

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

January 17, 2013

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, January 17, 2013 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	Ann Nichols	Vera Ortegon
Harold Miskel	Gary Bostrom	Kevin Karney
Gibson Hazard	Greg Johnson	Carl McClure
Reed Dils	Howard "Bub" Miller	Shawn Yoxey
Tom Goodwin	Leonard Pruett	
Alan Hamel-Advisory Board Member		

DIRECTOR ABSENT AND EXCUSED:

David Simpson.

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Project Engineer Kevin Meador; Finance Manager Tina White; Director of Engineering and Resource Management Bob Hamilton; Project-Program Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

David Mau, U.S. Geological Survey; Chris Woodka, The Pueblo Chieftain; Steve Witte, Colorado Division of Water Resources-Division 2; Dwight Gardner, Senator Michael Bennet's office; Doris Morgan, Congressman Cory Gardner's office; Jim Baldwin, Otero County; Brett Gracely and Jenny Bishop, Colorado Springs Utilities; Terry Book, Board of Water Works of Pueblo; Brian McCain, Congressman Scott Tipton's office; Christina Thiebaut, Senator Mark Udall's office; Joe Rall, Congressman Doug Lamborn's office; Steve Pool, HDR Engineering; Bob Hartzman, City of Canon City Water Department; Terry Dawson, Bureau of Reclamation; Tom Simpson, Aurora Water; Roy Heald, Security Water District and Fountain Valley Authority; Larry Patterson, Fountain Utilities; and Jerry Peña, CDM Smith.

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 asked if the members of the Board had received their copy of the minutes of the December 6, 2012 Board meeting, and if there were any corrections or additions. Hearing none, Mr. Hazard moved, seconded by Mrs. Ortegon, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported the financial statements for November and December were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Goodwin, for acceptance of the November and December 2012 financial statements and payment of the January 2013 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

2013 BUDGET

Mr. Broderick thanked all the staff for the 2013 Adopted Budget, and Budget Officer Tina White for compiling all the data and organizing it into the final product.

Mrs. White presented a PowerPoint reviewing the following:

- More than “Just a Budget”
- Distinguished Budget Presentation Award
- Four Initiatives/Six Goals
- Key Sections
- County Information
- Featuring our Leadership
- Tax Calculations
- Strategic Plan
- Strategy
- Featuring More Information About What We Do
- With a Focus on Strategic Projects
- The Budget Document is a Key Communication Device
- Analysis
- Appendices

RECORD OF PROCEEDING

ACTION ITEMS:

OPEN MEETING RESOLUTION

Mr. Broderick reported the Board approves a Resolution Relating to the Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law at the first Board meeting of the year.

A Resolution Relating to the Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law is required under Colorado Revised Statute §37-45-101 *et seq.* This resolution defines where the public notice of each meeting will be posted at least 24 hours prior to a meeting. After the approval of the resolution, notice will be sent to the County Clerk and Recorder of each of the nine counties within the District boundaries.

Mr. Howard Miller moved, seconded by Mr. Johnson, to adopt Resolution-No.2013-01D, A Resolution Relating to the Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law. Motion unanimously carried.

WATER COURT RÉSUMÉS

Security and Fountain Mutual Irrigation Company (Case No. 12CW99)

Bob Hamilton reported the application by Security Water District (Security) and Fountain Mutual Irrigation Company (FMIC) is for a Plan for Augmentation and Change of Water Rights on Fountain Creek. The Plan for Augmentation includes using Fryingpan-Arkansas Project water sewerer return flows and water rights in the FMIC, the Lock Ditch, and the Chilcott Ditch, to augment three additional wells Security leases from Colorado Springs Utilities. In previous cases similar to this one, the District has participated to negotiate appropriate terms and conditions for the use of Fry-Ark Project water return flows in Security's Plans for Augmentation. In Case No. 09CW92, the District filed a Statement of Opposition and then promptly negotiated a stipulation once Security's counsel provided a proposed decree. The same course of action is appropriate here. Legal counsel has filed a Statement of Opposition in this case, subject to Board ratification.

Mr. Goodwin moved, seconded by Mr. Dils, the Board ratify staff and legal counsel's action of filing a Statement of Opposition in Water Division 2, Case No. 12CW99. Motion unanimously carried.

Board of Water Works of Pueblo (Case No 12CW102)

Mr. Hamilton reported Case No. 12CW102 is an application by the Board of Water Works of Pueblo, Colorado (BWWP) for change of a portion of the Hamp-Bell Ditch water rights to add Storage in Pueblo Reservoir as a decreed use of this portion of the Hamp-Bell Ditch water rights, as well as the decreed Commercial and Augmentation use.

The objectives of this Statement of Opposition are to:

- Assure proper terms and conditions for BWWP's use of Pueblo Reservoir, consistent with BWWP's contract for use within the District, and

RECORD OF PROCEEDING

- Assure proper terms and conditions for BWWP's participation in proposed Pueblo Reservoir Enlargement, consistent with the Enlargement Memorandum of Understanding and expected dismissal of Case 00CW138.

