

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

March 20, 2014

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, March 20, 2014 at 10:05 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Harold Miskel	Vera Ortegon
Ann Nichols	Greg Johnson	Gary Bostrom
Gibson Hazard	Tom Goodwin	Carl McClure
Howard “ Bub” Miller	Jay Moore	David Simpson
Leonard Pruett		

DIRECTOR(S) ABSENT AND EXCUSED:

Kevin Karney, Shawn Yoxey, and Alan Hamel-Advisory Board Member

DISTRICT OFFICIALS PRESENT:

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

VISITORS PRESENT:

Chris Woodka, The Pueblo Chieftain; Terry Book, Board of Water Works of Pueblo; Rick Kienitz, Aurora Water; Christina Thiebaut, U.S. Senator Mark Udall’s office; Doug Fitzgerald, U.S. Congressman Scott Tipton’s office; Roy Vaughan, U.S. Bureau of Reclamation; David Mau, U.S. Geological Survey; Curtis Mitchell, City of Fountain; Curt Thompson, Consultant; Jerry Peña, CDM Smith; Mark Scott, GEI Consultants; Katiana Dillon, Wells Fargo Securities; 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; Scott Campbell, Colorado Canal and Twin Lakes; Jim Baldwin, Otero County; Jenny Bishop, Colorado Springs Utilities; and Steve Witte, Colorado Division of Water Resources.

RECORD OF PROCEEDING

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 January 16, 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. Goodwin, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for January and February 2014 were posted to the Board website for review. Treasurer Nichols moved, seconded by Dr. Moore, for acceptance of the January and February 2014 financial statements and payment of the March 2014 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

WELLS FARGO INVESTMENTS

Treasurer Ann Nichols introduced Katina Dillon, who is the Wells Fargo Investment contact person when dealing with investments for the District. Mrs. Dillon is scheduled to do presentations on a quarterly basis for the Finance Committee. Mrs. Dillon provided a PowerPoint presentation reviewing the following:

- Summary
- Comparison Report
- Distribution Graphs
- Call Report
- Cash Flow Distribution
- Position by Sector
- Portfolio History
- Cash Flow Report
- Portfolio Shock

SCANIO FAMILY LTD

Mr. Hamilton presented a PowerPoint titled, *Scanio Family LTD Inclusion by Petition*, reviewing the following:

- Acreage Amount
- Property Location
- Maps of Property
- Proposed Boundary of St. Charles Industrial Park
- Tasks Scanio Family LTD has Completed for the Inclusion Process

RECORD OF PROCEEDING

- Recommendation from the Resource and Engineering Planning Committee to set a Public Hearing on the Proposed Inclusion

FRYINGPAN-ARKANSAS PROJECT WATERSHED MEMORANDUM OF UNDERSTANDING (MOU)

Mr. Hamilton presented a PowerPoint presentation titled, *Fryingpan-Arkansas Project Watershed Memorandum of Understanding*, reviewing the following:

- Reclamation's Contacting the District Concerning Participation in the MOU
- MOU Executed Regarding Western Watershed Enhancement Partnership
- Partners of the MOU
- Purpose of the MOU
- Resource and Engineering Planning Committee Recommendation to Sign MOU

EXCHANGE DECREES AND APPLICATIONS IN THE ARKANSAS BASIN

Steve Leonhardt and Alix Joseph presented a PowerPoint titled, *Southeastern Colorado Water Conservancy District's Exchanges*, reviewing the following:

- What is an Exchange?
- An Exchange Must Protect Intervening Water Rights
- An Existing Exchange May Relate Back in Priority
- Appropriative Right of Exchange
- Court May Analyze Each Source of Substitute Supply
- The District's Exchanges
- Arkansas River: 1939 Priority Exchanges
- Cottonwood Creek Exchange
- South Arkansas Exchange
- Grape Creek Exchange
- Exchange of Project Water Return Flow
- Upper Exchange of Non-Project Water
- Lower Exchange of Non-Project Water
- Recapture of Yield Exchange

The Board was provided a list of the District's decreed exchanges and undecreed exchanges.

