

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

February 18, 2010

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District was held on Thursday, February 18, 2010 at 9:51 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
Reed Dils	Gibson Hazard	Greg Johnson
Lissa Pinello	Howard "Bub" Miller	Carl McClure
Kevin Karney	Vera Ortegón	Shawn Yoxey
Gary Bostrom		
Alan Hamel-Advisory Board Member		

DIRECTORS ABSENT AND EXCUSED:

Scott Reed and David Simpson.

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:

Roy Vaughan, U.S. Bureau of Reclamation; Chris Woodka, The Pueblo Chieftain; Kevin Meador, Black & Veatch; Bob Hartzman, City of Cañon City; Roy Heald, Security Water District and Fountain Valley Authority; Bill Hower, Beulah Water District; Shirley Klipfel; Tony Keenan, Arkansas River Outfitters Association; Jennifer Gimbel, Colorado Water Conservation Board; Steve Kastner, Division Engineer's Office-Division 2; Curt Miller, LPI/Stantec; Dwight Gardner, Senator Bennet's office; Scott Lorenz, AGUA; Jeris Danielson, Aaron Million, and Timothy Walsh, Million Conservation Resource Group; and Ken Weber.

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APPROVAL OF MINUTES:

President Long asked if the members of the Board had received their copy of the minutes of the January 21, 2010 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortégón moved, seconded by Mrs. Pinello, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported that the holdup in providing the financial statements for December 2009 and January 2010, is staff has been working on the process of understanding how to calculate the unrealized gain/loss for the investments, which is a component needed to complete the financial statements.

Treasurer Nichols reported that the financial reports for the months of December, January, and February for the District will be provided at the March Board meeting for acceptance. Miss Nichols moved for the payment of the February 2010 bills for the District, seconded by Mrs. Yoxey. Motion unanimously carried.

ACTION ITEMS:

ALLOCATION OF EAST OF PUEBLO FRY-ARK PROJECT WATER AND STORAGE

Mr. Hamilton reported in 1979, the Board and the District Court approved the Allocation Principles, which allocated Arkansas Valley cities, towns, and entities lying east of Pueblo; no less than 12 percent of the annual Project water supply. The Allocation Principles also addressed the utilization of carryover space in Project reservoirs, in an amount not less than a total of 159,000 acre-feet capacity, of which Arkansas Valley cities, towns, and entities lying east of Pueblo may use not less than 37,400 acre-feet.

In 2007, the Arkansas Valley Conduit Advisory Committee (Advisory Committee) believed that for the Arkansas Valley Conduit to work properly, each entity needed a clear understanding of how Fry-Ark Project water and storage would be allocated. This would allow each entity to know what percentage of the Project water and municipal carryover space they could use, facilitating their water planning.

The Advisory Committee deliberated for several months, reviewing and considering alternatives and developed the following recommendations:

1. The apportionment of the East of Pueblo allocation of municipal Project water and carryover storage should be based on the 2000 population of each entity.
2. If the 2000 population numbers are unknown, the population of an entity should be calculated by multiplying the number of taps served times 2.47.
3. Adjustments to these calculations were made where a known exception made a significant difference in the population.
4. In an effort to provide for future events, the Advisory Committee recommended setting aside 3 percent of the 12 percent for future, unforeseen events along with an allocation procedure for the 3 percent until it is designated for a permanent use.

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The Advisory Committee voted to send these recommendations to the District's Arkansas Valley Conduit Committee (Conduit Committee) for action. At its February 2009 meeting, the Conduit Committee voted to send the Advisory Committee's recommendations to the District's Allocation Committee.

The Allocation Committee voted to recommend that the Board adopt Resolutions No. 2010-01WR and No. 2010-02WR as presented today and at the January 21, 2010 Board meeting. Last month, District staff outlined the history and the procedures that were used in the drafting of these resolutions as directed by the Allocation Committee.

Mr. Hamilton said the Allocation Committee recommends the Board adopt:

- 1) Resolution No. 2010-01WR for the "Apportionment of the Allocation of Municipal and Domestic Project Water to Arkansas Valley Cities, Towns, and Entities Lying East of Pueblo as Described in Allocation Principle B.2."
- 2) Resolution No.2010-02WR for the "Apportionment of the Allocation of Municipal Carryover Storage to Arkansas Valley Cities, Towns, and Entities Lying East of Pueblo as Described in Allocation Principle D."

Mrs. Pinello moved, seconded by Mr. Johnson, to approve the recommendation of the Allocation Committee, and approve both resolutions. Motion unanimously carried.

