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**SOUTHEASTERN COLORADO WATER  
CONSERVANCY DISTRICT**

**MINUTES**

**April 15, 2010**

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District was held on Thursday, April 15, 2010 at 10:28 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

**DIRECTORS PRESENT:**

Bill Long	Harold Miskel	Ann Nichols
Scott Reed	Gibson Hazard	Greg Johnson
Lissa Pinello	Howard "Bub" Miller	Carl McClure
Kevin Karney	Vera Ortegón	Shawn Yoxey
Gary Bostrom	David Simpson	Reed Dils
Alan Hamel-Advisory Board Member		

**DIRECTORS ABSENT AND EXCUSED:**

None

**ENTERPRISE OFFICIALS PRESENT:**

Executive Director James Broderick; Administrative Manager Toni Gonzales; Projects Manager Phil Reynolds; Director of Engineering and Resource Management Bob Hamilton; Engineering Support Specialist Margie Medina; Legal Counsel Steve Leonhardt and Lee Miller; and Federal Lobbyist Ray Kogovsek.

**INTRODUCTION OF VISITORS:**

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

**VISITORS PRESENT:**

Mike Collins, Patrick Erger, and Roy Vaughan, U.S. Bureau of Reclamation; Chris Woodka, The Pueblo Chieftain; Kevin Meador and Dan Kugler, Black & Veatch; Bob Hartzman, City of Cañon City; Bill Hower, Beulah Water District; Shirley Klipfel; Dwight Gardner, Senator Bennet's office; Mark Carmel, Mark Scott, Curt Thompson, and Dave Frazie, Merrick & Co.; Pat Edelmans, U.S. Geological Survey; Jim Sandoval, Otero County; Rick Kienitz, Aurora Water; Roy Heald, Security Water District and Fountain Valley Authority; Steve Howell, Ninyo & Moore; Bob Torres, Jacobs Engineering; Jerry Peña and Jerry Gibbens, MWH; Steve Witte, Division of Water Resources-Division 2; Sue Morea, CDM;

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Tony Keenan, Arkansas River Outfitters Association; Clark Clement, Carollo Engineers; Curtis Mitchell, City of Fountain; Rick Jones, Kleinfelder; Jay Winner, Lower Arkansas Valley Water Conservancy District; Fred Eason and Dave DiFulvio, Farnsworth Group; and Ken Weber.

**ACTION ITEM:**

**SWEARING IN OF APPOINTED BOARD MEMBERS**

Mr. Leonhardt said he had received a Court Order reappointing Greg Johnson, Bill Long, Ann Nichols, Lissa Pinello, and Shawn Yoxey to four-year terms on the District Board. He asked that Mr. Johnson, Mr. Long, Ms. Nichols, Mrs. Pinello, and Mrs. Yoxey stand and repeat the oath. After reading the oath, the reappointed Board members were asked to sign the oath, for filing with the court.

Lee Miller handed out a memorandum to Board members reviewing the following: Speaking on Behalf of the District, Conflicts of Interest, Fiduciary Duties, and Confidentiality

**ELECTION OF OFFICERS**

Mr. Karney moved to retain the current slate of officers as follows, and reappoint Mr. Broderick to serve as Assistant Secretary-Treasurer:

- Bill Long – President
- Harold Miskel – Vice President
- Scott Reed – Secretary
- Ann Nichols – Treasurer
- James Broderick – Assistant Secretary/Treasurer

The motion was seconded by Mr. Hazard. Motion unanimously carried.

**WATER COURT RÉSUMÉ**

Pioneer Natural Resources and Others, Case 10CW2

Mr. Hamilton reported Case 10CW2 is an application by Pioneer Natural Resources and others for a Plan for Augmentation, including Exchanges, for water produced by their coalbed methane (CBM) gas wells in the Central Raton Basin. The District monitored the hearing that the State Engineer held last month on the determination of the extent of non-tributary groundwater in these basins from which the applicants have CBM wells, and stipulated with the applicants to limit the nontributary area, which will increase the number of tributary wells that they will have to augment. District staff and legal counsel believe that the District should monitor this case for compliance with our stipulation, for adequacy of the augmentation plan, and to assure compliance with the Arkansas River (Colorado-Kansas) Compact. Mr. Hamilton recommended that the Board file a Statement of Opposition in Water Division 2, Case No. 10CW2. Mr. McClure moved, seconded by Mrs. Pinello, the District file a Statement of Opposition in Water Division 2, Case No. 10CW2. Motion unanimously carried.