ACTION ITEMS:

SET DATE AND TIME FOR PUBLIC HEARING ON SCANIO FAMILY LTD PETITION FOR INCLUSION

Mr. Hamilton reported in November of 2012, District staff was contacted by a representative of the Applicant concerning the potential inclusion of a portion of their land located in Pueblo County, south of the City of Pueblo into the District. Staff provided the Applicant with the documents and forms necessary to apply for inclusion. In March 2013, this proposed inclusion was presented to the Resource and Engineering Planning Committee (REPC). In May 2013, the Applicant sent the District a draft

RECORD OF PROCEEDING

Inclusions petition and supporting documents for District staff to review. In August 2013, the Applicant submitted a NEPA questionnaire to the Eastern Colorado Area Office (ECAO) of the Bureau of Reclamation (Reclamation). Reclamation requested more information and the Applicant hired an archeological consultant to address Reclamation's concerns. The resulting archeological site survey showed one area of potential concern near Lime Creek which the Applicant addressed by moving their proposed District boundary away from Lime Creek, thus reducing that area by approximately 9 acres. In mid-December 2013, the Applicant submitted a revised legal description and maps to replace the originals in the Petition. This revision was presented to the REPC at their February meeting at which time, the REPC voted to send this item to the District Board for setting a public hearing as required by statute.

The District cannot include any property without Reclamation's consent; however, after staff review, the conclusion was reached that the method of proceeding that is most consistent with the District's statutory and contractual requirements is for the District to hold a hearing on the inclusion request, and should the District approve the inclusion request, that approval would be conditioned upon Reclamation's consent. Once Reclamation consents to this inclusion to the District, general counsel will submit the proper paperwork to the District Court for final approval.

In summary, staff has received and reviewed the necessary documents; and the administrative and back tax fees have been paid. Therefore, it is appropriate to hold a public hearing to consider the inclusion of the Applicant's property into the District.

Mr. Goodwin moved, seconded by Mr. Hazard, that the District set a public hearing to be held on Thursday, April 17, 2014 at 10:00 a.m. at the District office for consideration of the inclusion of Scanio Family LTD Property into the District and that staff arrange for the publication of the necessary notices of this hearing as required by statute. Motion unanimously carried.

RESOLUTION NO. 2014-02D, IN SUPPORT OF COLORADO WATER STEWARDSHIP PROJECT AND IN OPPOSITION TO PUBLIC TRUST DOCTRINE INITIATIVES

Lee Miller reported this resolution was requested by the Colorado Water Stewardship Project. 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 District's resolution was modeled on the resolution passed by Otero County.

Over the past two decades, activists have sought to pass ballot initiatives imposing a public trust doctrine on water in Colorado. The doctrine would subordinate existing agricultural, commercial, and municipal rights in water to a new, undefined public use. It would require state agencies and courts to reconsider and even transfer water rights to these new undefined uses. This would destabilize municipal, recreational, environmental, and agricultural water supplies by destroying the predictability of established water rights, requiring enormous costs to replace water supplies and raising questions of state liability for taking vested property rights.

RECORD OF PROCEEDING

The public trust doctrine is inconsistent with the Colorado Constitution, existing state laws and over 150 years of Colorado case law and water allocation. The Colorado Water Congress opposes public trust initiatives on the grounds they are unwise, unnecessary, expensive, and disruptive to the fair and responsible allocation and stewardship of Colorado's water resources.

Several organizations have passed a resolution opposing the Public Trust Doctrine.

Mr. Pruett moved, seconded by Dr. Moore, that the Board adopt Resolution No. 2014-02D. Motion unanimously carried.

WATER COURT RESUME

Water Division 2, Lower Arkansas Water Management Association (Case No. 14CW3004)

Mr. Hamilton reported in the January 2014 Resume in Water Court Division 2, there is one case in this Resume that staff, general counsel, and special water counsel believe the District should oppose. Case No. 2014CW3004, is the Lower Arkansas Water Management Association's (LAWMA) application to include 20 additional wells into LAWMA's augmentation plan that was decreed in Division 2, Case No. 2002CW181. All 20 of the wells in this application are located outside of the District, east of Lamar. The District needs language in the decree that ensures Fryngpan-Arkansas (Fry-Ark) Project water or return flows are not used to augment any wells located outside of the District.

