

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER CONSERVANCY
DISTRICT MINUTES
June 15, 2023**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, June 15, 2023, 9:33 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors.

President Long asked all present to introduce themselves, then asked Margie Medina for a roll call of those connected via ZOOM.

DIRECTORS PRESENT:

Andy Colosimo	Greg Felt	Patrick Garcia
Alan Hamel	Howard "Bub Miller (remote)	Seth Clayton
Ann Nichols	Kevin Karney	Tom Goodwin
Bill Long	Mark Pifher	
Dallas May	Pat Edelmann (remote)	

DIRECTOR(S) ABSENT AND EXCUSED:

Curtis Mitchell, and Matt Heimerich

President Long established that a Quorum was present.

DISTRICT OFFICIALS:

Executive Director James Broderick; Staff Attorney Peter Levish: Senior Policy and Issues Manager Chris Woodka; Water Resources Principal Engineer Garrett Markus; Principal Engineer's, Kevin Meador and Mark Scott ; Administrator of Administration and Finance Leann Noga; Administrative Support Specialist's Margie Medina and Patty Rivas; Finance Manager Stephanie Shipley; Finance Specialist Lynette Holt (remote @ 9:47); H2O Consultant Roy Vaughan: Kogosovek and Associates Christine Arbogast: and Kleinfelder Gordon Dillon.

VISITORS PRESENT:

Abba Ahmed, Aurora Water; Abby Ortega, Colorado Springs Utilities; Bethany Arnold and Rachel Zancanella, Division of Water Resources; Bill Tyner, Tyner Consulting; Cathy Garcia, Congresswoman Lauren Boebert's Office; Joseph Stadterman, Colorado Parks & Wildlife; Krystal Brown, USGS; Mike Holmberg, USBR; Renee Martinez, Senator Michael Bennett's Office; Tom Waters, Arkansas Headwaters; and Travis White, JHL Constructors

RECORD OF PROCEEDING

VISITORS CONNECTED VIA ZOOM:

Curtis Thompson, AECOM; Jerry Pena, Kennedy Jenks; Lisa Wade, Wilson Water Group (@ 9:36); Rachel Duran, Kansas Department of Agriculture (@ 9:35); and Rick Kienitz, Aurora Water (@9:43)

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting.

APPROVAL OF MINUTES:

President Long said the minutes from the May 18, 2023, District Board meeting were posted to OnBoard and the website for review and asked if there were any corrections or additions. Hearing none, Mr. Garcia moved, seconded by Mr. Pifher to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Ms. Nichols reported the financial statements for May 2023, were posted to OnBoard and the website for review. Ms. Nichols moved, seconded by Mr. Clayton for acceptance of the May 2023 financial statements and payment of the June 2023 bills. Motion unanimously carried.

ACTION ITEMS:

EXECUTIVE COMMITTEE APPOINTMENT

President Long requested approval from the Board, the recommendations for Members of the Executive Committee. President Long asked if there were any questions. Hearing none, Mr. Hamel moved, seconded by Mr. May to approve President Longs recommendations for the Executive Committee:

- Bill Long, President
- Curtis Mitchell, Vice President
- Seth Clayton, Secretary
- Ann Nichols, Treasurer
- Alan Hamel
- Kevin Karney
- Tom Goodwin
- Andy Colosimo
- Jim Broderick, Executive Director (nonvoting member ex officio)

Motion unanimously carried.

INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS

Mr. Markus presented to the Board an action item that recommends the Board approve the inclusion of the Villages at Waterview North annexations in the City of Colorado Springs into the Southeastern Colorado Water Conservancy District (District) with the standard terms and conditions. Once approved by the Board of Directors, staff will send the annexation to the Bureau of Reclamation (Reclamation) for assent. The District will submit the inclusion to the

RECORD OF PROCEEDING

District Court for final decree.

There are three methods of including lands into the District:

1. Annexation by a town or city located in the District.
2. Petition of the property owners.
3. Vote of the property owners.

All three of these methods require assent from the Secretary of Interior, for which Reclamation requires a National Environmental Policy Act (NEPA) review of the lands to be included in the District boundaries. Once the Board approves the inclusion by Resolution, then Secretarial Assent by Reclamation is requested. The inclusion is submitted to the District Court for a decree including the lands within the District.

The Application of Assent has been submitted to the District and will be forwarded to Reclamation for the property. The Board was provided with a copy of the Resolution.

RESOLUTION NO.	More Commonly Known As	Legal	Acres	County
2023-03D INCL-AX	Villages at Waterview North	Section 8 & 9 T15SR65	144.821	El Paso

Mr. Garcia moved, seconded by Mr. Hamel that the Board approve, by Resolution, the inclusion of the Villages at Waterview North annexation annexed by Colorado Springs subject to the following terms and conditions:

1. Approval of these inclusions into the Southeastern Colorado Water Conservancy District will not increase the amount of Fryingpan-Arkansas Project water available to the city. Any Fryingpan-Arkansas Project water used on these included lands will need to come from the water allocated to the city through Fryingpan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingpan-Arkansas Project water on the included lands is subject to the decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, principles, policies, and contractual obligations of the District; and
3. The annexed lands will be subject to ad valorem taxes levied by the District as any other similarly situated lands in the District at the time of this inclusion; and
4. Prior to the District filing a petition for District Court approval of this inclusion, the Municipality, and/or owner(s) of the annexed lands shall have paid all the costs charged by the United States in connection with the contracting officer's assent to this inclusion.

Motion unanimously carried.

RECORD OF PROCEEDING

APPROVAL OF STIPULATION IN THE APPLICATION OF CITY OF LAMAR, CASE NO. 21CW3085, WATER DIVISION 2

Mr. Levish presented an action item to the Board recommending that the Board authorize Special Water Counsel to execute a stipulation with the City of Lamar (“Lamar”) in Case No. 21CW3085, Lamar’s application to change its shares in the Lamar Canal and Irrigation Co. (“Lamar Canal”), augmentation plan, and appropriative rights of exchange, consenting to entry of a decree that is no less restrictive on Lamar and no less protective of the District’s water rights than the proposed decree dated April 18, 2023.

In Case No. 21CW3085, Lamar seeks to change 300 Lamar Canal shares for municipal use, including recharge and direct irrigation. Lamar also seeks to change these shares for augmentation and replacement purposes, including replacement of stream depletions caused by its pre-1986 wells under the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin (the “Use Rules”). Additionally, Lamar seeks to add its Lamar Canal shares to its augmentation plan decreed in Case No. 05CW107-A, as a source for replacement of depletions caused by its post-1985 wells that are not eligible for replacement plans under the Use Rules. Lamar also applied for approval of a new augmentation plan for structures that are not augmented under other decreed plans. Finally, Lamar seeks to exchange the changed Lamar Canal shares to the headgate of Fort Bent Canal and to John Martin Reservoir, but Lamar does not seek to exchange any water above John Martin Reservoir.

Wilson Water Group (WWG) has also reviewed the terms of Lamar’s proposed decree and preliminary engineering report and has confirmed that Lamar’s quantification of historical consumptive use and return flow obligations for its change of water rights will not adversely affect the District’s interests. WWG requested to review Lamar’s accounting forms (which, as noted above, will be integrated into Lamar’s existing accounting under Case No. 05CW107-A); however, the accounting forms have not been finalized as of the date of this Action Item. Lamar’s proposed stipulation includes appropriate language recognizing and confirming that the District reserves the right to review and comment on the accounting forms once those forms are finalized and circulated to the Opposers for review.

The Board was provided with a copy of the Proposed Decree as well as the Proposed Stipulation.

Mr. Goodwin moved, seconded by Mr. Clayton to authorize Special Water Counsel to enter a stipulation with the City of Lamar, consenting to entry of a decree in Case No. 21CW3085 that is no less restrictive on Lamar and no less protective of the District’s water rights than the proposed decree dated April 18, 2023.

Motion unanimously carried.

