

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

July 17, 2014

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, July 17, 2014 at 10:35 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Harold Miskel
Vera Ortegon	Leonard Pruett	Kevin Karney
Gibson Hazard	Carl McClure	Tom Goodwin
David Simpson	Jay Moore	Pat Edelmann
Howard "Bub" Miller		

DIRECTOR(S) ABSENT AND EXCUSED:

Gary Bostrom, Curtis Mitchell, 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 Engineer Kevin Meador; Water Resources Specialist/Engineer Garrett Markus; Project-Program Coordinator Jean Van Pelt; Special Water Counsel Alix Joseph; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

Chris Woodka, The Pueblo Chieftain; Tom Simpson, Aurora Water; 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; Roy Vaughan, U.S. Bureau of Reclamation; David Mau, U.S. Geological Survey; Mark Scott, GEI Consultants; Steve Pool, HDR; Curt Thompson, Consultant; Roy Heald, Security Water District and Fountain Valley Authority; Terry Book, Board of Water Works of Pueblo; Dan Henrichs, High Line Canal Company; Lloyd Gronning, Capital Program Management Services; Bob Hartzman, City of Canon City Water; Ann Lopkoff, Colorado Water Protective Development Association; and Jay Winner, Lower Arkansas Valley Water Conservancy District.

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INTRODUCTION OF VISITORS:

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

APPROVAL OF MINUTES:

President Long said the minutes of the June 19, 2014 Board meeting were posted to the Board website for review, and if there were any corrections or additions. Hearing none, Mrs. Ortegon moved, seconded by Mr. Howard Miller, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported the financial statements for June 2014 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Karney, for acceptance of the June 2014 financial statements and payment of the July 2014 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

COLORADO RIVER ISSUES

Lee Miller presented a PowerPoint titled, *Colorado River Issues*, reviewing the following:

- Key Provisions of the Colorado River Compact
- Mexican Water Treaty (1994)
- Upper Colorado River Basin Compact (1948)
- Law of the River Allocations
- Hydrologic Conditions
- Unregulated Inflow Lake Powell
- Change of Reservoir Contents
- Total System Storage
- Lee Ferry Average Annual Virgin Flow
- Contingency Planning in the Colorado River Basin
- Colorado River Basin Water Supply and Demand Study
- Next Steps Work Groups

MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of July 15, 2014 there were 185,679 acre-feet stored in Pueblo Reservoir; 124,955 acre-feet of Project water; 45,092 acre-feet of Excess Capacity water; 15,099 acre-feet of Winter water.
- There is currently 131,994 acre-feet of Project space in Pueblo Reservoir and 11,333 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 102%; Twin Lakes 98%; Pueblo 110%

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- Boustead Imports 75,309 acre-feet as of July 15, 2014
- Voluntary Flow Management Program and Wellsville Chart
- Time Series Snowpack Summary for Upper Colorado River Basin and Arkansas River Basin
- Diurnal Activity

ACTION ITEMS:**PUBLIC RECORDS OPERATIONAL POLICY AND PROCEDURES**

Lee Miller reported the District has had a written Operational Policy and Procedures for the handling of requests for the District's public records since 2003. During the past session the Legislature adopted HB 14-1193 adding additional requirements and procedures to address charging research and retrieval fees. Specifically, the new law requires the adoption and publication of a written policy as a prerequisite for charging research and retrieval fees.

The Open Records Act has for a number of years required the adoption of policies by the custodian of the records for handling various aspect of public records request. The District has designated the Executive Director as custodian. While HB 14-1193 continues the language of requiring the custodian to adopt policies addressing charging research and retrieval fees, some legal analysts have interpreted the new law as requiring the legislative governing body to adopt the policy at an open meeting.

Mr. Goodwin moved, seconded by Dr. Moore, the Board ratify the May 23, 2014 revision of the Public Records Operational Policy and Procedures approved by the Executive Director. Motion unanimously carried.