Lower Arkansas Valley Water Conservancy District Super Ditch Case 10CW4

Mr. Hamilton reported Case 10CW4 is an application by the Lower Arkansas Valley Water Conservancy District (LAVWCD) and the Lower Arkansas Valley Super Ditch Company, Inc. for “Substitution and Exchange” for the “Super Ditch.” The application is to secure an exchange priority to

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deliver water under the “Super Ditch” proposal, which is designed to allow shareholders of the lower Arkansas Valley ditches to negotiate voluntary water leases through the Super Ditch on their behalf with municipal and other water users, including Colorado Springs Utilities, members of the Pikes Peak Regional Water Authority (including, among others, the City of Fountain, the Towns of Monument and Palmer Lake, Cherokee Metro District, Donala Water & Sanitation, and Triview Metro District), and the City of Aurora. Peter Nichols, representing the Super Ditch, made a presentation on the Super Ditch at the March District Board meeting and Gregg Ten Eyck made a presentation at the March 23 Resource and Engineering Planning Committee meeting. District staff and legal counsel have concerns regarding the applicant’s proposed use of Winter water stored in Pueblo Reservoir under the Winter Water Storage Program, use of Fry-Ark Project facilities, and the District’s decreed exchange rights and pending exchange applications. Mr. Hamilton recommended the Board file a Statement of Opposition in Water Division 2, Case No. 10CW4. Mrs. Yoxey moved, seconded by Mrs. Pinello, the District file a Statement of Opposition in Water Division 2, Case No. 10CW4, targeting the proposed use of Winter water stored in Pueblo Reservoir, the use of Fry-Ark Project facilities, and protecting the District’s exchanges. Motion unanimously carried.

Eagle Picher and Stratmoor Hills, Case 10CW6

Mr. Hamilton reported Case 10CW6 is an application by Eagle-Picher and Stratmoor Hills Water District for an Amended Plan for Augmentation on remediation wells in the Widefield aquifer. Southeastern has recent stipulations with the applicants in two related previous cases. Legal counsel has reviewed the application and Southeastern’s previous stipulations with these applicants, and recommends negotiating a new stipulation (consistent with the most recent stipulation in Stratmoor Hills’ 2008 application) to ensure both applicants agree to the necessary conditions for use of Fry-Ark return flows. Mr. Hamilton recommended the Board authorize legal counsel to obtain a three (3) month extension from the applicant to negotiate a stipulation in lieu of filing a Statement of Opposition in Water Division 2, Case 10CW6. Mr. Hazard moved, seconded by Mr. Johnson, the District authorize legal counsel to agree with the applicants’ counsel to a three (3) month extension in which to negotiate a stipulation in lieu of filing a Statement of Opposition in Water Division 2, Case 10CW6. Motion unanimously carried.

City of Rocky Ford, Case 10CW7

Mr. Hamilton reported Case 10CW7 is an application by the City of Rocky Ford for Change of Water Rights and Plan for Augmentation. The District has a recent stipulation with the City of Rocky Ford in a related Case No. 06CW49, in which the Water Court decreed a change of water rights (Catlin Canal and Rocky Ford Ditch shares) and augmentation plan that includes Fry-Ark Project water and Catlin Winter water as augmentation sources. The new application seeks to expand this augmentation plan to include the adjacent Hancock Water Company service area. Southeastern provided comments last week on Rocky Ford’s request for a substitute water supply plan (SWSP) to operate this amended augmentation plan in 2010, asking to assure that all decreed conditions for use of Project water and Winter water remain in effect. Mr. Hamilton recommended negotiating a stipulation with Rocky Ford to address these concerns, and that the Board first authorize a three (3) month extension to negotiate a stipulation in lieu of filing a Statement of Opposition in Water Division 2, Case 10CW7. Rocky Ford’s attorney has

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provided a letter agreement for such an extension. Mrs. Ortegón moved, seconded by Mr. Johnson, the District authorize legal counsel to agree with the applicants' counsel to a three (3) month extension in which to negotiate a stipulation in lieu of filing a Statement of Opposition in Water Division 2, Case 10CW7. Motion unanimously carried.

**DISTRICT'S DILIGENCE AND PARTIAL ABSOLUTE APPLICATION FOR FRY-ARK PROJECT EAST SLOPE FACILITIES: RESOLUTION**

Mr. Leonhardt reported the Southeastern District holds the water rights for the Fryingpan-Arkansas (Fry-Ark) Project, including the East Slope Project facilities and the proposed Sangre de Cristo Power System. Some of these rights remain conditional water rights, because they had not been used when previous decrees were entered. To maintain these conditional water rights, a diligence application must be filed in Division 2 Water Court no later than April 30, 2010. Legal counsel has worked with District staff to prepare a draft application, of which a copy had been provided to the Board for review.

Mr. Leonhardt recommended the Board's approval of a resolution concerning this application and Southeastern's intent to maintain and diligently pursue developing its conditional water rights for the Fry-Ark Project East Slope facilities and the Sangre de Cristo Power System. The resolution also includes directions to make absolute the Mt. Elbert Forebay refill for 11,148 acre-feet, based on evidence of recent operations, and to abandon the remaining 259 acre-feet conditional decreed storage capacity for the Mt. Elbert Forebay. The Board members were provided a copy of the proposed resolution, for review. Mrs. Pinello moved, seconded by Mr. Johnson, to approve Mr. Leonhardt's recommendation. Following discussion of the District's absolute and conditional water rights, the motion unanimously carried.

**BELL DITCHES CHANGE CASE (FOUNTAIN AND WIDEFIELD, CASE 08CW47)--  
SETTLEMENT STIPULATION**

Mr. Leonhardt reported the City of Fountain and Widefield Water & Sanitation District have filed Case No. 08CW47 (Water Division 2), requesting changes to their recently purchased irrigation water rights decreed to the W.A. Bell Ditches No. 1, 2, and 3, on tributaries to Grape Creek. The application is to change those water rights from irrigation to all municipal uses, and to transport the consumptive use portion of the water down Grape Creek to the Arkansas River for storage in Pueblo Reservoir, from where they can divert it into their municipal systems through the Fountain Valley Pipeline.

Mr. Leonhardt reported that in recent settlement negotiations, the applicants have reasonably addressed several of Southeastern's concerns, making appropriate revisions to their proposed decree. The Board members were provided a copy of the negotiated proposed decree and stipulation with the Applicants for review. District staff recently identified additional potential concerns that other objectors' experts are to address in their reports due April 19. Based on upcoming litigation deadlines, Mr. Leonhardt recommended the Board consider settlement of the case this month. He provided the Board members a summary of the progress in negotiations on each issue. Mr. Leonhardt then recommended the Board authorize legal counsel to sign the negotiated settlement stipulation if District staff believes the stipulation is appropriate after reviewing other objectors' expert reports next week. Howard Miller

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moved, seconded by Mr. Reed, to approve Mr. Leonhardt's recommendation. Motion unanimously carried.

Mr. Miskel left the meeting at 11:08 a.m.

**APPROVAL OF MINUTES:**

President Long asked if the members of the Board had received their copy of the minutes of the March 18, 2010 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegón moved, seconded by Mr. Johnson, to approve the minutes. Motion unanimously carried.

**FINANCE COMMITTEE REPORT:**

Treasurer Ann Nichols reported the financial statements for February and March were posted to the Board website for review. Treasurer Nichols moved for acceptance of the February and March 2010 financial statements and payment of the April bills. Mr. Hazard seconded the motion, the motion unanimously carried.

**CONSENT ITEMS:**

None

**PRESENTATIONS:**

None

**MONTHLY REPORTS:**

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

Roy Vaughan presented a PowerPoint reviewing the following:

- As of April 12, there were 264,715 acre-feet of water stored in Pueblo Reservoir, 159,805 acre-feet of Project water, 46,186 acre-feet of water stored in Excess Capacity, 9,388 acre-feet carryover Winter water, and 48,848 acre-feet of Winter water.
- There is currently 97,144 acre-feet of Project space in Pueblo Reservoir, and 57,260 acre-feet of Project space available in Turquoise and Twin Lakes Reservoirs.
- As of April 12, 2010 Project Reservoirs, Turquoise is 85% of average, Twin Lakes is 105% of average, and Pueblo is 133% of average.
- Thomasville minimum flow for April, May, and June
- Projection for May 1, 2010
- Snowpack Summary for: Arkansas River Basin and the Upper Colorado River Basin

Mr. Vaughan discussed the temporary waiver from the U.S. Army Corps of Engineers for a one-time temporary two-week extension to store water in the Joint-Use Pool. He said:

- That the snow pact in the Arkansas basin above the Pueblo Reservoir drainage would continue to remain below normal.
- That we would not encroach into the Joint-Use Pool by more than 10,000 acre-feet.

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- That the elevation of Pueblo Reservoir would be out of the Joint-Use Pool by 2400 hours on April 30.

There was a discussion on how the dust storms effect the melting of the snow.

#### DIVISION ENGINEER'S REPORT

Mr. Witte reviewed the Division Engineer's monthly report for April 2010 and the Arkansas River Daily Report, Ditch and Reservoirs for April 14, 2010.

There was a call for water to be released from John Martin Reservoir to be delivered to the Lamar Canal in effect at midnight April 1, which automatically precipitated the transfer of water from Conservation Storage into Section II accounts at that time. Currently approximately 17,500 acre-feet remains in Conservation Storage awaiting transfer before water rights located in water district 67 may assert a call against any water rights located above John Martin.

Mr. Witte reported a meeting is scheduled to discuss proposed changes to the Irrigation Improvement Rules 2009CW110 on April 29, 2010. The Rule 14 replacement plans required by the Arkansas Ground Water Use Rules were reviewed during March, with a total of 132,241 acre-feet of pumping being approved for the large associations (AGUA, CWPDA, and LAWMA).

Mr. Witte said the report on 2009 operations is now available, if Board members would like a copy he can provide one for their review.

Mr. Witte reported on positions that have been filled, and vacant positions. The next furlough day will be May 28 for State employees. Mr. Witte announced that Bill Tyner was selected 2009 Engineer of the Year.

#### U.S. GEOLOGICAL SURVEY REPORT

Pat Edelmann gave a PowerPoint presentation titled, *Summary of Water Conditions in the Arkansas River Basin*. He reviewed the following:

- New National Map Viewer: <http://nationalmap.gov/viewers.html>
- Map of Real-time Streamflow Compared to Historical Streamflow for the Day of the year-April 8, 2010
- Colorado Reservoir Storage Summary for the End of March 2010 & Current Storage 4/15
- Colorado SNOTEL Current Snowpack Conditions
- Arkansas River Basin SNOTEL Snow Water Equivalent (inches)
- NRCS Snow Water Equivalence Projections (as of April 14, 2010)

#### ARKANSAS BASIN ROUNDTABLE

Lissa Pinello reported on a meeting that the Arkansas Basin Roundtable had on April 14. She said the Decision Support System interview is complete. A discussion was had on the funds that the other basin

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roundtables had not yet used, and if those funds can be transferred to other roundtables for use. There was a presentation on the Super Ditch presented to the Arkansas Basin Roundtable.

**COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY**

Ann Nichols said the next meeting of the Colorado Water Resources and Power Development Authority is scheduled for next week. She reported on the applications for the resolution grants, which will include dollars for green infrastructure and principal forgiveness. The Water Quality Control Division is looking at providing dollars for non-point source projects.

**COLORADO WATER CONSERVATION BOARD**

Reed Dils reported the Colorado Water Conservation Board (CWCB) did not meet in March due to dollar constraints. There is a meeting scheduled in May in Denver, and July in Salida. There was a half day workshop where the CWCB met with the Wildlife Commission to discuss a mitigation plan, if the two entities cannot come up with a decision the Governor will make the decision.

Mr. Dils said the deputy director for CWCB left to Iraq, and the director of CWCB, Jennifer Gimbel, has decided to eliminate the deputy director position. There is \$200,000 available for grants for the Arkansas basin.

Senator Whitehead is sponsoring a bill that would allow the State to purchase 10,500 acre-feet of water from the Las Animas-La Plata Project; it will be an incremental purchase if approved. If the State does not purchase this water the Ute tribe will receive it.

**INFORMATIONAL ITEMS:**

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

- Mussels Report
- Inclusion Process Update
- Water Court Résumé
- Legal Matters

**OTHER BUSINESS MATTERS:**

Mr. Broderick announced that Chips Barry's replacement is Jim Lochhead. Mr. Lochhead will serve as the CEO/Manager of Denver Water.

The Bureau of Reclamation will have a Value Engineering workshop April 19-23 in Denver to work on the issues associated with the NEPA process for the Arkansas Valley Conduit.

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President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:00 p.m.

Respectfully submitted,

Toni Gonzales  
Administrative Manager

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Secretary

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