Case No. 2002CW181 contains terms and conditions governing use of Fry-Ark Project water and return flows. In similar cases, the District has filed a Statement of Opposition to ensure that LAWMA and the District agree which additional structures are located within and have water used within District boundaries, making them eligible to have depletions augmented with Fry-Ark Project water and return flows. Special water counsel has been in communication with LAWMA's legal counsel, trying to develop an agreement that will create a process for LAWMA to consult with the District to reach an agreement as to which wells to be added to the augmentation plan in Case No. 2002CW181 are eligible to be augmented with Project water and return flows. If we can reach an agreement with LAWMA prior to LAWMA filing a future application, then special water counsel can ensure that ineligible wells will not receive Fry-Ark Project water or return flows as an augmentation source without filing a Statement of Opposition in each case. Until an agreement is finalized, however, the only way to ensure that Fry-Ark Project water and return flows are only used to augment eligible wells is to file a Statement of Opposition. Because the 20 wells in Case No. 2014CW3004 are located outside of the District it is recommended that the District file a Statement of Opposition in Water Division 2 Case No. 2014CW3004.

Mr. Hazard moved, seconded by Dr. Moore, the Board authorize special water counsel to file a Statement of Opposition in Water Division 2 Case No. 2014CW3004 because of the potential use of Fry-Ark Project water or return flows outside of the District boundaries. Motion unanimously carried.

RECORD OF PROCEEDING

LEGAL MATTERS

Pitkin County (Case No. 10CW305)

Alix Joseph reported Pitkin County filed its application on December 30, 2010 to seek conditional recreational in-channel diversion (RICD) water rights for the Pitkin County River Park Project in the Roaring Fork River. Originally, Pitkin County had requested two RICD rights. It withdrew its claim for one of the RICD rights after several opposers objected and the Colorado Water Conservation Board (CWCB) issued findings recommending against court approval of the RICD. After extensive negotiation with the CWCB and other objectors, Pitkin County brought a revised RICD proposal for the CWCB's consideration in January, 2014, which the CWCB approved at its January 27, 2014 meeting.

The District's primary concerns include: (1) ensuring that any RICD will not reduce the transmountain diversions to which Southeastern is legally entitled; (2) protecting the District water rights for the Fryingpan-Arkansas Project collection system; and (3) ensuring the proposed decree includes the terms and conditions approved by the CWCB to address a Colorado River Compact Call. The proposed decree dated March 6, 2014 contains appropriate terms and conditions that protect the District's transmountain diversions and water rights in the Fryingpan-Arkansas collection system. The proposed decree also incorporates the CWCB's February 2014 findings.

Mrs. Ortegon moved, seconded by Mr. Bostrom, to authorize legal counsel to enter into a stipulation with Pitkin County consenting to entry of a decree that is no less protective of the District and no less restrictive on the Applicant than the proposed decree dated March 6, 2014. Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a PowerPoint presentation with the following information:

- As of March 12, there were 173,487 acre-feet stored in Pueblo Reservoir; 116,694 acre-feet of Project water; 27,237 acre-feet of Excess Capacity water; 27,571 acre-feet of Winter water.
- There is currently 140,255 acre-feet of Project space in Pueblo Reservoir and 54,258 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 110%; Twin Lakes 88%; Pueblo 86%
- SNOTEL Current Snow Water Equivalent (SWE) % of Normal Laramie and North Platte
- Arkansas River Basin Time Series Snowpack Summary

Mr. Vaughan reported the March imports forecast is 73,100 acre-feet. Mt Elbert conduit is available and running at maximum capacity. The movement of water will be adjusted according to the forecast and customer's needs.

DIVISION ENGINEER'S REPORT

Mr. Witte presented a PowerPoint titled, *A Different Look at Possible Impacts of the Winter Water Storage Program*, reviewing the following:

- What Might Diversion Records Tell Us?

RECORD OF PROCEEDING

- Classification of Years Since 1950 Based on Water Availability
- No Evidence of a Shift in Relative Diversions Due to Winter Water Storage Program

Mr. Witte reviewed the following:

- River and Reservoir Report
 - Reference Arkansas River Daily Report. River Call is:
 - (1) 12/3/1884 Catlin
 - (2) 12/3/1884 Las Animas
 - (3) 5/31/1949 John Martin Reservoir
 - (4) 5/31/1949 Compact Call
 - <http://www.dwr.state.co.us/div2/aras/arascal.asp>
- Current River/Res. Operations
 - Winter Water Storage status as of March 15 was 101,313 acre-feet, 74 percent of previous. 20 year average.
 - (1) Difficulties encountered in getting final number measurement error.
 - (2) Pre/Post Diversions Above and Below John Martin Reservoir Comparison.
 - John Martin Storage status as of 3/1 = 210% of last year (7144 af).
- Compact Issues
 - Began storing inflow to John Martin on November 1, 2013. Will continue to store until April 7 or first call for water after April 1, whichever occurs first.
 - Rule 14 Plans are under review.
 - Rule 10 Plans are subject to comment period.
 - GP Resources submitted their Substitute Water Supply Plan application February 2, 2014.
- Abandonment proceedings
 - U.S. Army and McKenna – Water Court agreed with State but those rulings are being appealed.
 - Decision remains pending on one case – Ferraro/Menegatti.
 - Stipulation in one case remains pending.
 - All other cases have been resolved.

Gary Bostrom left the meeting at 11:55 a.m.

USGS

David Mau presented a PowerPoint titled, *Effects of the 2002 Hayman Wildfire on Stream Water Quality, Rocky Mountain, Colorado, Scientific Investigation Report 2012-5267*, reviewing the following:

- Hayman Fire
- Waldo Canyon Fire

RECORD OF PROCEEDING

- The Potential Postfire Effects on Watersheds
- The Potential Postfire Effects on Streams Receiving Postfire Runoff
- What's in Post-Wildfire Runoff
- Range of Concentrations of Selected Water-Quality Constituents
- Post-Fire Metal Concentrations
- Nitrite Plus Nitrate, as N
- Total Phosphorus
- Total Organic Carbon
- Total Recoverable Manganese
- Suspended Sediment
- High Productivity in Fourmile Creek in Las Summer
- Results
- Ongoing Questions

STATE LEGISLATION UPDATE

The Colorado Constitution limits the length of regular legislative session to no more than 120 consecutive calendar days. We have now passed the half-way point of the session. While work continues in committees and on the floors of the House and Senate to take action on various bills, the Legislature is ramping up to work on the appropriations. The next revenue forecast is due to be presented on March 18. That first quarter revenue forecast is usually the one that the Joint Budget Committee (JBC) relies on to refine the budget numbers. We should see the introduction of the long appropriations bill within a few days of the JBC having considered the new revenue forecast and making any adjustments necessitated by the forecast.

Alan Hamel, along with Travis Smith and April Montgomery, received a recommendation for confirmation from the Senate Agriculture, Natural Resources and Energy Committee to continue with the Colorado Water Conservation Board (CWCB). The nominees must be approved by the full Senate, and consideration of their confirmation.

In last month's report, we noted that two bills, both with Senator Ellen Roberts (R-Durango) as principal sponsor, generated significant controversy. SB14-115, which is co-sponsored by both Agriculture Committee Chairs, Senator Gail Schwartz and Representative Randy Fisher, addressed Colorado's Water Plan. As introduced, the bill became polarized over the general issue of the appropriate roles of the General Assembly and the Governor to set water policy. As the Senate Agriculture, Natural Resources and Energy Committee has proposed to amend the bill; the new version appears to have struck an acceptable balance of interests for the two branches. The amendment clarifies and solidifies the role of the CWCB as the state agency that will be responsible for the development, adoption, and subsequent updates to the state water plan. However, the responsibility and authority granted to the CWCB is not one of complete autonomy. The General Assembly retains the ultimate authority for guiding the state water plan but delegates some authority to the CWCB under the general oversight of the General Assembly through the Water Resources Review Committee. As part of that recognition and

RECORD OF PROCEEDING

delegation, the General Assembly is to refrain from interfering with the basin roundtables and the Interbasin Compact Committee (IBCC) as they pursue their responsibilities. While the bill remains in Senate Appropriations, there is no indication that it is going to be revisited.

The second Roberts bill, SB14-017, would have prohibited a local government from approving an application for a development permit unless the local government has adopted an enforceable resolution or ordinance that limits, as a prerequisite for approval of the development permit, the amount of irrigated grass on residential lots in the development to no more than 15 percent of the total aggregate area of all residential lots in the development. Steve Harris, Southwestern Colorado IBCC representative, spoke to the Board at their January 16, 2014 Board meeting regarding this bill. State Affairs voted by a 69 to 31 percent margin to oppose the bill. The District abstained from voting at State Affairs on the motion to oppose the legislation, because there was a division between agriculture and municipal representatives in the Arkansas basin on the bill. On February 6, the Senate Agriculture Committee referred the bill with minor amendments for consideration by the whole Senate on a 4-3 Committee vote. During floor action on the bill, the Senate amended the bill. The amended version requires the Water Resources Review Committee to conduct a review this summer of outdoor watering (meaning mostly lawn irrigation). This change is consistent with the new process for the state water plan to follow as set forth in SB14-115.

Towards the end of the discussion on SB14-017, Senator Mary Hodge (D-Brighton), a co-sponsor of SB14-017, introduced SB14-145 as a late arrival bill. The bill puts a mandate on counties and cities that prohibits them from subdivision requirements that call for a minimum percentage of a subdivision that must consist of irrigated vegetation. The requirement is not limited to lawns; it also applies to open space, buffer zones and parks. The bill applies the new land use mandate to counties and cities. It also requires the consideration of reducing tap fees if the developer agrees to some unspecified and unquantified water efficiency and water conservation measures. Many water suppliers already negotiate tap fees with users for a variety of uses - such as for economic development and job creation as well as for water conservation. Tap fees are used for many needs besides securing water for outdoor irrigation. They are used for system upgrades - such as upgrading transmission and distribution water mains and for upgrading treatment facilities - that are related to the capital system and the financial integrity of the water supplier. In light of the amendment to SB14-017 it makes little sense for SB14-145 to be treated differently, but to date Senator Hodge has reportedly not agreed to such a course. SB14-145 has not yet been calendared for a hearing in the Senate Agriculture Committee.

Senator Schwartz has once again introduced an Agriculture Efficiency bill, SB14-023. State Affairs has worked extensively with environmental representatives to craft language to make SB14-023 fit better within the existing water rights system. State Affairs voted to support the bill as proposed to be amended; however, there were more votes abstaining than votes to support. The District abstained on the vote, noting that the proposed changes improved the bill in ways that provided the District better protection (for which we were grateful), but that the bill still fundamentally changed Colorado water law to recognize the right to transfer carriage water to another use, which the District could not support. The State Affairs changes were substantially incorporated into the amendment adopted by the Senate Agriculture Committee. More recently, the River District and Northern Water each have proposed

RECORD OF PROCEEDING

additional changes to the bill, which has stalled proceeding on the bill on the Senate floor for the moment.

Peter Nichols, water counsel for the Lower Arkansas Valley Water Conservancy District, has teamed up again this year with Representative Randy Fisher on a water bill that will affect the Arkansas basin. HB14-1218 allows the use of surface water to replace or augment out-of-priority groundwater depletions without the necessity of filing an application for a change of water right if both the surface water and the well have been decreed or permitted for use on the same parcel of land, the use of the surface water does not result in any enlargement in the use of water, and the use complies with a rule adopted by the State Engineer. There are significant unanswered questions on how this bill might impact the Arkansas basin, particularly in light of the U.S. Supreme Court's ruling in *Kansas v. Colorado*. House Agriculture Committee postponed the bill indefinitely, meaning the bill is dead for this session.