RECORD OF PROCEEDING

MONTHLY/QUARTERLY REPORTS:

U.S BUREAU OF RECLAMATION REPORT

Mr. Mike Holmberg provided a written report reviewing the following:

- Current Imports
 1. As of 6/13 – 38,830 AF (70% of forecast)
 2. Prediction is we will meet or exceed the May 1st forecast
- Dam Operations
 1. Normal dam operations are to release the native plus stored account water per request
 2. Other releases:
 - a. Hatchery
 - b. Account Water
 - c. Project Water
- Low Flow Operations
 1. Pass the native + account and/or Project Water
 2. If native gets too low, the Pueblo Low Flow Agreement comes in to effect
- High Flow Operations
 1. Utilize the powerplant/cone valve AND the spillway gates
- More on flood Ops
 1. Avondale gage predicted to go above 6,000 cfs
 - a. Below top of conversion
 2. Avondale is already above 6,000 cfs
 - a. Release minimum of 50 cfs
 - b. Store all water until reservoir elevation hits top of surcharge (4,919 ft)
- Other events that change operations
 1. Ice Dams
 2. Wildfire
 3. Earthquake
 4. Hazmat/Oil Spill
 5. Security Law Enforcement
 6. Equipment or Instrumentation Failure/Modification

Questions were asked of Mr. Holmberg

The rest of the informational statistics were included in his PowerPoint. The Board was provided with a copy.

COLORADO DIVISION OF WATER RESOURCES

Mrs. Rachel Zancanella presented “Arkansas River Compact Update:

- Brief History of the Compact
 1. Statehood 1876
 2. Fully Appropriated by 1880’s
 3. Early Litigation (1900-1940’s)

RECORD OF PROCEEDING

- a. Kansas Ditches v. Colorado Ditches
- b. Kansas v. Colorado 1907
- c. Colorado v. Kansas 1943
4. 1948 Compact Commission, Signed 1949
5. John Martin Reservoir Construction Completed – Oct 1948
- Compact Takeaways
 1. Article III – What water is subject to the Compact?

“ARTICLE III

“As used in this Compact:

“A. The word ‘Stateline’ means the geographical boundary line between Colorado and Kansas.

“B. The term ‘waters of the Arkansas River’ means the waters originating in the natural drainage basin of the Arkansas River, including its tributaries, upstream from the Stateline, and excluding waters brought into the Arkansas River Basin from other river basins.

2. Major Provisions.
 - a. Equitably divides the River between two states
 - b. Settles existing disputes and removes causes of future controversy.
 - c. Divides the benefits of John Martin Reservoir (Article V)
 - d. Preserves the status quo of existing uses prior to Joh Martin Reservoir and confirms the right to future developments (Article IV-D)
 - e. (Title 37, Article 69 C.R.S)
3. Article IV.D:
 - a. This compact is not intended to prevent development of the Arkansas river in Colorado, which may involve improved or prolonged functioning of existing works: Provided, the waters of the river shall not be depleted in useable quantity or availability to the water in Colorado and Kansas...
- 1985 Kansas v. Colorado
 1. Litigation – 1985-2006
- Hi-Model
 1. Two Runs, both theoretical
 2. Considers Hydraulic Conditions
 3. Rule 14 Plans
 4. Rule 10 Plans
- 2023 Update
 1. During the initial 10-year phase, a credit was built up, 60,000 acre-feet. LAWMA and the State
 2. LAWMA has always replaced their diversion on an annual basis, like the other plans
- Bottom Line
 1. Three years in a row with a “short fall”
 2. Downward trend
 3. Known credits falling off in 2027 and 2028
- Compliance Measurement test:
 1. Two issues to resolve:

RECORD OF PROCEEDING

- a. Fix the current credit shortfall
- b. Basin wide long term sustainability actions needed
- Options
 - 1. Short Term
 - a. LAWMA- Ongoing restrictions compensatory to depletion
 - b. DWR- Adjust Rule 14 PDF's, Rule 10 Values
 - 2. Other Considerations:
 - a. Kansas requests for study on flows
 - b. Happy place closer to 15,000 acre-foot running credit to be sustainable
 - c. AGRA Stateline Obligations
 - d. Undeclared uses contributing? What about reducing flows to in-state seniors
- Next Steps
 - 1. Ideas to guarantee Colorado stays in compact Compliance
 - 2. Ideas on how to address long term reductions to flows

Questions were asked of Ms. Zancanella

U.S GEOLOGICAL SURVEY

Ms. Brown presented to the Board a presentation covering How Streamflow is Monitored

- Gage Height or Stage
 - 1. Measure the height of the water surface above an established altitude
- Non-Submersible Pressure Transducers
- Non-Contact Radar Sensors
- Discharge = Velocity x Area, graphs were provided of Depth, Distance, Velocity at:
 - 1. Arkansas River at Moffatt Street at Pueblo, Co
 - 2. Fountain Creek at Pueblo, CO
- USGS Colorado Real-Time Precipitation Network at:
 - 1. Fountain Creek near Pinon, Co, May 8, and June 12
 - 2. Jimmy Camp Creek at Fountain, Co, July 7, 2022, and June 12, 2023
 - 3. Sand Creek above Mouth at Colorado Springs, August 6, 2018, May 11, 2023, and June 12,2023
 - 4. Fountain Creek near Fountain, Co, May 8, 2023, May 11, 2023, and June 12, 2023
 - 5. Arkansas River nr Avondale, Nov. 11, 2022, June 13, 2023

Questions were asked of Mrs. Brown.

COLORADO PARKS AND WILDLIFE

Mr. Joe Stadterman discussed with the Board three topics:

- His role at the Colorado Parks and Wildlife is Public Safety
 - 1. Currently the focus is on the Low Flow Agreement, educating themselves so they can push out the information to water users

RECORD OF PROCEEDING

- A joint Government effort with City of Pueblo, Pueblo County Sheriffs Office of Emergency Services, and Colorado Parks and Wildlife, will be issuing an advisory anytime the Pueblo Dam puts out flows of 3000 or above to keep recreators safe.
- Marine Evidence Recovery Team
 1. Colorado Parks and Wildlife owns one of three robotic systems used for drowning victim recovery and retrieving underwater evidence
 2. This tool has now been offered up to the District for use. It can inspect underwater infrastructure if sending a diver might prove too dangerous, or too expensive.
 3. Mr. Stadterman shared two videos with the Board, 1. Showing what the robot sees underwater and 2. Showing the Sonar captured

Mr. Markus thanked Mr. Stadterman and his team for his willingness to share this information with the Board.

ARKANSAS HEADWATERS

Mr. Tom Water presented to the Board discussing *Voluntary Flow Management, (VFMP)* discussing the following:

- VFMP Fishery Report
 1. VFMP Success of spring flows management for fishery
 2. BOR Participation/awareness of the significance it has
 3. Economic gain
- VFMP Recreational Outlook
 1. Positives of recreation for the four counties
 2. Economic gain
 3. Fry-Ark Project calling out recreation as a goal as well
 4. Partnerships (signatories/PBWW)
- Summary
 1. Projected increase in visitation (slower spring with current weather)
 2. Projects including campgrounds/boat ramps/low-head dams
 3. Scout wave, new wave structure in Salida at the Play Park

Questions were asked of Mr. Waters

COLORADO WATER CONSERVATION BOARD UPDATE

Mr. Greg Felt updated the Board on happenings at CWCB.

- May CWCB Board Meeting
 1. Election of New Officers:
 - a. Greg Felt – Chair
 - b. Paul Bruchez – Vice Chair
- Drought Summit Report
- IBCC Report
- Passage of the Projects Bill with \$20M for AVC
- CWCB Annual Operating Plan

RECORD OF PROCEEDING

- Becky Mitchell Leaving CWCB and becoming full-time Upper Colorado River Commission (UCRC) Commissioner
- Upcoming search for a new CWCB Director
- Becky Mitchell message of gratitude to SECWCD for support on UCRC and assistance of Lee Miller
- Appreciation to Lee Miller for serving on Drought Task Force

President Long thanked Mr. Felt for his update.

INFORMATIONAL ITEMS:

The Board was provided written material on the following topics, which were posted to OnBoard and the Board website:

- Colorado River Issues Update
- Water Court Resume
- NWRA Western Water Seminar August 2-4, Medora, ND
- Colorado Water Congress Summer Conference August 22-24, Steamboat

President Long asked if there were any other matters to come before the District Board. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 11:40 a.m.

RECORD OF PROCEEDING

Respectfully submitted,

Patty Rivas
Administrative Support Specialist

Seth Clayton – Secretary

Bill Long – President

Howard “Bub” Miller

Curtis Mitchell – Vice President

Kevin Karney

Ann Nichols – Treasurer

Mark Pifher

Alan Hamel

Matt Heimerich

Andy Colosimo

Pat Edelmann

Dallas May

Patrick Garcia

Greg Felt

Tom Goodwin