

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO  
WATER CONSERVANCY  
DISTRICT  
MINUTES**

**February 17, 2022**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, February 17, 2022 at 9:42 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors. Mr. Long mentioned that the Board Meeting would be taking place in the Executive Conference Room due to audio issues in the Board Room, then Mr. Long asked Margie Medina for a roll call.

President Long established that a Quorum was present.

**DIRECTORS PRESENT:**

Alan Hamel	Curtis Mitchell	Kevin Karney
Andy Colosimo	Dallas May	Pat Edelmann
Ann Nichols(remote)	Greg Felt(remote)	Patrick Garcia(remote)
Bill Long	Howard Miller(remote)	Tom Goodwin

**DIRECTOR(S) ABSENT AND EXCUSED:**

Carl McClure, Mark Pifher, and Seth Clayton

**DISTRICT OFFICIALS PRESENT:**

Executive Director James Broderick; General Counsel Lee Miller and Staff Attorney Peter Levish; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Principal Engineer Kevin Meador (remote); Administrator of Finance and Administration Leann Noga; Accountant Stephanie Shipley (remote); Accounting Specialist Lynette Holt (remote); Administrative Support Specialist's Margie Medina and Patty Rivas; Burns, Figa & Will Special Water Counsel Stephen Leonhardt.

**VISITORS CONNECTED REMOTELY:**

Barbara Crockett, Jacobs; Brandon Bernard, Security Water District; Cathy Garcia, Congress-woman Lauren Boebert's Office; Curtis Thompson, AECOM; Jake Heying, Homerun Electronics; Jim Blasing, Pueblo West Metro District; Kevin Salter, Kansas Department of Agriculture @ 10:40; Kim Swearington Pueblo West Metro District Board; Roy Heald, Security Water and Sanitation; Scott Lorenz, Colorado Springs Utilities @ 10:46; and Terry Dawson USBR.

**VISITORS PRESENT:**

Abby Ortega, Colorado Springs Utilities; Bobby Banham, Pueblo West Metro District; Darin Pytlik and Dillon Cowlin, Providence Infrastructure; Jeffery Deherrera, Pueblo West Metro District; Krystal

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Brown, USGS; Mark Scott, private citizen; and Rick Kienitz, Aurora Water.

**INTRODUCTION OF VISITORS:**

President Long welcomed the visitors to the meeting.

**APPROVAL OF MINUTES:**

President Long said the minutes of the January 20, 2022, District Board meeting were posted to OnBoard and the Board website for review and asked if there were any corrections or additions. Hearing none, Mr. Colosimo moved, seconded by Mr. Goodwin to approve the minutes. Motion unanimously carried.

**TREASURER REPORT:**

Kevin Karney reported the financial statements for January 2022 were posted to OnBoard and the Board website for review. Mr. Karney moved, seconded by Mr. Edelmann for acceptance of the January 2022 financial statements and payment of the February 2022 bills. Motion unanimously carried.

**PRESENTATION ITEMS:**

**ARKANSAS RIVER RIGHT TO WADE LITIGATION**

Mr. Stephen Leonhardt presented a report that stated the Colorado Court of Appeals issued an unpublished opinion in Hill v. Warsewa on January 27, 2022, involving claims of rights to wade in the Arkansas River on private property in Fremont County. Hill claims that the State of Colorado owns the riverbed because the Arkansas River is navigable at this location, and that he has a right to wade because the State holds the riverbed in trust for the public. Burns Figa & Will has represented Colorado Water Congress as an amicus (friend of the court) in this case, due to the public trust doctrine implications, and filed an amicus brief in the appeal (which Colorado Springs and Upper Arkansas Water Conservancy District joined).

The District Court had dismissed both of Hill's claims for lack of standing. The Court of Appeals affirmed the dismissal of the quiet title claim (seeking a determination that the State of Colorado owns the riverbed because the Arkansas River is navigable at this location) but allowed Hill to proceed with a declaratory judgment claim (seeking a declaration that the landowners may not prevent him from wading and fishing in the riverbed).

