

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

January 17, 2013

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, January 17, 2013 at 9:40 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	Carl McClure	Greg Johnson
Reed Dils	Howard "Bub" Miller	Shawn Yoxey
Tom Goodwin	Leonard Pruett	
Alan Hamel-Advisory Board Member		

DIRECTORS ABSENT AND EXCUSED:

David Simpson.

ENTERPRISE 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.

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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 December 6, 2012 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegon moved, seconded by Mr. Howard "Bub" Miller, 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. Johnson, for acceptance of the November and December 2012 financial statements and payment of the January 2013 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

FEDERAL LEGISLATION

Christine Arbogast reported the new Congress has been sworn in, with no changes to Colorado's congressional delegation. Once inauguration is over on January 21, 2013 the debate about fiscal policy will begin in earnest with several deadlines pending.

The previous "deal" on the fiscal cliff put sequestration or discretionary spending cuts off until March 1, 2013. It is not known if the FY 2013 budget for the Arkansas Valley Conduit (AVC) will be reduced by 8.2 percent or not. And, the continuing resolution under which we are currently operating expires March 27, 2013 but all expectations are that it will be extended through the end of the fiscal year. It is also uncertain about the FY 2014 administration budget request. Because of the rancor over the fiscal cliff, the President's budget will not be released until late February or early March; in fact, the "pass back" process between the agencies and Office of Management and Budget has not yet taken place, the AVC funding levels for the next fiscal year are not yet known. The manner in which the Congress might deal with out-year spending reductions is also unknown.

Ms. Arbogast reported other issues of interest include the implementation of an EPA administrative decision which might attempt to clarify the Clean Water Act issues. EPA Administrator Lisa Jackson is leaving and a nominee to replace has yet to be named. However, the two most frequently mentioned names right now are Deputy Administrator Robert Perciaseppe and former State of Washington Governor Christine Gregoire. Both are much more known for their interest in addressing climate change and in speculation about their possible governance, water has not been mentioned as a priority. One positive which came out of the difficult end-of-year debate was passage by unanimous consent in the Senate of the endangered fish recovery program reauthorization for the Upper Colorado and San Juan River basins. Senators Udall and Bennet and Congressmen Tipton and Gardner are to be commended for their strong support for this bill. Appropriations must follow, but we at least have assurance that the program can continue. Please note that it only took seven years to accomplish this

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goal, and Ms. Arbogast recognized Tom Pitts, who has coordinated these programs for more than 20 years, for his perseverance and leadership.

Congress also passed a one-year extension of most farm bill programs and so a renewed debate on that issue, including the plan to consolidate conservation programs, might be anticipated later this year.

CONDUIT, EXCESS CAPACITY MASTER CONTRACT, AND NEPA UPDATE

Jean Van Pelt reviewed the following:

- The Environmental Impact Statement (EIS) team is finishing up the responses to the comments on the draft EIS.
 - A Cooperating Agencies meeting is scheduled for January 29, 2013 to review their comments and the prepared responses to their comments.
 - Once the responses are finalized they will be posted on Reclamation's AVC EIS webpage.
- Work on the Principles & Guidelines (P&G) or cost/benefit analysis of the alternatives continues.
 - The P&G will not be included in the final EIS but they will be used to select the preferred alternative.
 - The team is planning on completing the P&Gs by the end of January.
 - Work on selecting the preferred alternative will begin when the P&Gs are completed.
- Reclamation continues to progress on the feasibility level by conducting the biological, cultural and geotechnical surveys in the common corridor of the various alignments for the AVC.
- The public comment period on the draft Regional Water Conservation Plan for the AVC will end on January 25, 2013.
 - We will respond to the comments and should be prepared to present the final draft to the Board for approval at the February Board meeting.
- A joint meeting with the Excess Capacity Board Committee, AVC Board Committee, and the Conduit Advisory Committee scheduled for January 11, 2013 was canceled due to bad weather.
 - We were unable to schedule the meeting before a January 25, 2013 meeting that is scheduled for the Excess Capacity and Conduit participants.
 - The participants' meeting fulfills the District's Memorandum of Agreement commitment to annually provide a report on the budget and accomplishments for the previous year and the budget and schedule for the upcoming year.
 - The participants will also receive an estimate of their 2013 costs related to the project(s) they participate in.

President Long recessed the meeting at 10:05 a.m., and reconvened at 11:40 a.m.

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ACTION ITEMS:

SOUTHEASTERN'S PENDING APPLICATION FOR EXCHANGE OF FRY-ARK PROJECT RETURN FLOWS (CASE NO. 01CW151)

Lee Miller said a request has been made for the Southeastern Colorado Water Activity Enterprise to enter Executive Session for the purpose of:

Discussion with legal counsel on the Return Flow Exchange Application (Case No. 01CW151, Water Division 2)

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)
2. Executive Director
3. General Counsel
4. Special Water Counsel
5. Director of Engineering and Resource Management

MINUTES WILL BE ELECTRONICALLY RECORDED AS REQUIRED BY THE COLORADO OPEN MEETING ACT.

Mr. Pruett moved, seconded by Mr. McClure to enter into Executive Session. Motion unanimously carried. The Enterprise meeting was recessed at 11:42 a.m. At this time the Water Activity Enterprise Board entered into Executive Session. The Enterprise meeting was reconvened at 12:04 p.m.

ACTION ITEM/REPORT OUT OF EXECUTIVE SESSION:

Lee Miller said discussion with legal counsel for the purposes of receiving legal advice on the Return Flow Exchange Application (Case No. 01CW151, Water Division 2) was held during Executive Session.

Mr. Leonhardt recommended a motion from the Board to authorize and direct special water counsel to file a motion to rerefer the District's pending application in Case No. 01CW151 to the Water Judge. Mrs. Yoxey moved, seconded by Mr. Goodwin, to authorize and direct special water counsel to proceed as Mr. Leonhardt recommended. Motion unanimously carried.

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INFORMATIONAL ITEMS:

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

- Conduit, Excess Capacity Master Contract, and NEPA Update

OTHER BUSINESS MATTERS:

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