SPECIAL CIRCUMSTANCES NECESSITATING COURT FILINGS POLICY

Lee Miller reported there are some circumstances, such as a Board meeting cancellation, where it is necessary to make Court filings before the next regularly scheduled Board meeting. Relying on existing Colorado common and case law, District staff has customarily directed legal counsel to file statements of opposition timely, bringing the opposition to the Board at the next regular Board meeting for ratification. Following last December's Colorado Supreme Court decision in *Yellow Jacket Water Conservancy District v. Livingston*, some legal analysts have suggested that it is advisable for local governments to take formal action to confirm the practice of authorizing court filings subject to later ratification.

In *Yellow Jacket*, the issue was the authority to timely file a diligence application. Failure to timely file a diligence application would have resulted in abandonment of the water right. While District staff and the General Counsel do not anticipate the need to file a diligence application without prior Board approval, Board adoption of a policy authorizing such action could preserve the District's conditional water rights should an unforeseen circumstance occur.

Another circumstance where this policy might apply involves circumstances where the District is named as a defendant in a lawsuit. Court rules require that a defendant respond to the complaint within 20 days. In some cases, this may require response between the times of regularly scheduled Board

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meetings. Confirming that the General Counsel may authorize a response may avoid the need for a special Board meeting to address the complaint.

After discussion, Mr. Goodwin moved, seconded by Dr. Moore, the Board confirm the ability of the Executive Director, in consultation with the President and/or Vice President, to authorize filings with Colorado and U.S. courts, subject to ratification by the District Board at the next regular Board meeting where a quorum is present, where it is necessary to protect or further the District's interests and it is not reasonable to wait for Board approval. Motion unanimously carried. Mr. Karney was not present for the vote.

MONTHLY/QUARTERLY REPORTS CONTINUED:

DIVISION ENGINEER'S REPORT

No representative present

U.S. GEOLOGICAL SURVEY REPORT

David Mau presented a PowerPoint titled, *Summary of Water Conditions in the Arkansas River Basin*, reviewing the following:

- Comparisons of Current and Historic Streamflows in Colorado
- Graphical Comparison of 2014 Total Streamflow Volume to Historic Streamflow Volumes
- Streamflow in Cubic Feet Per Second-Purgatoire River at Madrid
- U.S. Drought Monitor
- Precipitation Map (one month and three month)
- Calculated Soil Moisture Anomaly Map June 2013
- Observed Fire Danger Class Map July 12, 2014 and July 10, 2013

STATE LEGISLATION UPDATE

Lee Miller reported the Water Resources Review Committee meetings are scheduled for August 6-7, 2014 at the State Capitol, August 20 at the Colorado Water Congress Summer Meeting in Snowmass, September 4-5 at the State Capitol and a final meeting September 30 to wrap up work at the State Capitol.

The August 6 meeting will be dedicated to discussion of municipal outdoor water consumption, which was the topic of SB 14-017 introduced by Senator Ellen Roberts (R-Durango) during this past session. On August 7, the Committee will discuss alternative agriculture transfer methods, such as the so-called "FLEX" legislation that failed late in the past legislative session. On September 4, the Committee has indicated that it will focus on groundwater issues.

One of the Committee's legislative oversight hearings of Colorado's Water Plan effort will be held in Pueblo on Friday, August 29 from 9 a.m. to noon at the Rawlings Library. This will be the only hearing on the Water Plan in the Arkansas River basin.

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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
- Legal Quarterly Report
- Waters of the United States CWC/NWRA Special Projects
- NWRA Western Seminar, July 28-30, 2014 – Flagstaff, AZ
- Colorado Water Congress Summer Conference, August 20-22, 2014 - Snowmass

Mr. Broderick stated since there is not an August Board meeting scheduled, if there is any urgent decisions that need to be made, the Executive Committee will be contacted.

The Arkansas Basin Roundtable will present their basin implementation plan at a meeting at the District office on July 24 at 2:00 p.m.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:41 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

