

RECORD OF PROCEEDING

---

---

**SOUTHEASTERN COLORADO WATER  
CONSERVANCY DISTRICT**

**MINUTES**

**April 17, 2014**

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, April 17, 2014 at 9:35 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

**DIRECTORS PRESENT:**

Bill Long	Ann Nichols	Vera Ortegon
Gary Bostrom	Kevin Karney	Gibson Hazard
Leonard Pruett	Carl McClure	Tom Goodwin
David Simpson	Jay Moore	Pat Edelmann
Curtis Mitchell		

**DEPARTING BOARD MEMBER:**

Greg Johnson

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

Howard "Bub" Miller, Harold Miskel, Shawn Yoxey (departing Board member), and Alan Hamel-Advisory Board Member.

**DISTRICT OFFICIALS PRESENT:**

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Director of Engineering and Resource Management Bob Hamilton; Project-Program Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt and Alix Joseph; and Federal Lobbyist Ray Kogovsek.

**VISITORS PRESENT:**

Chris Woodka, The Pueblo Chieftain; Tom Simpson, Aurora Water; Christina Thiebaut, U.S. Senator Mark Udall's office; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Doris Morgan, Congressman Cory Gardner's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Terry Dawson, U.S. Bureau of Reclamation; David Mau and Rodger Ortiz, U.S. Geological Survey; Jerry Peña, CDM Smith; Mark Scott, GEI Consultants; Terry Scanga, Upper Arkansas Water Conservancy District; Jack Goble, Lower Arkansas Valley Water Conservancy District; Bob Hartzman, City of Canon City Water Department; Roy Heald, Security Water District and Fountain Valley Authority; Brett

RECORD OF PROCEEDING

---

---

Gracely, Colorado Springs Utilities; Steve Witte, Colorado Division of Water Resources; and Bob Leach, Scanio Family LTD.

**INTRODUCTION OF VISITORS:**

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

**ACTION ITEMS:**

**SWEARING IN OF APPOINTED BOARD MEMBERS**

Lee Miller said he had received a Court Order appointing Pat Edelmann, Tom Goodwin, Bill Long, Curtis Mitchell, and Ann Nichols to four-year terms on the District Board. He asked that Mr. Edelmann, Mr. Goodwin, Mr. Long, Mr. Mitchell, and Ms. Nichols stand and repeat the oath. After reading the oath, the appointed Board members were asked to sign the oath, for filing with the court.

President Long welcomed Mr. Edelmann and Mr. Mitchell as the new members appointed to serve on the Board, and congratulated the reappointed members.

President Long expressed to Greg Johnson his great contribution and knowledge he has provided while serving on the Board since April 2006. Mr. Johnson was presented an Outstanding Service Award plaque and a Water Buffalo plate. Mr. Johnson said he had observed the District long before he was appointed to the Board, and has seen the District progress a lot in the past years. Mr. Johnson thanked the Board for the gifts and the opportunities that were provided.

**APPROVAL OF MINUTES:**

President Long asked if the members of the Board had received their copy of the minutes of the March 20, 2014 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegon moved, seconded by Mr. Pruett, to approve the minutes. Motion unanimously carried.

**FINANCE COMMITTEE REPORT:**

Treasurer Ann Nichols reported the financial statement for March 2014 was posted to the Board website for review. Treasurer Nichols moved, seconded by Dr. Moore, for acceptance of the March 2014 financial statement and payment of the April 2014 bills. Motion unanimously carried.

**CONSENT ITEMS:**

None

**PRESENTATIONS:**

**WINTER WATER PROGRAM**

Lee Miller presented a PowerPoint titled, *Winter Water Storage Program (WWSP) a Primer*, reviewing the following:

- History
- Participating Direct-Flow Entities

RECORD OF PROCEEDING

---

---

- Participating Storage Entities
- Winter Storage Operations
- Upstream Stipulation
- Venezia Stipulation
- Allocation of Stored Water
- Storage in Pueblo Reservoir
- Change of Use of WWSP Water Rights
- Storage in Non-Project Facilities
- Relationship to Upstream Exchanges
- Displaced Water

President Long recessed the District meeting for the Public Hearing at 10:00 a.m.

**PUBLIC HEARING-SCANIO FAMILY LTD PETITION FOR INCLUSION**

President Long called the Public Hearing to order at 10:00 a.m. on the petition for inclusion filed by Scanio Family LTD, which consists of 1,843 acres, more or less, of property near the City of Pueblo into the Southeastern Colorado Water Conservancy District.

President Long asked if a representative of the petitioner was present, Robert Leach of Horizon Communities, Inc. representing Scanio Family LTD was present. Mr. Leach would provide input after staff provides its input into the petition.

There were no objectors that provided written comments.

Mr. Bob Hamilton reported at the Board meeting held on March 20, 2014, the Board ordered that a notice of the filing of this petition to be published in a newspaper of general circulation within the county where the land is located, which notice must consist of three publications once a week for three consecutive weeks, and that the notice state the filing of this petition, the name of the petitioner, and a descriptions of lands -- giving notice to all persons interested to appear at this time and location to show cause in writing why the petition should not be granted, and that this Hearing must be held within 30 days of the last publication --pursuant to Colorado Revised Statute Section 37-45-136(2).

This notice was published in the Pueblo Chieftain, a newspaper of general circulation in Pueblo County. A copy of the newspaper's affidavit of publication is in the public record. The last publication date was April 14, 2014, which was less than 30 days ago.

A petition was received in August of 2013 from the Scanio Family LTD., requesting that its property be annexed into the District. Upon receipt of this petition, staff reviewed the petition and determined the legal description was adequate. In mid-December 2013, a revised legal description was submitted reducing the area by 9 acres to the current 1,843 acres. Legal counsel reviewed the petition and determined it was in compliance with the Water Conservancy inclusion statute found in Colorado Revised Statutes, Section 37-45-136. Staff has determined the following:

RECORD OF PROCEEDING

---

---

- The Legal description is adequate.
- The total area included in this petition is 1,843 acres.
- The assessed valuation for 2013 is \$7,711.00.
- Required signatures were properly notarized, as required by statute.

The District currently does not have an adopted written procedure/policy for handling individual property owner petitions for inclusions. The procedures we are following today are based on state statutes, the "Inclusion Manual", and on advice from legal counsel.

The District administers the Fryingpan-Arkansas Project, which is a federally authorized Reclamation project. Under the District's Repayment Contract with Reclamation, and applicable federal reclamation law, no changes can be made to the District's boundaries through inclusions of land - except upon the Secretary of Interior's written permission. As Petitioner, Scanio Family LTD will bear the responsibility and costs for obtaining this federal permission. Any favorable action the District takes on this petition is subject to Department of the Interior's approval. If the Board approves the petition, staff will file the appropriate documents with Reclamation.

After review, District staff is recommending that this petition be approved, subject to Department of Interior assent.

President Long welcomed Mr. Leach to comment. Mr. Leach said the proposed development will house a solar facility on approximately 940 acres, and that some of the land is already in the District. There was a lengthy discussion regarding the alignment of the AVC through this property.

President Long asked if there were any questions from the audience who did not submit a written objection, there were none.

President Long adjourned the Public Hearing at 10:38 a.m.

**ACTION ITEMS CONTINUED**  
**SCANIO FAMILY LTD PETITION FOR INCLUSION**

Mr. Hamilton recommended the Board entertain a motion. Legal counsel has drafted three potential motions, any one of which may be appropriate for this petition, which are:

1. Motion to Approve the Petition for Inclusion of Scanio Family LTD lands, subject to Department of Interior assent; or
2. Motion to Not Approve the Petition of Scanio Family LTD; or
3. Table the action to a future meeting.

Ms. Nichols moved, seconded by Mrs. Ortegon, to approve the Petition for Inclusion of Scanio Family LTD lands, subject to Department of Interior assent. The motion passed seven to five.

RECORD OF PROCEEDING

---

---

Yes: Mr. Mitchell, Mr. Edelman, Mr. Bostrom, Mr. Simpson, Ms. Nichols, Mrs. Ortegon, and Dr. Moore.

No: Mr. Hazard, Mr. Karney, Mr. McClure, Mr. Pruett, and Mr. Goodwin.

FRYINGPAN-ARKANSAS PROJECT WATERSHED MEMORANDUM OF UNDERSTANDING (MOU)

Mr. Hamilton reported at the March 20, 2014 Board meeting, there was a presentation on the Fryingpan-Arkansas Project Memorandum of Understanding (MOU).

The purpose of the MOU is to establish joint programs to: Preplan for post-wildfire response actions in areas critical for providing and delivering water to associated Reclamation projects, Colorado-Big Thompson for Northern and the Fryingpan-Arkansas Project for this District; proactively improve the health and resiliency of forests and watersheds; and develop means for these agencies, including the addition of the Bureau of Land Management (BLM) to work together towards common goals

The Bureau of Reclamation (Reclamation) contacted the District concerning participation in the abovementioned MOU. In July of 2013 the United States Departments of Interior and Agriculture, specifically Reclamation, and the U.S. Forest Service executed a Memorandum of Understanding regarding "Western Watershed Enhancement Partnership".

In December 2013, the Northern Colorado Water Conservancy District, Reclamation, Colorado State Forest Service, and the U.S. Forest Service entered into a MOU similar to the one for the Colorado-Big Thompson Project.

At the February 6, 2014 Resource and Engineering Planning Committee (REPC) meeting, Reclamation made a presentation on the draft MOU. Following the presentation, the REPC voted to recommend the Board authorize the Executive Director to execute a Memorandum of Understanding substantially similar to the one for the Colorado-Big Thompson Project.

Mrs. Ortegon moved, seconded by Mr. Bostrom, the Board authorize the Executive Director to execute a Fryingpan-Arkansas Project Watershed Memorandum of Understanding substantially similar to the one for the Colorado-Big Thompson Project. Motion unanimously carried.

SETTLEMENT WITH CITY OF CRIPPLE CREEK (CASE NO. 98CW173-DIVISION 2)

Mr. Leonhardt reported The Board directed special water counsel to file a statement of opposition in Case No 98CW173-Division 2 in February 1999.

In this case, Cripple Creek seeks approval of an augmentation plan, including exchange, to provide for diversions from Fourmile Creek and its tributaries in Teller County, including exchange of return flows from water imported to Fourmile Creek from West Beaver Creek. The deadline for re-referral of this case to the Water Judge is June 2, 2014.

RECORD OF PROCEEDING

---

---

The District was primarily concerned with: (1) ensuring that the proposed decree protects the District's delivery of allocated Project water to its constituents on Fourmile Creek (2) ensuring that the water transported from the West Beaver Creek basin is not improperly characterized as "foreign" or "transbasin" water and (3) ensuring that the proposed conditional water rights and conditional appropriative rights of exchange will not cause injury to the District. The proposed decree dated April 4, 2014 includes appropriate terms and conditions to protect deliveries of allocated Project water and will not cause injury to the District. At the District's request, counsel for Cripple Creek also removed any implication from the decree that the water sent from Fourmile Creek to West Beaver Creek was "foreign" or "transbasin" water.

Mr. Bostrom moved, seconded by Mr. Simpson, to authorize legal counsel to enter into a stipulation with Cripple Creek consenting to entry of a decree that is no less restrictive on Cripple Creek and no less protective of the District than the proposed decree dated April 4, 2014. Motion unanimously carried.

**SUPPORT OF COLORADO WATER STEWARDSHIP PROJECT CONTRIBUTION**

The Board previously adopted Resolution No. 2014-02D, in Support of the Colorado Water Stewardship Project and In Opposition to Public Trust Doctrine. Also, Colorado Water Congress Executive Director Doug Kemper discussed the activities of the Colorado Water Stewardship Project during his presentation to the Board at the October 2013 Board meeting.

Lee Miller reported the Colorado Water Stewardship Project is a consortium of water utilities, policy makers and consumers committed to smart water policy that ensures sustainable water supplies. Formed by the Colorado Water Congress Board, the consortium generates and disseminates information to stakeholders and constituents that addresses threats to Colorado's water sustainability – including any proposed Public Trust Doctrine initiatives.

The consortium is a conduit for communication regarding constructive, commonsense water principles and policies. The consortium promotes sound use of the state's prior appropriation system and warns against radical proposals that threaten Colorado's agricultural heritage, economic stability, and water storage projects that safeguard supplies in times of drought. Specifically, the project will monitor any ballot filings or legal actions for a Public Trust Doctrine, assess the public level of knowledge and support for the doctrine, and create and implement a communication and action plan to inform water stakeholders.

Mr. Hazard moved, seconded by Mr. Goodwin, that the Board authorize the Executive Director to make a \$10,000 contribution to the Colorado Water Stewardship Project. Motion unanimously carried.

RECORD OF PROCEEDING

---

---

**MONTHLY REPORTS:**

**U.S. BUREAU OF RECLAMATION REPORT**

Terry Dawson provided a PowerPoint presentation reviewing the following:

- As of April 14, there were 195,543 acre-feet stored in Pueblo Reservoir; 129,145 acre-feet of Project water; 35,266 acre-feet of Excess Capacity water; 30,955 acre-feet of Winter water.
- There is currently 127,804 acre-feet of Project space in Pueblo Reservoir and 70,161 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 80%; Twin Lakes 85%; Pueblo 99%
- Time Series Snowpack Summary for Upper Colorado River Basin and Arkansas River Basin
- Diurnal Activity

Mrs. Dawson reported the April import forecast is 73,900 acre-feet. Mt. Elbert conduit is running at full capacity. The movement of water will be adjusted according to the forecast and customer's needs. Thomasville is showing runoff may start early. It is the fourth highest snowpack since 1991.

Mrs. Dawson reported the 8-14 day temperature outlook is showing higher probability for warmer than average temperatures across the Upper Colorado River basin and Colorado, likely ramping up rapid snowmelt next week. It is expected warmer and wetter in late fall to spring and drier in the summer.

**DIVISION ENGINEER'S REPORT**

Mr. Witte reviewed the following:

- River and Reservoir Reports
  - Arkansas River Daily Report. River Call is:
    - (1) 12/3/1884            Catlin
    - (2) 12/3/1884            Las Animas
    - (3) 11/30/1875          Lamar
    - (4) 1/29/1885            Buffalo
  - <http://www.dwr.state.co.us/div2/aras/arascal.asp>
- Current River/Reservoir Operations
  - Low flow conditions
    - John Martin Storage
      - Began transfer from Conservation Storage on April 7, 2014
      - Conservation Storage transfer completed April 12, 2014
- Division Engineers Office has reviewed Rule 14 Replacement Plans to replace well depletions
  - Total temporary pumping approvals:
    - AGUA            5,466
    - CWPDA          14,666
    - LAWMA          10,132

RECORD OF PROCEEDING

---

---

- Replacement supplies will be needed to preserve the ability of a number of municipal and domestic well users who are members of CWPDA
  
- Compact Issues
  - Rule 14 Plans reviewed
    - AGUA: 313 wells approved to pump 8,231 acre-feet, estimated depletions 4,117 acre-feet
    - CWPDA: 972 wells approved to pump 33,000 acre-feet, estimated depletions 17,677 acre-feet.
    - LAWMA: 495 wells approved to pump 60,756 (68,160) acre-feet, estimated depletions 11,900 acre-feet
    - Totals: 1,780 wells approved to pump 101,987 acre-feet, with estimated depletion 33,694 acre-feet
  - Rule 10 Plans and comments are under review ,decision expected May 1, 2014
  - Great Plains Resources submitted their Substitute Supply Plan application, and it is being evaluated.

**U.S. GEOLOGICAL SURVEY REPORT**

No report.

**STATE LEGISLATION UPDATE**

Lee Miller stated the Colorado Constitution limits the length of regular legislative session to no more than 120 consecutive calendar days. We are into the stretch run: the last day upon which the General Assembly may adjourn sine die is May 8, 2014. The General Assembly may adjourn earlier than that date, but not later than May 8.

For most of the water bills we have reported on this session, time is running short for passage by both House and Senate. Hearing and floor schedules change rapidly, and negotiations for some of the bills has become intense. The State Affairs bill status sheet of water bills was provided to the Board.

Discussions have been ongoing between Senate and House leadership on plans for the upcoming Water Resources Review Committee to be held this summer and fall. No plans have been disclosed at this time.

**PRESENTATIONS CONTINUED:**

Lee Miller continued his PowerPoint presentation, *Winter Water Storage Program (WWSP) a Primer*, reviewing the following:

- Protection of the Winter Water Storage Program-District's Obligations
- District's Obligation's Under the Decree
- District's Role in Water Court



RECORD OF PROCEEDING

---

---

**NRCS COLORADO BASIN OUTLOOK REPORT April 1, 2014**

Mr. Hamilton reported the Colorado Basin Outlook Report for April 1, 2014 was posted to the Board website and a copy was in their Board binders. The monthly report will be posted and provided in their binders each month.

For the entire Arkansas basin, the April 1, 2014 snowpack was 112 percent of median, but the Upper Arkansas sub-basin was 134 percent of median, while the Cucharas and Huerfano sub-basins were 72 percent of median, and the Purgatoire sub-basin was 58 percent of median. The April – July streamflow forecast for the Arkansas River at Salida is 115 percent of average.

Upper Colorado basin received 118 percent of average precipitation during March. The April 1, 2014 snowpack total of 131 percent of median already exceeds the typical peak snow water equivalent (SWE). The watershed snowpack analysis for the Roaring Fork basin is 121 percent of median.

**INFORMATIONAL ITEMS:**

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

- Water Court Résumé
- Legal Quarterly Report
- Arkansas River Basin Water Forum, April 23-24, La Junta

President Long recessed the meeting at 11:23 a.m., to convene the Enterprise meeting.

**EXECUTIVE SESSION:**

Lee Miller said a request had been made for the Southeastern Colorado Water Conservancy District to enter Executive Session for the purpose of:

Discussion with legal counsel on the on the following cases:

1. St. Charles Mesa Water District (Case No. 13CW19)
2. Town of Fowler (Case No. 13CW7)
3. Catlin Augmentation Association and Colorado Division of Parks and Wildlife (Case No. 12CW94)
4. City of La Junta (Case No. 11CW13)
5. Gary Shane (Case No. 11CW3)
6. Lower Arkansas Valley Water Conservancy District and Super Ditch (Case No. 10CW4)
7. Colorado Water Protective and Development Association (Case Nos. 07CW127 and 07CW128)
8. United Feeders, Inc. (Case No.3022)

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)

RECORD OF PROCEEDING

---

---

- 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)

The presence of the following persons is requested at this Executive Session:

1. Non-Excused Board Members (state for the record any who are excused)
  - a. [David Simpson is excused (for item 1?)]
2. Executive Director
3. General Counsel
4. Special Water Counsel
5. Director of Engineering and Resource Management

Minutes will be electronically recorded as required by the Colorado Open Meeting Act.

Dr. Moore moved, seconded by Mr. Goodwin, to convene into Executive Session. Motion unanimously carried.

President Long convened the District meeting at 11:53 a.m. to go into Executive Session, the District meeting was reconvened at 12:50 p.m.

**REPORT OUT OF EXECUTIVE SESSION:**

Lee Miller reported the Directors discussed with legal counsel and received legal advice regarding the following:

1. St. Charles Mesa Water District (Case No. 13CW19)
2. Town of Fowler (Case No. 13CW7)
3. Catlin Augmentation Association and Colorado Division of Parks and Wildlife (Case No. 12CW94)
4. City of La Junta (Case No. 11CW13)
5. Gary Shane (Case No. 11CW3)
6. Lower Arkansas Valley Water Conservancy District and Super Ditch (Case No. 10CW4)
7. Colorado Water Protective and Development Association (Case Nos. 07CW127 and 07CW128)
8. United Feeders, Inc. (Case No.3022)

There was no action recommended during Executive Session.

RECORD OF PROCEEDING

---

---

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:51 p.m.

Respectfully submitted,

Toni Gonzales  
Administrative Manager

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_