Mr. Leonhardt provided a PowerPoint on the subject:

- Roots of the Public Trust Doctrine
  1. Traditional Doctrine
  2. Illinois Cent. Railroad Co. vs Illinois
  3. State Law
  4. PPL Montana, LLC v. Montana
  5. Clarification of "Navigability in Fact Test
  6. And that Public Trust Doctrine remains a matter of state law
- California's Public Trust Doctrine and Water Rights

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1. National Audubon Society v. Superior Court
2. and that first application of Public Trust Doctrine to reconsider appropriative water rights
- The Colorado Constitution: Foundation for Water Rights
  1. Article 16, Section 5 and 6
- Colorado's Rejection of the Public Trust Doctrine
  1. People v. Emmert
  2. Arapahoe County Comm'rs v. United States (Union Park Case)
- CWC Policy: Public Trust Doctrine
- Current Litigation on Public Trust in Colorado
  1. Hill v. Warsewa – Stream Access Litigation
  2. Hill v. Warsewa – Stream Access Claims
  3. Hill v. Warsewa – Federal Court Procedural History
  4. Hill v. Warsewa – State District Court Dismissal Order Entered 9/14/20
  5. Hill v. Warsewa – Colorado Court of Appeals decision issued 1/27/22
  6. Hill v. Warsewa – Potential Impacts

Mr. Leonhardt advised that he will be providing the Board with any updates on this litigation.

**ACTION ITEMS:**

**INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS**

Mr. Garrett Markus reported an action item that the Resource and Engineering Planning Committee recommends the Board approve the inclusion of the annexation of the Wyoming Lane Addition No. 1, Park Vista Addition Filing No. 5B and 6 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 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.

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The Resolution for Inclusion is:

RESOLUTION NO.	More Commonly Known As	Legal	Acres	County
2022-01D INCL-AX	Wyoming Lane Addition No. 1	Section 8 wn13SR65	21.17	El Paso
2022-02D INCL-AX	Park Vista Addition Filing No. 5B Annexation	Section 26 T13SR66	0.165	El Paso
2022-03D INCL-AX	Park Vista Addition Filing No. 6	Section 26 T13SR66	0.886	El Paso

Mr. Edelman moved, seconded by Mr. Hamel that the Board approve, by Resolution, the inclusion of the Wyoming Lane Addition No. 1, Park Vista Addition Filing No. 5B and Park Vista Addition Filing No. 6 annexations 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 Fryingspan-Arkansas Project water available to the city. Any Fryingspan-Arkansas Project water used on these included lands will need to come from the water allocated to the city through Fryingspan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingspan-Arkansas Project water on the included lands is subject to the decrees for the Fryingspan-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.

The Board was provided copies of Resolution No. 2022-01D INCL-AX, 2022-02D INCL-AX, AND 2022-03D INCL-AX.

**FEATURE CONDITION ASSESSMENT PHASE 2 PRIORITIZATION AND PLANNING REPORT APPROVAL**

Mr. Garrett Markus, along with Mark Scott reported an action item that Staff request the Board approve the Phase 2 Feature Condition Assessment Prioritization and Planning Scope of work performed by Providence Infrastructure Consultants.

The Phase 2 Feature Condition Assessment Prioritization and Planning Study (FCA Study) is the first step in the condition assessment of the Fryingspan-Arkansas Project (Fry-Ark), District, and Enterprise features to improve the District's Capital Improvement Plan (CIP).

The FCA Study was broke into seven tasks:

- Task 1: Project Management and Administration
- Task 2: Data Collection, Review, and Documentation

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- Task 3: Prioritization Development and Reclamation Coordination
  - Task 4: Develop and Document Inspection and Assessment Plan
  - Task 5: Initial Capital Improvement Plan Development (CIP)
  - Task 6: Condition Assessment Schedule and Cost Development
  - Task 7: Phase 2 Report and Presentation

To begin, PIC requested the Bureau of Reclamation's (Reclamation) facility inspection reports for all the Fry-Ark facilities and compiled any performed work and outstanding work from Reclamation's previous inspections. Bi-weekly meetings were held with PIC, Reclamation, and the District to facilitate data acquisition and understand how Reclamation acquired and maintained information and how it would be useful in updating the District's CIP. PIC also has completed an asset register, a correlating naming convention, and a scoring protocol that will be the framework for future field investigations and inspections of each feature. The compiled information from Task 1-3 will be a deliverable for Task 4. PIC is also working with Reclamation to access Fryingpan-Arkansas facilities in 2022 to refine their protocol for Condition Assessment work and set the stage for work in 2023 through 2026 as field investigations are scheduled for all features.

Mr. Hamel moved, seconded by Mr. Edelman to approve the *Phase 2 Feature Condition Assessment Prioritization & Planning* report completed by Providence Infrastructure Consultants. Motion unanimously carried.

A copy of the Phase 2 Condition Assessment and Prioritization and Planning Report from Providence Infrastructure was provided to the Board.

Mr. Lee Miller introduced Mr. Peter Levish to the District's legal team. Mr. Levish will serve as Staff Attorney and was brought on due to the increased legal activity at the District. All welcomed Mr. Levish.

STATEMENT OF OPPOSITION IN THE APPLICATION OF THE CITY OF LAMAR, CASE NO. 21CW3085 (WATER DIVISION 2)

Mr. Lee Miller presented an action item recommending that the District Board authorize Special Water Counsel to file a Statement of Opposition to City of Lamar's Application for change of water rights and augmentation in Case No. 21CW3085.

In Case No. 21CW3085, Lamar seeks to change 300 shares in the Lamar Canal and Irrigation Company ("Lamar Canal") for its municipal uses including recharge of the Clay Creek alluvium and for direct irrigation uses. Lamar also seeks to change its Lamar Canal shares for augmentation and replacement uses, including augmentation and replacement of stream depletions caused by Lamar's 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"), decreed in Case No. 95CW211, or any future rule or administrative plans. Lamar also seeks to add its Lamar Canal shares as a source of replacement of depletions caused by Lamar's post-1985 wells not eligible for plans under the Use Rules, and other structures within Lamar, to the augmentation plan decreed in Lamar's Case No. 05CW107-A. Lamar also seeks to add new structures not part of Case No. 05CW107-A or any other previous augmentation

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plan, and to utilize Lamar's Lamar Canal Water Rights as well as other decreed replacement sources, including Fryingpan-Arkansas Project water, as augmentation sources.

Among the objectives that the District will have in this case are:

1. Ensure that any use of Project Water and Project Return Flows is in accordance with the District's Policies.
2. Ensure that Lamar's proposed decree includes sufficient terms and conditions to protect the WWSP, consistent with the WWSP Decree in Case No. 84CW179.
3. Engineering review of Lamar's proposed decree and engineering should assure that the quantification of consumptive use and return flows will not adversely affect the District's interests, including a) delivery of Project water and Winter Water; b) Operation of The District's exchanges; c) H-I Model operations affecting the WWSP; and d) River call patterns affecting the District's constituents generally.
4. Ensure that all historic return flows are replaced in a manner that avoids injury to the District's rights and operations.

Mr. Edelman moved, seconded by Mr. Karney to authorize Special Water Counsel to file a Statement of Opposition to the Application of the City of Lamar in Case No. 21CW3085. **Motion unanimously carried.**

STATEMENT OF OPPOSITION IN THE APPLICATION OF THE TOWN OF PONCHA SPRINGS, CASE NO. 21CW3086 (WATER DIVISION 2)

Mr. Lee Miller presented an action item stating General Counsel and Staff recommend that the District Board authorize the filing of a statement of opposition by Special Water Counsel in the Application of Town of Poncha Springs, Case No. 21CW3086

The Town of Poncha Springs ("Town") owns the entirety of the Poncha Springs Acequia water right. All historically irrigated lands under the Poncha Springs Acequia have either been annexed or will be annexed in the Town's limits in the near future. The Town seeks to change the historical consumptive use of a portion of the Poncha Springs Acequia water right from irrigation use to municipal and augmentation uses for the Town's existing and future service areas and to supplement the Town's existing augmentation plans and exchanges decreed in Case Nos. 82CW104, 99CW183, & 07CW111, Water Division 2, for the replacement of the Town's depletions to the South Arkansas River. The Town requests that the Poncha Springs Acequia water right be changed from its decreed and historical place of use to be used as consumptive credit to the South Arkansas River and Arkansas River as augmentation and for bypass water, including placement into and releases from storage at O'Haver Reservoir, North Fork Reservoir, Boss Lake, and storage on the Friend Ranch and in Pueblo Reservoir.

The Town currently has a decreed plan for augmentation and exchange in Case No. 82CW104, District Court, Water Division 2, as supplemented by Case Nos. 99CW183 & 07CW111, District Court, Water Division 2 ("Existing Plans for Augmentation"). The original plan for augmentation decreed in Case No. 82CW104 provides for the annual purchase of 45 acre feet of Fryingpan-Arkansas Project water or such greater amount as the growth of the Town's water demands requires, and the exchange of part of that Project water to storage in Boss Lake Reservoir, North Fork Reservoir and O'Haver Reservoir in

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the headwaters of the South Arkansas River. The current augmentation plan adds new wells and includes Project water as a replacement source for those wells. The Town also references its first right of refusal to return flows generated by its use of Project water.

Among the objectives that the District will have in this case are:

1. Ensure that the Town's proposed decree contains appropriate terms and conditions for the use of Pueblo Reservoir.
2. Ensure that any use of Project Water and Project Return Flows is in accordance with the District's Policies.
3. Ensure that the Town's proposed decree includes sufficient terms and conditions to protect the Voluntary Flow Management Program.
4. Engineering review of the Town's proposed decree and engineering should assure that the quantification of consumptive use and return flows will not adversely affect the District's interests, including a) delivery of Project water and Winter Water; and b) Operation of The District's exchanges.
5. Ensure that all historic return flows are replaced in a manner that avoids injury to the District's rights and operations.

Mr. Edlmann moved, seconded by Mr. Karney that the District Board authorize the filing of a statement of opposition by Special Water Counsel in the Application of Town of Poncha Springs, Case No. 21CW3086. Motion unanimously carried.

**MONTHLY/QUARTERLY REPORTS:**

**U.S BUREAU OF RECLAMATION REPORT**

Mrs. Terry Dawson provided a written report reviewing the following as of February 10, 2022:

- There were 209,322 acre-feet stored in Pueblo Reservoir; 121,100 acre-feet of Project water; 44,325 acre-feet of Excess Capacity water; 30,930 acre-feet of Winter water and winter carryover
- There is currently 124,273 acre-feet of Project space in Pueblo Reservoir and 47,928 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Charts illustrating storage amounts in Turquoise, Twin Lakes, and Pueblo Reservoir
- Project Reservoirs: Turquoise 79%, Twin Lakes 95%, Pueblo 102% as of February 10, 2022
- Bousted Stored Cumulative Imports
- Total M&I PW in the system as of January 31, 2021:
  - a) East 22,435
  - b) West 9,609
  - c) Pueblo 17,323
  - d) Other 4,096
  - e) FVA 70,113
    - CSU 51,803
    - Fountain 6,221
    - Security 4,843

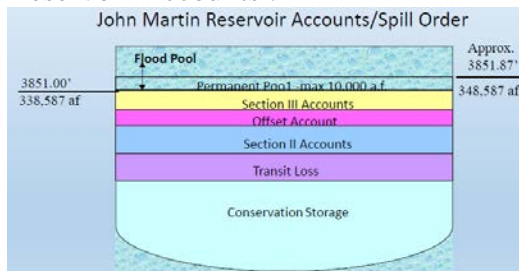
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- Stratmoor 1,914
- Widefield 5,332
- Winter Operations:
  - a) Currently moving 140 cfs to Pueblo Reservoir
  - b) Target 60 KAF of space available in Upper Reservoirs
    1. Currently there is about 48 KAF available
  - c) Movement of water can be adjusted based on forecast and customer needs
- Snowpack summaries for:
  1. Arkansas Rivas Basin
  2. Colorado River Basin
- February Forecast:
  1. 25% - 45KAF
  2. 50% - 59.1 KAF
  3. 75% - 72.3 KAF

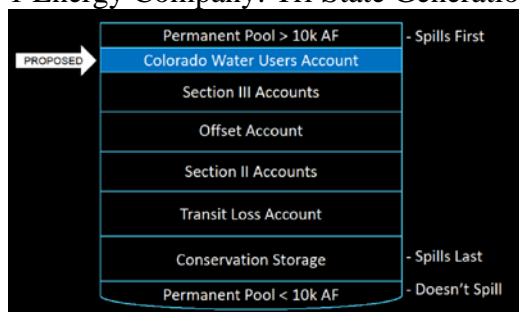
DIVISION ENGINEER REPORT

Mr. Bill Tyner presented a report on John Martin Reservoir, topics of discussion:

- Early History
- Compact Operation 1949 – 1979
- Recent History
- Reservoir Accounts :



- Proposed JMR Colorado Water Users Account
- Current 10 Colorado Interests
  1. 3 Augmentation Groups: AGRA, Catlin Augmentation Assoc, and LAWMA
  2. 3 Municipalities: C-SU, La Junta, and Lamar
  3. 3 Conservancy Districts: SECWCD, LAVWCD, and Purgatoire Water Conservancy
  4. 1 Energy Company: Tri State Generation & Transmission Company



U.S. GEOLOGICAL SURVEY REPORT



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Mrs. Krystal Brown presented a report on USGS Stream gages Purgatoire River. Topics of discussion:

- Water Supply Forecasts-Lower Arkansas Basin in Colorado
- Instantaneous Discharge at:
  1. Purgatoire River at Madrid, CO
  2. Purgatoire River below Trinidad Reservoir
  3. Purgatoire River nr Thatcher, CO
  4. Purgatoire River at Rock Crossing nr Timpas, CO
  5. Purgatoire River nr Las Animas , CO
- John Martin Reservoir nr Caddoa, CO Reservoir Elevation above NGVD 1929, feet
- How Streamflow is Monitored: Discharge = Velocity x Area
  1. Purgatoire River nr. Thatcher, CO
- Slope Are Discharge Measurement
  1. Arkansas River at Las Animas
  2. Purgatoire River at Las Animas

STATE LEGISLATION UPDATE

Mr. Lee Miller provided an update to the Board by reporting Senator Leroy Garcia from Pueblo, the President of the Senate, has announced he will resign his seat effective February 23, 2022. President Biden has appointed senator Garcia to be the Special Assistant to the Assistant Secretary of the Navy for Manpower and Reserve Affairs. The position is a direct appointment and does not require US Senate confirmation. Senator Garcia is an Iraqi War Veteran where he served as a United States Marine.

Senator Garcia's resignation creates a vacancy in the leadership of the State Senate. At the time the written report was created it was speculated that Senator Kerry Donovan might be selected as Senate President, because she is the President Pro Tempore of the Senate. As it turns out, that was not the case. Senator Garcia's replacement will be Senate Majority Leader Steve Fenberg, who serves in the Colorado Senate from the 18<sup>th</sup> district, since 2013, as a member of the Democratic Party.

Among the bills of interest to the District are:

**HB22-1151:** This bill sponsored by Representatives Marc Catlin and Dylan Roberts and Senators Jeff Bridges and Cleave Simpson requires the Colorado Water Conservation Board (CWCB) to develop a statewide program to provide financial incentives for the voluntary replacement of irrigated turf with water-wise landscaping (turf replacement program). The bill defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs. Local governments, certain districts, Native American tribes, and nonprofit organizations with their own turf replacement programs may apply to the board for money to help finance their turf replacement programs. The CWCB will contract with one or more third parties to administer one or more turf replacement programs in areas where local turf replacement programs do not exist.

**SB22-028:** This Water Resource Review Committee (WRRC) approved bill seeks to establish a funding vehicle to receive money which will be applied to the needs in the Republican River and Rio Grande areas to further interstate compact compliance requirements. The bill sets forth the structure of the fund and how it will be administered. The priority uses of the funds are identified as retiring certain acreages of irrigated farmland and the shutdown of some wells. Funding is expected to come from federal funds

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under one or more of the bills recently passed. Some critics have raised questions regarding the disparity between this approach and well-enforcement on the Arkansas and South Platte Rivers. The bill is scheduled for hearing on February 10 in the Senate Agriculture and Natural Resources Committee. SB22-029: This is the WRRC-approved “anti-speculation” bill. This bill was approved by the WRRC as a “place-holder” to address concerns by some that “hedge funds” and other investment buyers were profiting from scarce Colorado water resources. Bill proponents have insisted that a rewrite of the bill with input from the water community would occur before the bill moves forward in the legislature; however, little evidence of this has been seen to date.

**SB22-030:** This is another WRRC bill that proposes to expand the scope of interest of the WRRC beyond water to include agricultural issues. Some proponents have suggested that this is limited to agricultural water issues, but the text does not support such an interpretation and the history of the WRRC suggests that agricultural water issues have always been considered by the WRRC.

**SB22-114:** This is the Colorado Counties, Inc., supported bill to address concerns regarding ponds that are unpermitted and presumably incapable of being augmented, either because augmentation is infeasible because it is economically prohibitive or water-availability constraints. Section 1 of the bill makes legislative findings and declarations. Section 2 allows a board of county commissioners (board) to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control (director) in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond, a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located. Section 2 also prohibits the state engineer from draining any pond:

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond; or
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Section 2 also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

Section 3 requires the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. An application is presumed to be approved if the state engineer does not respond to the application within 63 days after the application is received by the state engineer. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975. Section 3 also allows the state engineer to impose reasonable requirements on a board as a condition of designating a pond as a fire suppression pond and requires a board and a fire protection district to inspect a fire suppression pond at least annually. The designation of a pond as a fire suppression pond expires 20 years after the date of the designation.

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Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

Section 4 states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.

**SB22-126:** This bill sponsored by Senators Jerry Sonnenberg and Kerry Donovan; and Representative Richard Holtorf requires the Colorado Water Conservation Board (CWCB) prioritize water storage in the South Platte River Basin in choosing projects to finance with money from the CWCB construction fund. Current law requires the CWCB to prioritize projects that will increase the beneficial consumptive use of Colorado's undeveloped compact-entitled waters. The bill includes within this priority a specific priority for projects that increase or improve water storage in the South Platte river basin as a means of increasing the beneficial consumptive use of undeveloped water entitled under the South Platte river compact and in a manner that reduces reliance on transmountain diversions.

**Recreational In-Channel Values Reach—RIVR draft legislation:** Environmental organizations, led by American Whitewater, have finally surfaced proposed legislation amending the Recreational In-Channel Diversion (RICD) program. A draft legal conceptual outline is attached. This is a much more modest proposal than concepts previously floated by American Whitewater and allies. We understand that conversations on the draft legislation will continue, and this will likely come to the legislature as a late-bill.

The Board was provided with a copy of Recreational In-Channel Values Reach – RIVER DRAFT – Legislation Conceptual Outline.

#### COLORADO RIVER ISSUES STATUS

Mr. Lee Miller updated the Board by stating the Bureau of Reclamation (Reclamation) and the four Upper Basin states—Colorado, New Mexico, Utah, and Wyoming—have drawn up a proposed framework called the Upper Basin Drought Response Operations Plan. Water managers would use the framework to create plans each year, as necessary, to maintain Lake Powell water levels.

The effort to maintain Lake Powell water levels is necessary for maintaining hydropower production and to protect the Upper Basin states from violating their legal obligation to send Colorado River water to Arizona, California and Nevada, the Lower Basin states. The proposed framework identifies how much water from the Blue Mesa, Flaming Gorge and Navajo reservoirs is available for release to prop up levels in Powell, but only after operations at Powell itself have been managed to best maintain levels of

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3,525 feet or above. To slow the decline, Reclamation is holding back 350,000 acre-feet of water in Powell that it would normally release during January-April.

The agency plans this year to release 7.48 million acre-feet from Powell to flow down the Grand Canyon to Lake Mead.

Public comments on the proposed plan are being accepted through Thursday, February 17, 2022.

**INFORMATIONAL ITEMS:**

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

- Water Court Resume
- Director Appointment Revision
- Recovery of Storage Update
- FFA February 24-25 Conference
- 2022 DARCA February 24-25 Conference
- 2022 Colorado Rural Water Assoc March 7-10 Conference

President Long wanted to remind the Board that those that are up for re-appointment, applications will need to be completed. Also, Carl McClure has formally submitted his resignation as a member of the Board. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 11:54 a.m. A 15 minute break would take place, before the Enterprise Board Meeting is called to order.

Respectfully submitted,

Patty Rivas  
Administrative Support Associate

Secretary

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