

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER CONSERVANCY
DISTRICT MINUTES
September 19, 2024**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, September 19, 2024, at 9:32 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors.

Attendance:

Board Members Present:

Alan Hamel	Dallas May	Matt Heimerich
Andy Colosimo	Greg Felt(remote)	Pat Edelmann(remote)
Ann Nichols	Howard "Bub" Miller	Seth Clayton
Bill Long	Justin DiSanti	Tom Goodwin
Curtis Mitchell	Kevin Karney	

DIRECTOR(S) ABSENT AND EXCUSED:

Mark Pifher

DISTRICT OFFICIALS:

Executive Director Leann Noga; General Counsel Lee Miller; Staff Attorney Peter Levish; Senior Policy and Issues Manager Chris Woodka; Principal Engineer Kevin Meador; Principal Engineer/Operations Coordinator Gordon Dillon; Water Resources Principal Engineer Garrett Markus; Finance Manager Stephanie Shipley; Administrative Support Specialist's Margie Medina and Patty Rivas; H2O Consultant, Roy Vaughan; Kogovsek & Associates, Christine Arbogast; attending remotely - AECOM, Curtis Thompson; Kennedy Jenks, Jerry Pena; and McDonald Water Policy, Bill McDonald.

VISITORS PRESENT:

Aurora Water, Abba Ahmed and Rick Kienitz; USGS, Krystal Brown; and USBR, Mike Holmberg.

VISITORS CONNECTED VIA ZOOM:

Wilson Water Group, Angie Alvarado; Congress Woman Lauren Boebert's Office, Cathy Garcia; Colorado Springs Utilities, Lisa Windham; AGRA, Dan Tucker; and Kansas Department of Agriculture, Rachel Duran.

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APPROVAL OF MINUTES:

President Long said the minutes from the August 15, 2024, District Board meeting were posted to OnBoard and the Website for review and asked if there were any corrections or additions. Hearing none, Mr. Karney moved, seconded by Mr. Hamel, to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Ms. Ann Nichols reported the financial statements for August 2024, were posted to OnBoard and the Website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the August 2024 financial statements and payment of the September 2024 bills. Motion unanimously carried.

PRESENTATION ITEMS:

None

President Long convened the meeting of the Enterprise Board meeting to order at 9:36 a.m. to be held in conjunction with the District Board meeting to present the Budget action Items.

ACTION ITEMS:

APPOINTMENT OF BUDGET OFFICER

Mrs. Noga presented an annual action item to the Board for the appointment of a Budget Officer to follow Colorado State Budget Law.

The first action the governing board must take under the Budget Law is to designate or appoint a Budget Officer to prepare and submit a proposed budget (Section 29-1-104, C.R.S.).

Mr. Clayton moved, seconded by Mr. Hamel, to appoint Leann Noga, Executive Director, as the Budget Officer for the 2025 District budget period. Motion carried unanimously.

SET PUBLIC HEARING FOR 2025 PROPOSED BUDGET

Mrs. Noga presented an annual action item that the Board of Directors conduct a Public Hearing prior to adopting the annual Budget, to follow Colorado State Law C.R.S. 29-1-108(1).

A published notice of the Public Hearing is required for District Policy and compliance with Colorado State Law C.R.S. 29-1-106(1).

A copy of the letter to newspapers for publication, along with a copy of the notice as to 2025 Proposed Budget was provided to the Board.

Mr. DiSanti moved, seconded by Mr. Clayton, that the Board of Directors set Thursday, November 21, 2024, at 9:45 a.m. for the Southeastern Colorado Water Conservancy District to hold the Public Hearing of the 2025 Proposed Budget. Motion carried unanimously.

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Mr. Long recessed the Enterprise Board meeting at 9:37 a.m. that was held in conjunction with the District Board meeting.

DISTRICT'S DIVISION 2 CONDITIONAL WATER RIGHTS DILIGENCE APPLICATION

Mr. Levish presented to the Board an action item recommending the Board adopt a resolution authorizing Special Water Counsel to file an application for a finding of reasonable diligence by November 30, 2024, to maintain the District's remaining conditional water rights for the Fryingpan-Arkansas Project decreed in Water Division 2.

The Board has directed legal counsel to file previous diligence applications to maintain the District's conditional water rights associated with Fryingpan-Arkansas Project (Project) structures on the East Slope. Most recently, in Water Division 2, the Board directed Special Water Counsel to file two applications related to the remaining conditional water rights associated with the Project. First, the Board authorized Special Water Counsel to file an application in Case No. 16CW3076 to change several of the District's conditional direct flow water rights associated with unbuilt diversion structures to allow storage of those rights in Pueblo Reservoir. Second, the Board authorized Special Water Counsel to file a diligence application (Case No. 16CW3079) to maintain most of the District's remaining conditional water rights, including the rights changed in Case No. 16CW3076, and to abandon other conditional rights associated with proposed Project features that had not yet been constructed. The Board approved stipulations with all opposers in both cases, and final decrees in each case were entered in 2018.

Every six years, the owner of conditional water rights must file an application with the Water Court explaining what progress, or diligence, has been made to complete the appropriation and use of its conditionally decreed rights. With a diligence application, the District may also apply to convert some of its conditional rights to absolute rights, if it has sufficient evidence to do so. During the diligence period, the District did not divert and store additional amounts of its remaining conditional rights, so no further portions of these rights can be made absolute at this time. Even so, the District has undertaken substantial work to continue operating, maintaining, and protecting the Project's existing features and water rights, which supports a finding of reasonable diligence. Therefore, General and Special Water Counsel and District staff recommend filing a diligence application to continue all of the remaining conditional water rights associated with the Project's East Slope facilities because the rights are integral to the Project and storage capacity in the reservoirs is available.

Copies of Resolution 2024-05D, and the Draft Application, Division 2 Diligence were provided to the Board.

Mr. Colosimo moved, seconded by Mr. Clayton, for the Board to adopt Resolution No. 2024-05D, which authorizes Special Water Counsel to file an application for diligence with the Water Court by November 30, 2024. Motion carried unanimously.

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MONTHLY/QUARTERLY REPORTS:

UNITED STATES BUREAU OF RECLAMATION

Mr. Mike Holmberg presented a PowerPoint to the Board that reviewed the following topics.

As of September 15, 2024:

- 198,221 acre-feet stored in Pueblo Reservoir
- 144,637 acre-feet of Project Water
- 50,589 acre-feet of Excess Capacity Water
- 12,273 acre-feet of Winter Water
- 100,736 acre-feet of Project Water Space Available in Pueblo
- 8,963 acre-feet of Project Space in Twin & Turquoise Lake

Frying Pan-Arkansas Project as of 9/16/2024

- a. Turquoise 92% full
- b. Ruedi 85% full
- c. Mt. Elbert 77% full
- d. Twin Lakes 85% full
- e. Pueblo 64% full

As of August 31, 2024:

- Total M&I PW in the system = 132,967 AF
- EAST = 23,561
- WEST = 11,394
- PUEBLO = 19,560
- OTHER = 4,006
- FVA = 74,446
- CSU = 53,179
- Fountain = 7,482
- Security = 6,072
- Stratmoor = 2,113
- Widefield = 5,601

Project Water Imports 1972 – 2024, were presented via graphs

Winter Operations Update:

- Mt. Elbert scheduled to be back online on Sept 20 – will begin drafting Turquoise
- Bridge maintenance starting early October
- Need to move 50 KAF before May 1
- Unit 1 Annual Maintenance Outage from 1/13/25 to 3/28/25
 1. Outage from 1/13/25 to 3/28/25

Fixed Cone Valve:

- Malfunctioned on 8/16
 1. Could only close to 25%
- Determined to be gear box and bearings
- Scheduled to replace gear box and drive shafts on 9/24
- Cause

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Questions were asked of Mr. Holmberg.

STATE LEGISLATIVE UPDATE

Mr. Levish gave an update to the Board, the 74th General Assembly adjourned on May 8, 2024, completing its 120-day session.