It is important for the District to participate in the resolution of Pueblo Reservoir issues in this case. Accordingly, legal counsel has filed a Statement of Opposition in this case, subject to Board ratification.

Mrs. Yoxey moved, seconded by Mr. McClure, the Board ratify staff and legal counsel's action of filing a Statement of Opposition in Water Division 2, Case No. 12CW102. Motion unanimously carried.

STIPULATION WITH GRE II (Case No. 11CW117)

Steve Leonhardt reported GRE II, LP filed this application in Case No. 11CW117 (Water Division 5) in September 2011, and the District filed its Statement of Opposition in November 2011. The District's primary concern is preventing an expansion of use of the Red Mountain Ditch on Hunter Creek. The Red Mountain Ditch is senior to the District's Fry-Ark Project Collection System water rights on Hunter Creek, which requires a bypass of sufficient water to maintain legitimate Red Mountain Ditch diversions, in addition to instream flow on Hunter Creek as provided in the Project's authorizing legislation.

Special Water Counsel had several settlement discussions with GRE's attorneys in 2012 to discuss the District's concerns and comments on the proposed decree and engineering report. The District previously settled a similar change of Red Mountain Ditch rights in the Red Butte Ranch Case No. 05CW50 by negotiating acceptable terms, and was able to negotiate similarly protective terms in this case. The proposed decree only changes the small amount of the Red Mountain Ditch that is used in GRE's augmentation plan, and contains terms protecting Hunter Creek flows against any increased depletion from GRE's operations. The stipulation and proposed decree have strong provisions that these cases will not set any legal precedent for future Red Mountain Ditch change cases.

Mr. McClure moved, seconded by Mr. Pruett, to authorize legal counsel to execute a stipulation with GRE II stipulating to entry of a decree that is no less restrictive on GRE II and no less protective of the District's than that dated November 26, 2012. Motion unanimously carried.

STIPULATION WITH LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION (Case No. 02CW181, WATER DIVISION 2)

Lee Miller reported in July, Lower Arkansas Water Management Association (LAWMA) filed a Petition for Confirmation of Established Dry-Land Farming or Established Ground Cover on Specified Phase II Lands (Final Petition). The Final Petition asserted that dry-land farming or ground cover had been established and maintained on certain parcels that were subject to the revegetation requirements of the Decree in Case No. 02CW181. The Final Petition raised two primary issues:

- Different interpretations of the provision in the Decree allowing the Court to determine when revegetation has been completed
- Disagree about when dry-land farming is established and maintained.

RECORD OF PROCEEDING

On December 1, 2012, LAWMA filed its 2012 Revegetation Status Report. The Revegetation Status Report uses the same standards to determine when dry-land farming is established and maintained that both the District and Bent County found objectionable in LAWMA's final petition. Accordingly, Bent County has asked the District to work with them in objecting to LAWMA's Revegetation Status Report.

If the Board authorizes execution of the proposed stipulation, then the stipulation will resolve the procedural issues. The appropriate venue to dispute when dry-land farming is established and maintained is by filing a response to LAWMA's Revegetation Status Report. Responses to LAWMA's Revegetation Status Report are due on January 15, 2013. The Court, with LAWMA's consent, granted the District an extension of this deadline so that special water counsel can discuss this issue with the Board prior to filing a substantive response.

If the Board decides to join Bent County in objecting to LAWMA's definition of when dry-land farming is established and maintained, Bent County and the District will need to hire an expert to provide testimony as to the appropriate standard for determining when dry-land farming is established and maintained. Bent County has spoken with Verlin Hopkins. Mr. Hopkins' proposed scope of work and budget were provided to the Board. It is likely that should the District and/or Bent County file an objection to LAWMA's Revegetation Status Report, the judge would hold a hearing to determine when dry-land farming is established and maintained. LAWMA is aware that the District and Bent County have a different opinion as to how to determine whether dry-land farming has been established and maintained. LAWMA has requested a meeting with Southeastern and Bent County to discuss this issue. Mr. Hopkins' proposed budget may need to be revised if we are unable to reach an agreed upon standard for determining when dry-land farming has been established and maintained.

Mr. McClure moved, seconded by Mr. Hazard, the Board authorize special water counsel to: (1) execute a stipulation with LAWMA in Case No. 02CW181, consistent with the stipulation, which resolves procedural issues regarding revegetation disputes; and (2) file a response to LAWMA's 2012 Revegetation Status Report objecting to LAWMA's standard for determining that dry-land farming has been established and maintained. Motion unanimously carried.

MONTHLY REPORTS:**U.S. BUREAU OF RECLAMATION REPORT**

Terry Dawson provided a PowerPoint presentation reviewing the following:

- As of January 15, there were 168,885 acre-feet stored in Pueblo Reservoir; 129,046 acre-feet of Project water; 25,046 acre-feet of Excess Capacity water; 12,801 acre-feet of Winter water.
- There is currently 127,903 acre-feet of Project space in Pueblo Reservoir and 55,073 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Project Reservoirs: Turquoise 50%; Twin Lakes 80%; Pueblo 87%
- West Slope Snowpack: 43%

RECORD OF PROCEEDING

DIVISION ENGINEER'S REPORT

Mr. Witte reviewed the following:

- River and Reservoir Reports
 - River Call is:
 - (1) 3/1/1910 Winter Water Storage Program
 - (2) 1/29/1885 Buffalo
 - <http://www.dwr.state.co.us/div2/aras/arascal.asp>
- Current River/Res. Operations
 - Winter Water Storage Program
 - (a) Recent inflows to Pueblo have averaged around 200 cfs, however, there has been significant fluctuation in computed inflow due to ice detention.
 - (b) The total release target below Pueblo Reservoir of 75 cfs was increased to 100 cfs on January 2, 2013 as a result of an approved operational change to deliver a greater percentage of Pueblo Reservoir inflow to Meredith Reservoir for storage as Winter Water (Holbrook, Ft. Lyon, and Las Animas Consolidated) and concurrently increasing the flow through the City of Pueblo above the IGA threshold to permit exchanges from Fountain Creek into Pueblo Reservoir. This decision was informed by the stipulation which obligates Colorado Springs to cooperate in balancing the Winter Water Storage Program, if necessary.
 - (c) Although it was possible to balance the entitlements of the various interests as of January 15, this practice may be reversed following further discussion by the IGA members, thus causing the flows through the City of Pueblo to fall to the previous target level of 75 cfs.
 - (d) From a concern that the balance of Winter Storage is too heavily weighted in downstream vessels an agreement has been reached to deliver water to Holbrook Reservoir which is to be credited as storage for the Fort Lyon Canal.
 - (e) Overall storage under the Winter Water Storage Program to date is 34,000 af which is about half of that stored at this time last year and about equal to that stored at this time in 2003 following the drought of 2002.
- Compact Storage in John Martin Reservoir is only 2,583 af and like storage under the Winter Water Storage Program is about half that of last year at this time and one third of the 1950-1975 average.
<http://www.dwr.state.co.us/div2/jmas/jmascal.asp>
- Water Supply Conditions
 - Classification of Annual Water Supply 1950-2012
 - Current Snow Water Equivalent Comparisons

RECORD OF PROCEEDING

- Demand for replacement supplies
 - Well associations are expected to carry forward un-replaced depletions into the new plan year, which must be replaced before April 30, 2013.
 - LAVWCD has urged Rule 10 Plan participants to consider applying for Fry-Ark return flows to be used as a source to maintain return flows associated with surface water irrigation improvements.
 - No spot market for excess municipal sources is expected to exist due to a lack of supply.
- Super Ditch / Interruptible Water Supply Agreements

U.S. GEOLOGICAL SURVEY REPORT

Mr. Mau presented a PowerPoint titled, *Summary of Water Conditions in the Arkansas River Basin-2013*, reviewing the following:

- Streamflow Condition in Colorado.
- Comparison of 2012 Streamflow Volume to Historic Volumes (Halfmoon Creek near Malta, Monument Creek at Pikeview, Arkansas River Near Avondale).
- Cumulative Departure from Mean Since January 1, 2000 (Halfmoon Creek near Malta, Monument Creek at Pikeview, Arkansas River Near Avondale).

STATE LEGISLATION UPDATE

Lee Miller reported the 2013 session of the General Assembly was called to order on January 9, 2013. The Colorado Constitution limits the length of regular legislative session to no more than 120 consecutive calendar days. The last day upon which the General Assembly may adjourn *sine die* is May 8, 2013. The General Assembly may adjourn earlier than that date, but not later than May 8.

The District participates in the Colorado Water Congress State Affairs Committee, which generally meets on Monday mornings in Denver before the Legislature begins its work for the week. The Board members were provided the Committee's notes of the first meeting on January 7, two days prior to the opening of the legislative session. A meeting was held Monday, January 14. Lee Miller has been appointed parliamentarian for the Committee this year.

NRCS COLORADO BASIN OUTLOOK REPORT JANUARY 1, 2013

Mr. Hamilton reported the Colorado Basin Outlook Report for January 1, 2013 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.

INFORMATIONAL ITEMS:

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

- Water Court Résumé
- O M & R Update
- Legal Quarterly Report

RECORD OF PROCEEDING

- Director Appointment
- Colorado Water Congress Annual Meeting – January 30-February 1, 2013
- Family Farm Alliance Meeting – February 21-22, 2013
- DARCA – March 6-8, 2013

OTHER BUSINESS MATTERS:

Toni Gonzales said that the standard mileage rate for 2013 is 56.5 cents per mile, which is a one cent increase from 2012.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:40 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