WATER COURT RÉSUMÉ

Mr. Hamilton reported that case 09CW138 is an application by the Town of Poncha Springs (Town) for exchanges on the South Arkansas River. The exchanges include allocated Fry-Ark Project water and return flows, and rely on use of the District's South Arkansas exchange decree (97CW160). The District is already involved with the Town on a related change case 07CW111 and provided comments on a related "Substitute Water Supply Plan" (SWSP). District staff and legal counsel recommend filing a Statement of Opposition in this case to ensure that the decree protects the allocation of Project water, Project water return flows, and the District's decreed exchange rights.

Mr. Bostrom moved, seconded by Mr. Dils, the District file a Statement of Opposition in the Town of Poncha Springs case 09CW138. Motion unanimously carried.

Mr. Hamilton reported the budget implications for the costs for consultations with legal counsel and staff time in discussions with the Division Engineer's Office. Legal expenses for these cases are covered in legal counsel's flat fee for 2010.

Mr. Hamilton reported that case 09CW142 in Water Division 2, also filed as case 09CW186 in Water Division 5, is an application by Busk-Ivanhoe Inc. (City of Aurora) for changes of their Busk-Ivanhoe rights in Pitkin, Chaffee, and Lake Counties. The Board of Water Works of Pueblo previously changed

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their share of Busk-Ivanhoe rights to municipal use, but Aurora has not done so. District staff and legal counsel have discussed the case with Aurora. Mr. Hamilton recommended that the District file a Statement of Opposition in this case because it involves changes in senior water rights upstream of the Fry-Ark Project's West Slope Collection system and could impact the yield of the Collection system and the District's rights and interests in Project facilities.

Mr. Hazard moved, seconded by Howard Miller, to file a Statement of Opposition in Busk-Ivanhoe Inc.'s case 09CW142 in Water Division 2 and case 09CW186 in Water Division 5. Motion unanimously carried.

Mr. Hamilton reported case 09CW143 in Water Division 2 and case 09CW187 in Water Division 5 is an application filed in both divisions by Fremont Pass Ditch Co. (City of Aurora and Climax Molybdenum Co.) for the change of Columbine Ditch Rights purchased from the Board of Water Works of Pueblo, Colorado. Case 09CW188 in Water Division 5 is an application by Fremont Pass Ditch Co. for new water rights enlarging those previously decreed to the Columbine Ditch. Both cases include storage of the water in Twin Lakes and Turquoise Reservoir; the applications are unclear whether Aurora also seeks to store Columbine Ditch water in Pueblo Reservoir. District staff and legal counsel met with Aurora to discuss these cases, and recommended the Board authorize an extension agreement with the Applicant to allow time to negotiate a stipulation in lieu of filing a Statement of Opposition in these cases.

Mrs. Ortégón moved, seconded by Mr. Johnson, that the District authorize legal counsel to execute a three month Extension Agreement with the Fremont Pass Ditch Co. in case 09CW143 in Water Division 2 and cases 09CW187 and 09CW188 in Water Division 5. Motion unanimously carried.

PONCHA SPRINGS: AGREEMENT FOR EXCHANGE AND STORAGE OF PROJECT WATER

Mr. Leonhardt reviewed the proposed agreement with Poncha Springs (Poncha) for storage and exchange of Fry-Ark Project water. It relates to the District's recent decree in case 07CW160 (for exchange of Project water on the South Arkansas River), and to two pending Poncha Springs applications: Case 07CW111 (changing Friend Ranch water rights, in which Southeastern remains an objector), and the new Case 09CW138 (for related exchanges, in which the District authorized a statement of opposition this month).

The proposed agreement addresses Poncha Springs' exchange, storage, and use of Project water. Poncha requested the right to exchange and store its allocated Project water in non-Project facilities (primarily for use on its Friend Ranch golf course development) as part of its June 2009 substitute water supply plan (SWSP) request. In its subsequent water court application in case 09CW138, Poncha has requested various exchanges of Project water and return flows, relying in part on the District's South Arkansas River exchange decreed in case 97CW160 (South Ark Exchange).

In response to Poncha Springs' SWSP request last summer, legal counsel commented for the District that Poncha's Project water storage and exchange proposals would require an agreement with the

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District, to provide appropriate terms and conditions for Poncha's use of the District's South Ark Exchange, storage of Project water in non-Project facilities, and uses of Project water consistent with federal statutes, and with the District's decrees, Allocation Principles and policies.

