June 27, 2012. I have applied the provisions of the "Wissel Doctrine" within my Constitutional duties and responsibilities.

I know my county very well, and I have based my conclusions on documents, facts, my intuition and direct knowledge, and Colorado water law. I am confident my FOF is germane to both the South Platte and Arkansas River basins, respectively.

I had determined this course of action and interpretation during the months leading up to June 2012. I have contemplated the “up side and the down side” of my options. I placed a great deal of thought and self reflection prior to arriving at my conclusions.

I have taken this course of action because I believe it is the best policy decision for the citizens and property owners of Park County. I am ultimately responsible for all activities which occur in this Office.

I accept total responsibility for my decisions, and am standing on the principles of individual freedom and the application of logic and common sense.

I believe strongly in the tenants contained in the “Code of the West”. I placed that document at the front of this presentation on purpose. The “unwritten” 11th tenant is to “leave the gate the way you found it.”

I must stand on my principles and be true to my beliefs. I am not obtaining any personal advantage or tangible benefit in arriving at this course of action. I believe in standing tall and shooting straight!

In closing, I believe in my heart that this bill is a blatant example of “don’t tax you, don’t tax me, tax that other fellow behind the tree”.

It is dishonest, it is an invasion of privacy, and it is a SIGNIFICANT shift if public policy.

I appreciate your consideration of my positions, and look forward to a very lively and spirited exchange of ideas and resolutions to this unjustified recommendation of an Order of Reappraisal in Park County.

I find no reasonable justification for the SBOE to adopt a finding to order a Reappraisal for Park County in 2012.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David B. Wissel". The signature is fluid and cursive, with the first name "David" and last name "Wissel" clearly legible.

David B. Wissel

Park County Assessor

Certified General Appraiser #CG01315752