The Special Session of the Legislature passed one piece of legislation that affects the District. HB24B-1001 has passed and is now on its way to the Governor for signature, with the promise that Initiatives 108 and 50 will be removed from the statewide ballot for the November 2024 election and for the next six years. This legislation introduces significant changes to the Property Tax Limit, and the residential and non-residential assessment rates, that building on the framework established by SB24-233. HB24B-1001 does the following:

1. The Property Tax Limit, as amended in HB24B-1001, will take effect starting in Property Tax Year 2025.
2. The limit will be lowered to 10.25% per assessment cycle and will now be biennial (applying over two years).
3. If revenue is collected under this limit, the amount can be carried forward to the next two-year cycle, but only once per cycle.
4. The base year can be reset, and the comparison period can now be the highest prior to the two-year assessment cycle.

A copy of the Colorado Water Congress Bill Status Sheet was provided to the Board.

COLORADO RIVER ISSUES

Mr. Lee Miller updated the Board, Representatives of the Colorado River District and Xcel Energy continue to promote the “Shoshone Water Right Preservation” or the “Shoshone Permanency.” Information on this effort can be found at <https://keepshoshoneflowing.org/>. Southeastern Colorado Water Conservancy District continues to push for adequate historical use information to analyze the change of water rights proposal.

Northern Colorado Water Conservancy District recently sent letters to the Congressional Delegation outlining conditions for Northern Water’s support of the proposal. The letters to the Congressional Delegation were prompted by the Colorado River District’s efforts to receive federal funding through the Bureau of Reclamation. An example of the letters sent were provided to the Board.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- 2025 Budget Calendar
- Special Water Counsel Legal Report
- Other Business Matters:

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1. DiSanti Farm Visit – 9/19/24 after the Board Meeting
2. Winter Water Annual Meeting – 10/18/2024
3. NWRA Annual Conference and Leadership Forum – 11/9/2024, Albuquerque New Mexico
4. CRWUA Annual Conference – 12-4 – 6, 2024, Las Vegas
5. Districts Board Meeting and Holiday Lunch – 12/12/24

President Long recessed the District Board Meeting at 10:12 a.m.

EXECUTIVE SESSION:

Mr. Lee Miller announced a request has been made for the Southeastern Colorado Water District to enter Executive Session for the purpose of:

Discussion with legal counsel on the following matters:

1. Aurora Water Purchase
2. Executive Director's Review Process

Pursuant to:

- C.R.S. §24-6-402(4)(b): (Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions)
- C.R.S. §24-6-402(4)(e): (Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators)
- C.R.S. §24-6-402(4)(f)(I): (Personnel matters for Agenda Item VIII.B)

The presence of the following persons is requested for agenda item VIII.A. (Aurora Water Purchase) at this Executive Session:

- Non-Excused Committee and Board Members (state for the record any who are excused)
- Executive Director
- General Counsel
- Staff Attorney
- Special Water Counsel
- Senior Policy and Issues Manager
- Water Resources Principal Engineer

The presence of the following persons is requested for agenda item VIII.B. (Executive Director's Review Process) at this Executive Session:

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1. Non-Excused Committee and Board Members (state for the record any who are excused)
 - a. Leann Noga
2. General Counsel
3. Staff Attorney

MINUTES WILL BE ELECTRONICALLY RECORDED AS REQUIRED BY THE COLORADO OPEN MEETINGS ACT

Mr. Clayton moved, second by Mr. Goodwin that the Southeastern Colorado Water Conservancy District will enter into Executive Session at 10:40 a.m. The vote was unanimous.

At 11:51 coming out of Executive session, Mr. Lee Miller advised that there was discussion with legal counsel instructing, and that no action was needed for Executive Session Items:

- Aurora Water Purchase
- Executive Director Review Process

President Long asked if there were any other matters to come before the Enterprise Board, hearing no other matters, Mr. Long adjourned the District meeting at 11:53 a.m.

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Respectfully submitted,

Patty Rivas
Administrative Support Specialist

Seth Clayton – Secretary

Bill Long – President

Howard “Bub” Miller

Curtis Mitchell – Vice President

Justin Disanti

Ann Nichols – Treasurer

Kevin Karney

Alan Hamel

Mark Pifher

Andy Colosimo

Matt Heimerich

Dallas May

Pat Edelmann

Greg Felt

Tom Goodwin