HB14-1026 has received considerable attention from the *Pueblo Chieftain*. This bill was among those approved by the Water Resource Review Committee last fall and recommended to the Legislative Council. Under the anti-speculation doctrine, current water court proceedings governing an application to change the beneficial use of an irrigation water right require the applicant to designate a specific alternative beneficial use identified at the time of the application. The bill creates a more flexible change-in-use system by allowing an applicant who seeks to implement fallowing, regulated deficit irrigation, reduced consumptive use cropping, or other alternatives to the permanent dry-up of irrigated lands to apply for a change in use to any beneficial use, without designating the specific beneficial use to which the water will be applied. Section 1 of the bill defines "flex use" to mean an application of the fully consumptive portion of water that has been subject to a water right change-in-use proceeding to any beneficial use. It also redefines "appropriation" to exclude flex use from the anti-speculation doctrine. Sections 2 and 3 describe the procedures for obtaining a flex use change-in-use decree and a flex use substitute water supply plan. The bill was amended in the House Agriculture Committee to clarify that flexible consumptive use includes the return flows associated with historic use of the water right lawfully appropriated in a change case quantifying the fully consumptive use portion of the right in time, place, and amount. The flexible right must be put to beneficial use, which could include a compact obligation within the water division of the historic use. The water court retains jurisdiction to reconsider, and may set terms and conditions. If irrigation ceases on the entire property for three consecutive years, the flexible use right is nullified without further action by the water judge. The right may then be used only for irrigation unless the owner of the right proceeds with a new change of use case. These amendments were the result of an extensive dialogue with the bill proponents and State Affairs. The bill has passed the House and is currently scheduled for a hearing in the Senate Agriculture Committee for the afternoon of the District's Board meeting, March 20, 2014.

A bill that may be of interest is HB14-1184, sponsored by Representative Ed Vigil, primarily concerning the Pueblo Conservancy District. Section 1 of the bill clarifies that when a director no longer resides within a conservancy district, a vacancy is created on the district's board of directors. The remainder of the bill applies only to the Pueblo Conservancy District. The bill increases the number of district board members from three to nine, with the current three members serving as holdover directors representing

RECORD OF PROCEEDING

the City of Pueblo. The City of Pueblo will appoint new directors when the holdover directors' terms expire as well as one additional director to serve an initial term of three years. All directors appointed by the City of Pueblo must be city residents. Four new directors will be appointed to represent areas within the district by the Board of Pueblo County Commissioners as follows:

- three directors who reside in Pueblo County outside the City of Pueblo or the Pueblo West Metropolitan District to serve initial terms of four years; and
- one director who resides in the Pueblo West Metropolitan District to serve an initial term of four years.

The City of Pueblo and the Board of Pueblo County Commissioners will jointly appoint an at-large director to serve an initial term of five years.

The Board was provided information on other water bills, the State Affairs bill status sheet.

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.

NRCS COLORADO BASIN OUTLOOK REPORT MARCH 1, 2014

Mr. Hamilton presented a PowerPoint titled, *Fry-Ark Collection System and Upper Arkansas River Basin Snowpack*, reviewing the following:

- Fry-Ark Collection System Area Snowpack Snow Water Equivalent (SWE) March 20, 2014
- Upper Arkansas Basin Snowpack March 20, 2014
- Upper Arkansas Basin Snowpack Snow Water Equivalent (SWE) March 20, 2014

Mr. Hamilton reported the monthly NRCS Colorado Basin Outlook Reports will be included in their monthly Board meeting binders.

For the entire Arkansas basin, the March 2014 snowpack was 109 percent of median, but the Upper Arkansas sub-basin was 134 percent of median, while the Cucharas and Huerfano sub-basins were 67 percent of median, and the Purgatoire sub-basin was 56 percent of median. The April – July streamflow forecast for the Arkansas River at Salida is 121 percent of average.

Upper Colorado basin received well above normal snow accumulation during February. The March 1, 2014 snowpack total of 130 percent of median already exceeds the typical peak snow water equivalent (SWE). The watershed snowpack analysis for the Roaring Fork basin is 120 percent of median.

OTHER BUSINESS MATTERS:

Mr. Broderick said that a copy of the 2014 Adopted Budget was placed at each of the Directors places, and thanked the staff Finance Team for the product.

President Long announced that all regular emails such as the website postings and weekly meeting reminders will not be sent using info@secwcd.com.

RECORD OF PROCEEDING

EXECUTIVE SESSION

Mr. 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. Southeastern Colorado Water Conservancy District (SECWCD) (Case Nos. 06CW7)
2. Southeastern Colorado Water Conservancy District (SECWCD) (Case Nos. 06CW8)
3. Colorado Springs Utilities (CS-U) (Case No. 05CW96)
4. Lower Arkansas Water Management Association (LAWMA) (Case No. 02CW181)
5. Upper Arkansas Water Conservancy District (UAWCD) (Case No. 04CW96)

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)
- 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. Gary Bostrom is excused for items 1, 2 and 3 (but left the meeting before this item)
 - b. Tom Goodwin and Jay Moore for item 5
2. Executive Director
3. General Counsel
4. Special Water Counsel
5. Director of Engineering and Resource Management

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

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

President Long reconvened the District meeting at 12:35 p.m.

REPORT OUT OF EXECUTIVE SESSION AND ACTION ITEMS

Lee Miller reported that the Board received legal advice regarding two applications Southeastern Colorado Water Conservancy District (SECWCD) (Case No. 06CW7) and Southeastern Colorado Water Conservancy District (SECWCD) (Case No. 06CW8), and there was no action recommended from the Executive Session on these two cases.

RECORD OF PROCEEDING

There was no action recommended in Colorado Springs Utilities (Case No. 05CW96).

Alix Joseph reported Lower Arkansas Water Management Association (LAWMA) (Case No. 02CW181) that the Stipulation the Board was provided satisfies the District's objectives in requesting a hearing and protects the District's interests. Legal counsel understand that the District wanted a standard evaluating when dry-land farming has been established and maintained that considers: soil nutrient levels that promote crop growth; erosion control measures; appropriate crops for dry-land farming; sufficient percentage of crop covering field; weed control; and crop rotations to ensure sufficient nutrients in soil. The Board was provided the Stipulation that sets forth an agreed-upon standard for determining whether dry-land farming is established and maintained based upon the nature of the crop as well as the crop residue cover. While this definition is limited to those parcels under the Highland Canal, this is the only land that still needs to be dried-up and revegetated under this Decree that affects the District's interests. In Case No. 02CW181, LAWMA changed water rights associated with the Highland Canal, Kesseee Ditch, X-Y Canal, Stubbs Ditch, Manvel Canal, Lamar Canal and Fort Bent Ditch. The land formerly irrigated with the Kesseee Ditch has already been revegetated. The remaining land is outside the District and does not affect the District's interests.

Mr. Pruett moved, seconded by Mr. Howard "Bub" Miller, to authorize legal counsel to enter into a Stipulation with LAWMA consenting to execution of a Stipulation no less protective of the District and no less restrictive on LAWMA than the Stipulation dated March 7, 2014. Motion passed. Mr. Bostrom and Mrs. Ortegon were not present for the vote.

Mr. Leonhardt reported in the Upper Arkansas Water Conservancy District (UAWCD) Case No. 04CW96, legal counsel have negotiated an Agreement Concerning Exchange, Storage, and Use of Fryingpan-Arkansas Project water with UAWCD, and believe the Agreement satisfactorily addresses the District's concerns with UAWCD storing and exchanging Project water to non-Project facilities. In addition, the negotiated Stipulation and proposed decree address the District's objectives in filing its Statement of Opposition and include appropriate terms and conditions protecting the District's rights and interests, including the terms previously approved by the Board for protection of the Voluntary Flow Management Program.

Mr. Simpson moved, seconded by Mr. Johnson, to authorize the Executive Director to execute the Agreement between Southeastern Colorado Water Conservancy District and Upper Arkansas Water Conservancy District Concerning Exchange, Storage, and Use of Fryingpan-Arkansas Project water; and to authorize special water counsel to execute a stipulation with UAWCD in Case No. 04CW96 stipulating to entry of a decree that is no less restrictive on UAWCD and no less protective of the District than the proposed decree dated February 11, 2014. Motion passed with Mr. Goodwin and Dr. Moore abstaining.

RECORD OF PROCEEDING

INFORMATIONAL ITEMS:

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

- Water Court Resume
- New Information Email Address
- Other Business Matters
 - NWRA Federal Water Issues Seminar, March 31-April 2 – Washington, DC
 - Crop Water Use Workshop, April 3 – Salida
 - Arkansas River Basin Water Forum, April 23-24 – La Junta

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:47 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary
