

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER CONSERVANCY
DISTRICT MINUTES
January 18, 2024**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, January 18, 2024, 9:31 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 Margie Medina for a roll call of those connected via ZOOM.

DIRECTORS PRESENT:

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

DIRECTOR(S) ABSENT AND EXCUSED:

None

President Long established that a Quorum was present.

INTRODUCTION OF VISITORS:

President Long asked all present to introduce themselves and welcomed the visitors to the meeting.

DISTRICT OFFICIALS:

Executive Director James Broderick; General Counsel Lee Miller; 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; Director of Administration and Finance Leann Noga; Administrative Support Specialist's Margie Medina and Patty Rivas; H2O Consultant Roy Vaughan; Kogovsek & Associates Christine Arbogast, and Kleinfelder Gordon Dillon.

VISITORS PRESENT:

Aurora Water, Rick Kienitz and Abba Ahmed; USGS, Andrew Klakulak; and AECOM, Curtis Thompson.

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VISITORS CONNECTED VIA ZOOM:

Pueblo West Metro, Bobby Bandham and Jeffery DeHerrera; Kennedy Jenks, Jerry Pena; Luke Mecklenburg, Assistant Attorney General Interstate Water Unit; USBR, Mike Holmberg; Wilson Water Group, Mitch Frischmeyer; Kansas Department of Agriculture, Rachel Duran; Security Water & Sanitation District, Roy Heald; and Colorado Springs Utilities, Scott Lorenz.

APPROVAL OF MINUTES:

President Long said the minutes from the December 7, 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 November 2023 and DRAFT December 2023, were posted to OnBoard and the Website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the November 2023 and DRAFT December 2023 financial statements and payment of the January 2024 bills. Motion unanimously carried.

PRESENTATION ITEMS:

None

ACTION ITEMS:

OPEN MEETING RESOLUTION NO. 2024-01D

Mrs. Leann Noga presented to the Board an action item recommending the Board approve a resolution relating to the compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law at the first Board meeting of the year.

A resolution relating to the compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law is required under Colorado Revised Statute §37-45-101 *et seq.* This resolution defines where the public notice of each meeting will be posted at least 24 hours prior to a meeting. After the approval of the resolution, notice will be sent to the County Clerk and Recorder of each of the nine counties within the District boundaries.

A copy of the resolution as well as the memorandum to the County Clerk and Records was provided to the Board.

Mr. Hamel moved, seconded by Mr. Karney, to adopt Resolution No. 2024-01D, a resolution relating to the compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law. Motion Unanimously carried.

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STATEMENT OF OPPOSITION IN THE APPLICATION OF COLORADO DIVISION OF PARKS & WILDLIFE AND THE PARKS AND WILDLIFE COMMISSION, CASE NO. 23CW3048 (WATER DIVISION 2)

Mr. Peter Levish presented an action item to the Board recommending that the District Board authorize the filing of a statement of opposition by Special Water Counsel in the Application of Colorado Division of Parks & Wildlife and The Parks and Wildlife Commission, Case No. 23CW3048.

The Colorado Division of Parks & Wildlife and The Parks and Wildlife Commission (“CPW”) seeks to adjudicate storage water rights and an augmentation plan for ponds located on the Rocky Ford State Wildlife Area (“Rocky Ford SWA”). The Rocky Ford SWA is made up of 1,138 acres located northeast of Rocky Ford on the north side of the Arkansas River. In this application, CPW is seeking to Augment the existing structures of Ryan’s Pond Southwest, Ryan’s Pond Northeast, Serpentine Pond, Ryan’s Pond Southeast, Big Mac Pond South, and Big Mac Pond North. CPW seeks a plan for augmentation to replace out-of-priority depletions from evaporative losses from the ponds on Rocky Ford SWA and to replace out-of-priority depletions from consumption of crops irrigated by Big Mac Pond South. The augmentation sources include water stored by CPW in its Pueblo Reservoir account, including the use of 52 acre feet obtained from Pueblo Water that was intended to replace net evaporation under the VFMP agreement between CPW, the District and others. Additionally, in the application, CPW seeks to acknowledge that additional water rights may be used as replacement sources in this plan for augmentation provided that the water rights are first changed by a separate Water Court Decree, including over 2,000 Catlin Canal Company Shares.

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

1. Ensure appropriate terms and conditions for any use of Project Facilities Water and Project Return Flows is in accordance with the District’s Policies.
2. Ensure that the CPW’s proposed decree includes sufficient terms and conditions to protect the Voluntary Flow Management Program.
3. Ensure that the augmentation plan does not depend on assumed future approval of changes of Catlin Canal Shares or other water rights.

Mr. Garcia moved, seconded by Mr. Edelmann, that the District Board authorize the filing of a statement of opposition by Special Water Counsel in the Application of Colorado Division of Parks & Wildlife and The Parks and Wildlife Commission, Case No. 23CW3048.

Mr. Dallas May recused himself from the vote. Motion Unanimously carried.

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MONTHLY/QUARTERLY REPORTS:

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

- U.S. Bureau of Reclamation
- Division Engineer
- U.S. Geological Survey

STATE LEGISLATIVE UPDATE

Mr. Lee Miller updated the Board stating the second regular session of the 74th General Assembly convened on January 10, 2024. A copy of the deadline schedule for the 2024 session was provided to the Board.