Legal counsel worked with District staff to draft this agreement, and then to negotiate several issues with Poncha Springs' attorneys. Mr. Leonhardt said the proposed agreement contains terms and conditions that sufficiently protect the District's interests, consistent with its decreed rights, legal obligations and policies. Mr. Leonhardt recommended that the Board authorize execution of the proposed Agreement for Exchange and Storage of Project water. Mrs. Pinello moved, seconded by Mr. Johnson, to authorize legal counsel to execute the proposed agreement. Motion unanimously carried.

10,825 AGREEMENT

Mr. Broderick provided the Board with a copy of the final proposed bill for introduction this legislative year, which will provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purposes.

Mr. Broderick recommended if this bill starts to move extremely fast, to authorize the Executive Committee to be the decision making Committee on the settlement agreement on 10,825. Mrs. Pinello moved, seconded by Mr. Hazard, to approve Mr. Broderick's recommendation. Motion unanimously carried.

MONTHLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan presented a PowerPoint reviewing the following:

- As of February 15, there were 255,476 acre-feet of water stored in Pueblo Reservoir, 161,125 acre-feet of Project water, 45,546 acre-feet of water stored in Excess Capacity, and 48,805 acre-feet of Winter water.
- There is currently 95,824 acre-feet of Project space in Pueblo Reservoir, and 55,539 acre-feet of Project space available in Turquoise and Twin Lakes Reservoirs.
- As of February 15, 2010 Project Reservoirs, Turquoise is 81% of average, Twin Lakes is 114% of average, and Pueblo is 136% of average.
- Snowpack Summary for: Arkansas River Basin and the Upper Colorado River Basin
- SNOTEL Snow Water Equivalent for: Ivanhoe, Nast Lake, and Independence Pass

A discussion was had regarding meetings with Lake County on the operations of Lake Fork Creek. There was also discussion on the Voluntary Flow Management Program.

DIVISION ENGINEER'S REPORT

Steve Kastner reported Steve Witte was unable to attend the meeting today, because he is attending a meeting on the proposed consumptive rules.

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Mr. Kastner reviewed the Division Engineer's monthly report for February 2010 and the Arkansas River Daily Report, Ditch and Reservoirs for February 17, 2010.

Mr. Kastner reported there is concern that winter storage in Pueblo Reservoir relative to downstream entitlements is lagging and so, an operational adjustment is being implemented to require Holbrook to divert to their off-channel reservoir. Fort Lyon Storage will be reduced as will Colorado Canal. The total storage to date is very close to the 20-year average. John Martin Conservation Storage does not appear to be adversely affected by operations of the Winter Water Storage Program upstream.

Mr. Kastner reported the Arkansas River Compact Administration (ARCA) held a special telephonic meeting on February 11, 2010 for the purpose of approving revisions to the 1980 Operating Plan resolution. These revisions are consistent with individual resolutions passed by ARCA within the past two to three years. It is expected that the Army Corps of Engineers will approve these revisions, as is required by the Compact.

The state's initial disclosure statement has been filed in the Irrigation Improvement Rules 2009CW110 and settlement discussions are being conducted with parties who have requested such meetings.

Rule 14 replacement plans required by the Arkansas Ground Water Use Rules will be submitted for review by the Division Engineer's office at the end of February.

Mr. Kastner reported which new water court cases he believes the Division Engineer's office will participate in.

U.S. GEOLOGICAL SURVEY REPORT

No representative present

PRESENTATIONS:

COLORADO WATER CONSERVATION BOARD

Jennifer Gimbel, Director of CWCB presented a PowerPoint titled, *Meeting Colorado's Future Water Needs: CWCB's Role*. The following were reviewed:

- Road Map
- Operations and Programs
- CWCB's Roles (Financial Support for State Water Efforts, Resource Support, Facilitation, Negotiations/Protection, and Balancing Consumptive and Non-Consumptive Needs)
- Colorado's Future Water Needs
- CWCB's Funds

COLORADO RIVER WATER AVAILABILITY STUDY

Jennifer Gimbel presented a PowerPoint presentation on Phase 1 of the Colorado River Water Availability Study reviewing the following:

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- What is tasked to do
- Water Availability
- Public Outreach
- Global Climate Models Effect on Temperature
- Compact Analysis
- Phase II

FLAMING GORGE

Aaron Million of Million Conservation Resource Group presented a PowerPoint presentation titled, *Regional Water Supply Project*, reviewing the following:

- Project Team
- Consulting Team
- Green River Basin Watershed
- Project Scope
- Design Consideration
- Project Timeline
- Project Environment
- Milestones
- Opportunities

INFORMATIONAL ITEMS:

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

- Water Court Résumé
- Voluntary Flow Management Program

OTHER BUSINESS MATTERS:

President Long said the Arkansas Valley Conduit Committee would meet after lunch.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:09 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary