

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

August 15, 2019

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, August 15, 2019 at 9:34 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Curtis Mitchell	Ann Nichols
Seth Clayton	Kevin Karney	Tom Goodwin
Alan Hamel	Howard "Bub" Miller	Andy Colosimo
Patrick Garcia	Dallas May	Greg Felt
Mark Pifher	Carl McClure	Patrick Edelmann

DIRECTOR(S) ABSENT AND EXCUSED:

None

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Senior Policy and Issues Manager Chris Woodka; Principal Engineer Kevin Meador; Water Resource Engineer Garrett Markus; Finance Manager Leann Noga; Accountant Stephanie Shipley; Special Water Counsel Stephen Leonhardt and April Hendricks; and Federal Lobbyist Christine Arbogast

VISITORS PRESENT:

Cathy Garcia and John Orena, U.S. Senator Cory Gardner's office, Dwight Gardner, U.S. Senator Michael Bennet's Office; Bill Tyner, Colorado Division of Water Resources; Andy Klakulak and Krystal Brown, U.S. Geological Survey; Abby Ortega, Colorado Springs Utilities; Curt Thompson, AECOM; and Rick Kienitz, Aurora Water

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 MEMBER

Lee Miller said he had received a Court Order appointing Patrick Edelmann to fill the vacancy resulting from the resignation of Gibson Hazard, Jr. Mr. Edelmann's term will expire April 16, 2020. He asked that Mr. Edelmann stand and repeat the oath. After reading the oath, Mr. Edelmann was asked to sign the oath, for filing with the court.

President Long welcomed Mr. Edelmann back, now representing El Paso County.

APPROVAL OF MINUTES:

President Long said the minutes of the July 18, 2019 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Howard "Bub" Miller moved, seconded by Mr. Pifher, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for July 2019 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Clayton, for acceptance of the July 2019 financial statements and payment of the August 2019 bills. Motion unanimously carried.

CONSENT ITEMS:

None

ACTION ITEMS-CONTINUED:

STIPULATION IN EXCHANGE APPLICATION OF PUEBLO WATER, CASE NO. 16CW3103

Stephen Leonhardt reported Case No. 16CW3103 is Pueblo Water's application to adjudicate conditional appropriative rights of exchange for its Bessemer Irrigating Ditch Company shares. Pueblo Water purchased 5,540.88 Bessemer shares, which is equivalent to 28.071 percent of all issued and outstanding Bessemer shares, that it seeks to use in, and exchange for use in, its municipal system and its water leases. Pueblo Water filed a separate application on August 31, 2017 (Case No. 17CW3050) to change the Bessemer shares and quantify the amounts available for exchange. The Southeastern Colorado Water Conservancy District (District) stipulated to a proposed decree in that change case in February 2019. Pueblo Water's Bessemer shares include direct flow rights and a pro rata portion of Winter Water allocated to the Bessemer Ditch. Pueblo Water seeks to exchange the Bessemer shares, including any excess yield (fully consumable sewer effluent and LIRFs) remaining after replacement of historical Return Flows, to locations including Pueblo Reservoir, Twin Lakes Reservoir, Turquoise Lake, and Restoration of Yield (ROY) storage locations. If river conditions prevent Pueblo Water from exchanging, it seeks the right to store excess yield until river conditions allow an exchange.

The District's objectives in Case No. 16CW3103 are to ensure that: 1) The decree contains appropriate terms and conditions for any use of the Fryingspan-Arkansas Project (Project) facilities; 2) Pueblo Water's requested exchanges will not cause injury to the Winter Water Storage Program (WWSP); 3) The decree contains appropriate terms and conditions for the protection of the Voluntary Flow

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Management Program (VFMP), consistent with Pueblo Water's commitments in the 2006 Chaffee County Memorandum of Understanding (MOU); 4) The decree contains appropriate terms and conditions to protect the Pueblo Flow Management Program; 5) the ROY Exchange is protected by confirming that Pueblo Water's requested exchanges are not ROY Exchanges and will be junior and subordinate to the ROY Exchange; 6) the operation of Pueblo Water's exchanges do not cause injury to the District's water rights, including Project Return Flow rights and exchanges, or to Project operations; and 7) Pueblo Water's exchanges will only use water available for exchange as quantified in Case No. 17CW3050 and will be operated consistently with Pueblo Water's change decree in Case No. 17CW3050. Special Water Counsel, General Counsel, and District staff believe that the proposed decree dated July 29, 2019 satisfies the District's objectives, as follows:

The proposed decree contains the District's requested Standard Language terms regarding the use of Project facilities in Paragraphs 15.a.ii, 16.g.ii, 16.f.ii, 20.k.i, 20.k.ii, 20.k.iii, 20.k.iv, 20.k.v, and 20.k.vi. Pueblo Water included language for the protection of the WWSP in Paragraph 20.n. This language is a variation on the District's Standard Language restricting winter season exchanges from Pueblo Reservoir. A discussion between Wilson Water Group and the Division 2 Engineer has confirmed that the WWSP would not be harmed by the winter season exchanges from Pueblo Reservoir, as long as the substitute supply for exchanges from Pueblo Reservoir is administered as water released into the Reservoir and, thus, available for WWSP storage. However, with no assurance that the Division Engineer would continue operating the exchanges in that manner in perpetuity, the District requested and obtained additional language in Paragraph 20.n that would prohibit Pueblo Water from operating exchanges that compete with the use of Pueblo Reservoir for the decreed WWSP during the WWSP storage season.

The proposed decree includes language for protection of the VFMP in Paragraph 20.t. This paragraph is generally consistent with District's Standard Language terms for protection of the VFMP, and also incorporates express VFMP obligations from the 2006 Chaffee County MOU, including terms (1) forbidding Pueblo Water from operating exchanges upstream of Pueblo Reservoir against water released from Twin Lakes or Turquoise Reservoir pursuant to the VFMP, and (2) requiring Pueblo Water to operate its exchanges in a manner that, to the extent practical, protects specified VFMP target flow rates at the Wellsville gage.

Pueblo Water has substantially included the District's current Standard Language terms regarding the Pueblo Flow Program and RICD in Paragraphs 20.l, 20.q, and 20.m. Pueblo Water has confirmed that it does not intend to operate its requested exchanges under the ROY Decree. Even though Pueblo Water seeks to exchange its Bessemer shares to ROY storage locations, these exchanges will be junior to the ROY exchanges decreed to Pueblo Water, the District, and others in Case No. 06CW120. Pueblo Water has adopted the District's Standard Language for the protection of the ROY Exchange in Paragraph 20.l.i of the proposed decree.

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Finally, in Paragraphs 14.a, 14.b, and 20.u, Pueblo Water has confirmed that its exchanges will operate in accordance with the requirements of the change decree entered in Case No. 17CW3050, and that only the water quantified in Case No. 17CW3050 will be available for exchange in this case.

Mr. Pifher moved, seconded by Mr. Felt, to authorize Special Water Counsel to enter into a stipulation with Pueblo Water in Case No. 16CW3103, consenting to entry of a decree that is no less restrictive on Pueblo Water and no less protective of the District than the proposed decree dated July 29, 2019. Motion passed, with Mr. Garcia, Mr. Clayton, and Mr. Hamel recusing.

STATEMENT OF OPPOSITION IN APPLICATION OF LAWMA, CASE NO. 2019CW3036

Lee Miller reported this case is an application filed by LAWMA to change Fort Lyon shares that it has acquired, or anticipates acquiring, from Arkansas River Farms, LLC. The change would allow use of the shares in LAWMA's augmentation plans; add the shares to LAWMA's comprehensive augmentation plan; and allow use of a portion of the water within CS-U's service area (pursuant to a Water Sharing Agreement). Although the application seeks rights to use the shares for exchange, including for previously decreed exchanges, it does not seek confirmation of any new exchanges. The water rights subject to the change include the pro-rata interest in Fort Lyon's share of WWSP water. In addition, it appears that the pro rata portion of Fort Lyon's share of Project water allocations would be used in the augmentation plans and within CS-U's service area.

The District's objectives in this case will include assuring that Project water is not reallocated from irrigation use to municipal and municipal augmentation uses. In addition, we will assure appropriate protection of the WWSP and Project facilities.

Mr. Goodwin moved, seconded by Mr. Hamel, that the District Board authorize the filing of a Statement of Opposition by Special Water Counsel. in Case No. 2019CW3036 – Lower Arkansas Water Management Association. Motion passed, with Mr. Long, Mr. May, Mr. Howard "Bub" Miller, and Mr. Colosimo recusing.

MONTHLY/QUARTERLY REPORTS:**U.S. BUREAU OF RECLAMATION REPORT**

Roy Vaughan provided a written report reviewing the following:

- As of August 11, 2019 there were 239,384 acre-feet stored in Pueblo Reservoir; 178,553 acre-feet of Project water; 46,891 acre-feet of Excess Capacity water; 24,003 acre-feet of Winter water
- There is currently 66,820 acre-feet of Project space in Pueblo Reservoir and 3,171 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Project Reservoirs: Turquoise 108%; Twin Lakes 109%; Pueblo 135%
- Total M&I Project water in the System
- Boustead Stored Cumulative Imports 2019

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DIVISION ENGINEER'S REPORT

Bill Tyner provide a written report as follows:

As expected, based on the generous Arkansas Basin snowpack, water supply so far in 2019 is above average for native flows in the Arkansas Basin. Using the Year-Type by Composite Index Flow Data that has previously been used in presentations to the SECWCD Board, it appears that 2019 will likely end up with total flows through Pueblo Reservoir, down Fountain Creek and down the Purgatoire River around 650,000 to 670,000 acre-feet. This represents almost twice as much water supply measured at these index gages in 2018. The water supply in 2019 would place it in the "Wet" year category with flows similar to 2007 and 2008 and possibly 1998.

Reservoir storage remains at a high level; however, as river flows have begun to drop, ditch companies are using reservoir supplies extensively to finish crops. Despite agricultural use, Pueblo Reservoir has hovered just below the top of active conservation storage since about April 1.

John Martin Reservoir held at storage levels above 150,000 acre-feet until about the end of July and still remains above 125,000 acre-feet. Storage levels are less than half of the available space.

Off-Channel storage below Pueblo Reservoir filled significantly, but has also been somewhat depleted as the summer progresses. It appears that there will be adequate space for storage under the Pueblo Winter Water Storage Program; however, storage in Pueblo Reservoir will have to be managed for potential spills during April 2020.

- Year-Type by Composite Index Flow Data (Values in Acre-Feet)
- Year Ranking Dry to Wet from Composite Index Flows
- Pueblo Reservoir Storage in Acre-Feet 2019
- John Martin Reservoir Storage in Acre-Feet 2019

Mr. Tyner thanked the District for the partnership for the upcoming Fry-Ark tour.

U.S. GEOLOGICAL SURVEY REPORT

Krystal Brown presented a PowerPoint titled, *USGS Update: Current Arkansas Tributary Conditions*, reviewing the following:

- Beaver Creek above. Upper Beaver Creek Cemetery
- Huerfano River Near Boone, CO
- Purgatoire River Near Las Animas, CO

President Long recessed the District meeting at 9:55 a.m., and reconvened at 10:08 a.m.

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PRESENTATIONS:

FINANCIAL ACTION PLAN FOR THE FUTURE

President Long said that questions raised at the Financial Strategy and Sustainability Study Workshops will be addressed during this presentation. The confidential memorandum that the Board was provided earlier, will be discussed in executive session at the September Board meeting.

Chris Woodka reviewed the following:

- Goals of Financial Action Plan for the Future
- Financial Action Plan Timeline
- Financial Planning and Reporting Documents
- History of Water, Storage, Surcharge Rates
- Framing the Future Financial Timeline of Fry-Ark Project
- Protecting the Fry-Ark Project: What's Being Done Now?
- Protecting the Fry-Ark: What's Needed in the Future?
- Framing the Future
- Contract Amendment 11
- District's State Powers; Fry-Ark Local & Federal Benefits; District's Federal Obligations
- Fund Obligation Accounts and Targets
- District: How Tax Revenue is Used
- Enterprise: Water Sales & Surcharge Revenue
- Filling the Revenue Gap
- Framing the Future Progress at the End of 2018

Leann Noga reviewed the following:

- Financial Strategy and Sustainability Study
- Steps in a Rate Study
- Communication
- Financial Plan Summary
- Reserves-Summary
- Cost of Service
- Summary
- Recommendations
- Additional Outreach Meetings
- Financial Action Plan Timeline

The Board was provided the opportunity to ask questions, and several questions were asked and answered by staff or general counsel.

Mr. Garcia left the meeting at 11:45 a.m.

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INFORMATIONAL ITEMS:

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

- Water Court Resume
- State Legislation Update
- Colorado River Issues Status

Lee Miller reported the court entered the decree in Division 5. This was a major undertaking, and thanked District staff, Special Water Counsel, and Wilson Water Group.

Mrs. Noga stated the James W. Broderick Hydropower Plant will be dedicated on September 16, 2019, and that invitation will be going out next week.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:49 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