During the session, the District participates in the Colorado Water Congress State Affairs Committee, which meets most Mondays during the session. Lee Miller serves as one of the vice chairs of the committee.

Mr. Miller went over some bills of interest to the District:

- HB24-1029 Concerning prohibiting the ownership of certain property interests by covered foreign persons that are not located in the United States (Bradley). The term 'property' in the bill includes water in the list of ownership. The bill includes land, water, and mineral rights.
- HB24-1073 Concerning the scope of the independent ethics commission's jurisdiction over ethics complaints against local governments, and, in connection therewith, expanding the independent ethics Commission's jurisdiction to include school districts and special districts (Story/Parenti and Marchman/Gonzales)
- SB24-005 Concerning the conservation of water in the state through the prohibition of certain landscaping practices (Roberts/Simpson and McCormick/McLachlan). The bill will be up for Hearing on January 25th. Denver Water supports the bill and testified at the Interim Committee in October to that effect.
- SB24-026 Concerning a requirement that members of certain state regulatory bodies who are appointed by the Governor hold meetings to elicit public engagement (Roberts/Will and McLachlan/Catlin). The bill will be up for Hearing on January 18th. There may be amendments from the Department of Natural Resources to reduce the fiscal note and obligations of staff.
- SB24-037 Concerning alternative mechanisms for achieving compliance with water quality standards (Simpson/Bridges and Lynch/McCormick). This is the green infrastructure bill discussed by the Interim Committee. The fiscal note was extremely high. There will be a stakeholder meeting to discuss a better approach.

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- SB24-038 Concerning Conservancy Districts, and, in connection therewith, authorizing a Conservancy District to participate in a plan for augmentation; contract with water users outside the Conservancy District for the provision of services; exercise certain powers regarding the control, delivery, use, and distribution of water; establish a water activity enterprise; and sell, lease, or otherwise dispose of the use of water or capacity in works by contract (Bridges/Simpson and Martinez/McCormick). The bill does not address the sections of law that cover our District.
- A Draft Bill: Department of Natural Resources is working on a Carbon Storage Bill. This will allow surface owners and sub surface owners to be included in an Injection Well Program.

COLORADO RIVER ISSUES

Mr. Lee Miller updated the Board on SB23-295 Colorado River Drought Task Force produced its report outlining recommendations to the Legislature by the statutory deadline, December 15, 2023. The final report can be found on the OnBoard Resources Colorado River page or at crdroughttaskforce.com.

On December 13, 2023, Bureau of Reclamation (Reclamation) Commissioner Camille Calimlim Touton announced agreements with several California water agencies to conserve up to 643,000 acre-feet of water in Lake Mead through 2025. The agreements include approximately \$295 million in new federal investments, which will fund projects for water conservation, water efficiency, and protection of critical environmental resources in the Colorado River System. At the same time, Reclamation joined several California entities to announce the execution of new water conservation agreements, including an agreement with the Coachella Valley Water District to save up to 105,000 acre-feet of water through 2025 and an agreement with the Quechan Indian Tribe to save up to 39,000 acre-feet through 2025. The event also highlighted a recently signed agreement with the Imperial Irrigation District to conserve approximately 100,000 acre-feet of water in 2023. The California entities advertised that additional conservation agreements are forthcoming.

On December 11, 2023, the District joined other Front Range Water Council (FRWC) members in sending a letter providing comments on the revised supplemental environmental impact statement (Revised SEIS) for near-term Colorado River Operations for water year 2024. The FRWC letter emphasized support for the purpose and need for the proposed action and support for the assumption in the hydrology analysis that no potential Drought Response Operations Agreement (DROA) contributions be included in the modeled hydrology for the no action alternatives, Alternatives 1 and 2, and the proposed action. The FRWC letter did not offer support for Reclamation's suggestion that only the Lower Basin alternative be considered in the analysis.

On December 19, 2023, the Colorado River Water Conservation District (River District) held a special meeting to authorize the execution of the proposed Purchase and Sale Agreement with Public Service Company of Colorado (PSCo) for the acquisition of the Water Rights associated

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with the Shoshone Power Plant on the Colorado River. The agreement has multiple contingencies, including securing funding for more than \$75 million of the nearly \$100 million purchase price, and a joint water court application by the Colorado Water Conservation Board, PSCo, and the River District to change the use of the rights to add instream flow use by the CWCB as an alternate purpose when the rights are not being used to generate hydropower. The River District staff anticipates that the proposed instream flow reach would run from the point of diversion at the Shoshone Dam (at the Hanging Lake Tunnel) to a point approximately 2.4 miles downstream at the outfall of the Shoshone Power Plant Penstocks.

The Colorado River Committee will meet ½ hour after today's Board Meeting.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Director Appointment
- 2024 Annual Conference Calendar
- 2024 Board Meeting Schedule
- 2024 Committee Meeting Schedule
- Special Water Counsel Legal Report
- Colorado Water Congress
- Family Farm Alliance

President Long reminded all Board members that are up for appointment, please make sure all documents are turned in on time. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 10:05 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

Kevin Karney

Ann Nichols – Treasurer

Mark Pifher

Alan Hamel

Matt Heimerich

Andy Colosimo

Pat Edelmann

Dallas May

Patrick Garcia

Greg Felt

Tom Goodwin