

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

May 17 2018

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, May 17, 2018 at 9:38 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Curtis Mitchell
Gibson Hazard	Kevin Karney	Carl McClure
Tom Goodwin	Dallas May	Greg Felt
Mark Pifher	Alan Hamel	Seth Clayton
Andy Colosimo	Patrick Garcia	

DIRECTOR(S) ABSENT AND EXCUSED:

Howard "Bub" Miller

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Water Resources Engineer Garrett Markus; Issues Management Program Coordinator Chris Woodka; Finance Manager Leann Noga; and Federal Lobbyist Christine Arbogast.

VISITORS PRESENT:

Roy Vaughan, Bureau of Reclamation-Pueblo Office; Abby Ortega, Colorado Springs-Utilities; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Cathy Garcia, U.S. Senator Cory Gardner's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Jerry Peña, GEI Consultants; Tom Simpson, Aurora Water; Bill Banks, U.S. Geological Survey; Curt Thompson, AECOM; Kestnel Felt; Ken Cooper, retired; Bob Hamilton, retired; Mark Scott, GHD; and Steve Witte, Division Engineers Office.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

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ACTION ITEMS:

SWEARING IN OF APPOINTED BOARD MEMBERS

Lee Miller said he had received a Court Order appointing Thomas Goodwin to a four-year term on the District Board. Lee Miller asked that Mr. Goodwin stand and repeat the oath. After reading the oath, Mr. Goodwin was asked to sign the oath, for filing with the court.

President Long congratulated Mr. Goodwin on his reappointment to the Board.

APPROVAL OF MINUTES:

President Long said the minutes of the April 19, 2018 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Hazard moved, seconded by Mr. Felt, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for April were posted to the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the April financial statements and payment of the May 2018 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

BOARD MEMBER CONFLICT OF INTEREST

Lee Miller said a conflict of interest exists when someone with a fiduciary responsibility is in a situation where their own self-interest and the interests of the organization might be in conflict. A common example of a conflict of interest comes up when a board member also runs a business that sells something the organization might need and has a chance to influence the purchasing decision.

The Board was provided materials that may help Board members in assessing when a conflict of interest exists and how to address the situation.

PHONE AND INTERNET SERVICE UPGRADE

Leann Noga presented a PowerPoint titled, *SECWCD Phone and Internet Upgrade*, reviewing the following:

- Summary of Service
 - Internet
 - SECOM Phone Service
 - SECOM Fiber Optic Line
 - SECOM Phone Equipment
- Project Schedule
- Showed Pictures of the Boring and Fiber Optic Installation

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Mrs. Noga said that due to the age of the District building and property, upgrades have begun. The interior of the building was painted. There will be some upgrades to the Board room lighting and the parking lot replacement will begin in September.

ACTION ITEMS-CONTINUED

ELECTION OF OFFICERS

Mr. Karney moved, seconded by Mr. Hamel, to nominate the following slate of officers:

- Bill Long – President
- Curtis Mitchell - Vice-President
- Gibson Hazard – Secretary
- Ann Nichols - Treasurer
- James Broderick to serve as Assistant Secretary-Treasurer

Motion unanimously carried.

APPROVAL OF STIPULATIONS IN SOUTHEASTERN’S DIVISION 2 DILIGENCE AND CHANGE CASES (CASE NOS. 16CW3076 AND 16CW3079)

Lee Miller reported the Board directed Special Water Counsel to file the Applications in these cases on October 20, 2016, through Resolution No. 2016-02D. The Board has authorized stipulations with six of the eleven opposers in Case No. 16CW3076: Pueblo Board of Water Works (Pueblo Water), District 67 Irrigation Canals Association (District 67), and The Amity Mutual Irrigation Company (Amity) on July 20, 2017, with Tri-State Generation and Transmission Association, Inc. (Tri-State) and Penrose Water District (Penrose) on January 18, 2018, and with the City of Aurora (Aurora) on April 19, 2018. The Board has authorized stipulations with four of the seven opposers in Case No. 16CW3079: Pueblo Water, District 67, Amity, and Tri-State, on the same dates as in Case No. 16CW3076.

The District’s remaining conditional Fryingpan-Arkansas Project (Project) Water rights in Water Division 2, on the East Slope, include some of the storage rights for Pueblo Reservoir, Twin Lakes Reservoir, and Turquoise Reservoir, and six rights related to the Project’s unbuilt Arkansas Power Canal System (APCS): Malta Canal, Otero Conduit, Otero-Wapaco A, Otero-Wapaco B, Wapaco Diversion, and Chalk Creek Diversion (collectively, “APCS Rights”).

With the Board’s authorization through Resolution No. 2016-02D, Special Water Counsel filed a Diligence Application on November 29, 2016 (Case No. 16CW3079), and filed a Change Application on November 23, 2016 (Case No. 16CW3076) to change the District’s APCS Rights to allow diversion and storage of those water rights at Pueblo Reservoir, to allow diversion and storage of the Otero-Wapaco a right in Clear Creek Reservoir, and to correct three legal descriptions. The District’s First Amendment to the Application in Case No. 16CW3076, which revised corrections to legal descriptions following the Division Engineer’s review, was accepted by the Court for filing on May 4, 2017.

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A. Case No. 16CW3076 - Change

The District's objectives in Case No. 16CW3076 are to (1) change the point of diversion for the District's APCS Rights to Pueblo Reservoir, and for the Otero-Wapaco Subsection A right, to Pueblo Reservoir and Clear Creek Reservoir; (2) obtain a decree that allows storage of the APCS Rights in Pueblo Reservoir (including future enlargement space), and for the Otero-Wapaco Subsection A right, in Pueblo Reservoir and Clear Creek Reservoir; and (3) correct the errors in some previously decreed legal descriptions.

There are eleven opposers in Case No. 16CW3076. Six have stipulated: Pueblo Water, District 67, Amity, Penrose, Tri-State, and Aurora. The most recent prior proposed decree is dated March 22, 2018, which was filed with the Aurora stipulation.

Colorado Water Conservation Board (CWCB) will stipulate to the revised proposed decree dated May 4, 2018. To resolve CWCB's concerns, this proposed decree includes more explanations and descriptions of the Project, including Project decrees and how the Project operates, in paragraphs 7 and 8. The revisions to the proposed decree also clarify that the District's West Slope Project water rights are not changed in this case, in paragraphs 8.4, 9, and 12.3.5, because the purpose of this case is to change the District's East Slope Project Water Rights associated with the APCS Rights. The May 4, 2018 proposed decree satisfies the District's objectives, consistent with the previously approved stipulations. The Board was provided the document of the proposed decree showing the changes from the March 22, 2018 proposed decree.

If the Board approves the stipulation with CWCB, four opposing parties will remain in Case No. 16CW3076: Colorado Springs Utilities (CS-U), Public Service Company (PSCo), Lower Arkansas Water Management Association (LAWMA), and Pueblo West Metropolitan District (Pueblo West).

B. Case No. 16CW3079 - Diligence

The District's objectives in Case No. 16CW3079 are to (1) obtain a decree finding reasonable diligence on the District's remaining conditional Division 2 water rights, and (2) not materially limit the District's conditional rights.

There are seven opposers in Case No. 16CW3079. Four have stipulated: Pueblo Water, District 67, Amity, and Tri-State. The most recent prior proposed decree is dated December 28, 2017, which was filed with the Tri-State stipulation.

CWCB will stipulate to the revised proposed decree dated May 4, 2018. This proposed decree includes the same or similar additional explanations and descriptions of the Project, in paragraphs 7, 8, and 11, as the proposed decree in Case No. 16CW3076. In paragraph 8's and 9's subparagraphs, which list the District's East Slope Project Water rights, Special Water Counsel included more detailed information about when the District made parts of those rights absolute in previous cases. The Board was provided a copy of the proposed decree showing the changes from the December 28, 2017 proposed decree.

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If the Board approves the stipulation with CWCB, two opposing parties will remain: LAWMA and Pueblo West.

Case Nos. 16CW3076 and 16CW3079 have been re-referred to the Water Judge. Counsel expects that the Water Judge will set trial dates in a status conference on May 18, 2018. The District's expert disclosures and report will be due approximately nine months prior to trial.

Mr. Hamel moved, seconded by Mr. Goodwin, to authorize Special Water Counsel to execute stipulations with the Colorado Water Conservation Board in the District's Change Case No. 16CW3076 and Diligence Case No. 16CW3079, consenting to entry of decrees in both cases that are no less restrictive on the District than the proposed decrees dated May 4, 2018. Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of May 14, 2018 there were 234,153 acre-feet stored in Pueblo Reservoir; 141,548 acre-feet of Project water; 41,893 acre-feet of Excess Capacity water; 50,712 acre-feet of Winter water
- There is currently 103,825 acre-feet of Project space in Pueblo Reservoir and 47,598 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Charts illustrating storage amounts in Turquoise, Pueblo, and Twin Lakes
- Total M&I Project Water in the System
- Project Reservoirs: Turquoise 115%; Twin Lakes 106%; Pueblo 125%
- Boustead Imports – 9,200 a.f.
- Arkansas River Basin Time Series Snowpack Summary May 15, 2018
- Upper Colorado River Basin Time Series Snowpack Summary May 15, 2018
- U.S. Drought Monitor COLORADO
- U.S. Drought Monitor WEST
- Upper Colorado River Basin Snow Water Equivalent (SWE) Summary Current as of May 16, 2018
- Arkansas River Basin Snow Water Equivalent (SWE) Summary Current as of May 16, 2018
- April 1 Forecast-58,200 acre-feet

Mr. Vaughan reported the collection system is operational. Mt. Elbert Conduit is currently running 380 cfs. At present Reclamation is moving 250 cfs. of Project water from Twin to Pueblo. Movement of water will be adjusted according to the forecast and customer needs.

DIVISION ENGINEER'S REPORT

Mr. Witte discussed the following:

A) River and Reservoir Report

- 1) Reference Arkansas River Daily Report. River Call is:
 - i) 3/1/1887 Fort Lyon 2nd

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- ii) 2/21/1887 Amity (Only Amity can call through John Martin at present)
- iii) 11/4/1887 Lamar (Internal to WD 67 only)
- iv) 5/31/1949 Compact Call (State line to John Martin)
<http://www.dwr.state.co.us/div2/aras/arascal.asp>

2) Current River/Reservoir Operations

- i) Pueblo Reservoir
 - (1) Content is 233,982 a.f.
- ii) John Martin
 - (1) Current content is 276,717 a.f.
- iii) Trinidad Reservoir
 - (1) Current content is 33,709 a.f.

B) Compact Issues

- 1) Meetings of the Special Engineering Committee
 - i) Denver, CO on May 14, 2018 meeting was cancelled
 - (1) Circulated a draft proposal to allocate water for post-Compact uses between the states based on proposed usability criteria for circumstances when John Martin is not spilling and when it is spilling

C) Administrative Activities

- 1) A motion for contempt has been filed due to the failure of Two Rivers Water and Farming Company concerning the consent decree to breach Cucharas Reservoir #5 dam.
- 2) If funding can be secured to effect the breach, the State Engineer may seek to take control of the dam pursuant to statutory authority.

D) Personnel Matters

- 1) Mr. Witte's final day at work prior to retirement is planned to be June 22, 2018.
- 2) Assist Division Engineer Rachel Zancanella will be returning to work on June 18, 2018 following maternity leave. Mother and daughter (Zinnia) are doing well.

Mr. Witte reviewed the total streamflow at Arkansas at Pueblo, Fountain at Pueblo, and Arkansas at Las Animas, along with a chart showing Arkansas River Basin High/Low Snowpack Summary for May 13, 2018.

U.S. GEOLOGICAL SURVEY

Bill Banks presented a PowerPoint titled, *USGS Update-Evaluation of Selected Water-Quality Issues*, reviewing the following:

- Summary of Special Projects (Calendar Year 2018)
- Long-Term QW Monitoring
 - Salinity, Nutrients, Selenium/Uranium, Suspended Sediment, Special Project, and Streamflow for Voluntary Program

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STATE LEGISLATION UPDATE

Lee Miller reported the General Assembly adjourned *sine die* on May 9, 2018. With the legislative session just completed, Lee Miller will report on the results of final legislative and gubernatorial action in the near future.

Plans are currently being made for the 2018 Water Resources Review Committee (WRRC). The following are the 2018 WRRC members:

Senators	Representatives
Jerry Sonnenberg	Jeni James Arndt (Chair)
Don Coram	Daneya Esgar
Matt Jones	Lori Saine
Kerry Donovan	Yeulin Willett

Lee Miller reported that the WRRC will meet on June 11-12, and 19-20; August 6-7 and 23; and September 26. Topics for these meetings have not been announced.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Special Water Counsel Legal Report
- Colorado Water Congress Summer Conference
- NWRA Western Water Seminar

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 10:58 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

