

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

November 21, 2013

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, November 21, 2013 at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long convened the meeting at 9:45 a.m. for the Public Hearing to be held in conjunction with the Enterprise meeting. The District meeting was recessed at 10:25 a.m., and reconvened at 10:26 a.m.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Harold Miskel	Vera Ortegon
Ann Nichols	Greg Johnson	Kevin Karney
Gibson Hazard	Gary Bostrom	Tom Goodwin
Howard "Bub" Miller	Jay Moore	Shawn Yoxey
Carl McClure	Leonard Pruett	David Simpson

DIRECTOR(S) ABSENT AND EXCUSED:

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 Support Specialist Leann Noga; Garden Coordinator Elizabeth Catt; 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; Ken Lykens and Kevin Bergschneider, HDR Engineering; Mark Pifher, Colorado Springs Utilities; Jack Goble, Lower Arkansas Valley Water Conservancy District; Jim Baldwin, Otero County; Tom Simpson, Aurora Water; Christina Thiebaut, U.S. Senator Mark Udall's office; Dan Henrichs, High Line Canal Company; Steve Witte, Colorado Division of Water Resources-Division 2; Terry Dawson, U.S. Bureau of Reclamation; David Mau, U.S. Geological Survey; and Mark Scott, GEI Consultants.

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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 October 17, 2013 Board meeting, and if there were any corrections or additions. Mrs. Ortegon moved, seconded by Mr. Howard "Bub" Miller, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for September and October were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Johnson, for acceptance of the September and October 2013 financial statements and payment of the October and November 2013 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

PUBLIC HEARING

Mr. Broderick presented a PowerPoint presentation titled, *2014 Proposed Budget*, reviewing the following:

- Budget Policy
- Highlights
- District Fry-Ark Project Revenue
- Fry-Ark Project Tax Revenue
- Other Fry-Ark Project Revenue
- Operating Revenue
- Revenue
- District Sources of Operating Revenue
- Revenue Interfund Reimbursement
- District Expenditure Fry-Ark Project
- District Expenditures Grant Activity
- District Expenditures Operating
- District Capital Outlay
- District Activity
- Enterprise Consolidated Revenue
- Enterprise Consolidated Revenue Grants
- Enterprise Consolidated Operating Revenue
- Enterprise Consolidated Revenue Environmental Stewardship Surcharge
- Enterprise Consolidated Revenue Water Sales

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- Enterprise Consolidated Revenue
- Enterprise Consolidated Revenue Participants Payments
- Enterprise Consolidated Expenditures
- Enterprise Capital Outlay
- Use of Reserve Funds

President Long asked the Board members if there were any questions. The few that were asked were answered by Mr. Broderick. President Long then asked if there were any questions from the public, there were none.

President Long recessed the District meeting at 10:25 a.m.

HABITAT HERO AWARD

Mr. Broderick reported Garden Coordinator, Liz Catt, submitted the Xeriscape Demonstration Garden as a Habitat Hero Garden. On November 1, 2013 the District received notice it was awarded this distinction. The Xeriscape Demonstration Garden was recognized for offering an outstanding example of restoring habitat crucial to the survival of songbirds and pollinators by providing shelter and nesting opportunities, natural food sources, fresh water, no or minimal pesticide use, and is water-wise and energy-efficient.

President Long presented Mrs. Catt with a plaque recognizing the Xeriscape Demonstration Garden as a Habitat Hero Garden.

PALMER TRUST AWARD

Mr. Broderick reported the Innovation in Conservation Award: Arkansas Voluntary Flow Management Program, Arkansas River Outfitters Association, is an award that honors an individual, group, project, or program that has advanced the cause of conservation by developing new conservation models, created new conservation funding mechanisms, and/or implemented unique conservation partnerships that protect our natural heritage.

The Arkansas River Voluntary Flow Management Program (VFMP), a cooperative effort between Colorado Parks and Wildlife, Colorado Trout Unlimited, the Southeastern Colorado Water Conservancy District, the Colorado Department of Natural Resources, Chaffee County and Arkansas River Outfitters Association (AROA), is a unique water management program that monitors the volume of water that flows downriver, allowing a consistent flow during the summer season, thus benefitting both tourism and economic stability for this region. After 20 successful years, the program is viewed nationally as a model for cooperative water flow programs.

The VFMP's annual operation during the season benefits not only rafting companies and private boaters, but also the many communities and municipalities that depend on tourism for their very survival. The VFMP enhances the experience of visiting the Arkansas River, ensuring the opportunity to enjoy scenic beauty, whitewater thrills, excellent family-class rafting, as well as providing healthy habitat for the

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popular Brown Trout during the peak tourism season from July 1 through August 15. The program contributes to sustaining the river's flow through Pueblo and onto agricultural land in the Lower Arkansas Valley.

FOUNTAIN CREEK PEAK FLOW AND SEDIMENT STUDY

David Mau presented a PowerPoint presentation titled, *Fountain Creek Peak Flow and Sediment Study*, reviewing the following:

- Project Summary
- Management Scenarios Summary at Pueblo Gage

MONTHLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Terry Dawson provided a PowerPoint presentation with the following information:

- As of November 19, there were 132,512 acre-feet stored in Pueblo Reservoir; 102,539 acre-feet of Project water; 24,707 acre-feet of Excess Capacity water; 3,267 acre-feet of Winter water.
- There is currently 154,410 acre-feet of Project space in Pueblo Reservoir and 33,523 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 87%; Twin Lakes 86%; Pueblo 95%

DIVISION ENGINEER'S REPORT

Mr. Witte reviewed the following:

- River and Reservoir Report
 - Arkansas River Daily Report, River Call:
 - 3/1/1910 Winter Water Storage Program
 - 5/31/1949 Compact Call
 - <http://www.dwr.state.co.us/div2/aras/arascal.asp>
- Current River/Reservoir Operations
 - Earlier this week, the Colorado Water Conservation Board (CWCB) voted to approve the Criteria and Guidelines for HB13-1248 Pilot Projects. The Division Engineers Office is anticipating a fallowing-leasing proposal for around 250 acre-feet to be submitted within the next 10 days in order to meet the notice requirements and comment period which will allow the CWCB to act on the proposal at its March meeting.
- Compact Issues
 - Began storing inflow to John Martin on November 1, 2013
 - Arkansas River Compact Administration will meet December 17 and 18, 2013 in Lamar, Colorado at the Lamar Community Building, 610 South Sixth St.
 - Update on Compact compliance status
 - Revision of PDF values for 2014
 - New request for an account in John Martin Reservoir

USGS REPORT

David Mau provided his report under the Presentations.

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STATE LEGISLATION UPDATE

Lee Miller reported the Water Resources Review Committee (WRRC) met for the final time on October 30, 2013, and took action on the legislation drafted as a result of the prior hearings. Here is a summary of the proposed legislation approved by the WRRC and those bills not recommended. The WRRC voted unanimously to recommend to the Legislative Council that more than the three bills permitted the WRRC be allowed.

Proposed Legislation

Bill Designation	Short Title	Former Bill Designation
Bill A	Hydroelectric Generation Incentives	Bill 1
Bill B	Water Flexible Markets	Bill 2
Bill C	Wastewater Treatment Small Communities Grants	Bill 3
Bill D	Division Water Resources Remove Printing Requirements	Bill 10
Bill E	Oppose Federal Special Use Permit Water Right Term	Bill 11
Resolution A	Forest Products Transport Interstate Weight Limit	Resolution 1

Bills Not Recommended to Legislative Council

Bill Designation	Short Title
Bill 4	Create Forest Watershed Roundtables
Bill 5	Modify Cluster Development
Bill 6	Legislator Water Education Fund
Bill 7	Designated Ground Water District Enforcement
Bill 8	Allow Surface Water Replace Well Depletions
Bill 9	Simplified Water Court Procedures

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Several of the bills not recommended were withdrawn by the requesting legislator. Of those bills voted on by the WRRC, all received a majority vote in favor; however, a two-thirds vote is required for recommendation. Bills not recommended to the Legislative Council, as well as several concepts not requested to be drafted, such as the Agriculture Efficiency proposal, are still likely to be introduced by individual legislators during the upcoming legislative session.

One of the items presented to the WRRC but not drafted into a proposed bill, was a water efficiency proposal from Denver Water. Talking points on Denver Water's proposal were provided to the Board. Denver Water has requested support from the Front Range Water Council for their proposal. The District Board indicated that they would like more time to study the legislation and supporting materials before taking a position on the legislation.

ACTION ITEMS:**WOODMOOR (Case No. 12CW01), APPROVAL OF STIPULATION**

Mr. Leonhardt reported Woodmoor filed its application in January 2012 to change the use of rights it has acquired on Fountain Creek, near Fountain, including shares in the Chilcott Ditch Company, the Liston and Love Ditch, the Lock Ditch, and the Lock Ditch No. 2, as well as Calhan Reservoir storage rights, from irrigation to municipal and related uses. For its change of the Chilcott, Woodmoor relies on the "ditch-wide" quantification of historical consumptive use decreed in Case No. 06CW119, filed by Security and Fountain, and to which the District stipulated. The Board directed special water counsel to file a statement of opposition in this case in March 2012. The case is set for a 10-day trial beginning February 25, 2014. The District's expert disclosures, filed last month, do not designate an expert witness, but reserved the right to participate in trial including examining other parties' experts.

The proposed decree dated June 24, 2013 included appropriate terms and conditions to protect the Winter Water Storage Program, to ensure consistency with Case No. 06CW119, and to ensure dry-up and revegetation consistent with that case. In consultation with District staff and general counsel, special water counsel are in the process of negotiating an appropriate transit loss term to be added to the decree. Special water counsel is awaiting Woodmoor's response on this last point.

Mr. Bostrom moved, seconded by Mr. Johnson, to authorize legal counsel to enter into a stipulation with Woodmoor consenting to entry of a decree that is no less protective of the District than the proposed decree dated June 24, 2013, with the addition of a condition concerning assessment of transit losses that is acceptable to District staff, general counsel, and special water counsel. Motion unanimously carried.

WATER COURT RESUME

Board of Water Works of Pueblo (Case No. 2013CW3043 and Case No 2013CW3044)

Bob Hamilton reported on the following:

September 2013 Resumes

Water Division 2: There are two cases in this resume of interest to the District. Both cases are applications by BWWP to make conditional water rights absolute, and for a sexennial finding of reasonable diligence for exchanges.

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Case No. 2013CW3043 involves exchanges and reuse rights for non-sewered return flows adjudicated in previous Water Division 2 cases in which the District has stipulations. This application involves exchanges of non-sewered return flows from below Pueblo Reservoir upstream to the following facilities: 1. Pueblo Reservoir; 2. Clear Creek Reservoir; 3. Turquoise Lake; 4. Northside Intake; 5. Southside Intake; and 6. Comanche Pump Station. The many sources of water from which the return flows are generated include Fryingpan-Arkansas Project water.

Case No. 2013CW3044 involves exchange of water into Clear Creek Reservoir, located in Chaffee County, and Twin Lakes Reservoir and Turquoise Reservoir, both located in Lake County. The sources of water for these exchanges are: Ewing Placer Ditch; Warren E. Wurtz Ditch; Wurtz Extension Ditch; Columbine Ditch; Busk-Ivanhoe System; Homestake Project; Independence Pass Transmountain Diversion System; and Fryingpan-Arkansas Project.

In both cases, BWWP seeks findings of diligence, and to make absolute a portion of the previously decreed conditional exchange rights. Staff has reviewed the application and has spoken with applicant's staff, verifying the absolute claims, and believes the claimed flows to be correct. Special water counsel has reviewed these applications as to the use of Fryingpan-Arkansas Project water and facilities, and previous stipulations to the original applications and subsequent diligence filings to ensure the continued protection of the Fryingpan-Arkansas Project and the District's exchanges. Special legal counsel has drafted a stipulation concurrence letter that requests counsel for BWWP to confirm that the previous stipulations apply to these cases.

Mrs. Ortegon moved, seconded by Mrs. Yoxey, that the Board authorize special water counsel to execute a letter agreement in Water Division 2 Cases 2013CW3043 and 2013CW3044, reaffirming the previous stipulations with the Board of Water Works of Pueblo, and, if the applicant does not sign the letter, authorize special water counsel to file Statements of Opposition in these two cases. Motion unanimously carried.

EXECUTIVE SESSION

Lee Miller reported a request has been made for the Southeastern Colorado Water Conservancy District to enter Executive Session for the purpose of:

1. Discussion with legal counsel on the Aurora-High Line Exchange Application (Case No. 05CW105, Water Division 2)
2. Discussion with legal counsel on the Lower Arkansas Water Management Association (Case No. 02CW181, 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)

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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
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. Johnson moved, seconded by Mr. Goodwin, to convene into Executive Session. Motion unanimously carried. The District Board entered into Executive Session at 11:32 a.m.

President Long reconvened the District meeting at 12:30 p.m.

REPORT OUT OF EXECUTIVE SESSION

Lee Miller reported that the Board received legal advice regarding on the Aurora-High Line Exchange Application (Case No. 05CW105, Water Division 2) and Lower Arkansas Water Management Association (Case No. 02CW181, Water Division 2) to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators. Only the discussion of the Aurora-High Line Exchange Application will result in an action item.

ACTION ITEMS (CONTINUED)

AURORA/HIGH LINE EXCHANGE (CASE NO. 05CW105) RESPNSE TO MOTION TO DISMISS APPLICATION WITHOUT PREJUDICE

Mr. Leonhardt reported the Aurora-High Line Exchange Application (Case No. 05CW105, Water Division 2) was discussed in Executive Session. Mr. Goodwin moved, seconded by Dr. Moore, that the District direct legal counsel not to oppose Aurora's and High Line's Motion to Dismiss their application without prejudice. Motion unanimously carried.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Winter Water Storage Program Board of Trustees Annual Meeting
- Other Business Matters
 - CRWUA Annual Conference – December 11-13, 2013 – Las Vegas, NV
 - Arkansas River Compact Administration – December 18, 2013 – Lamar

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- o Four States Irrigation Council – January 15-17, 2014 – Fort Collins

OTHER BUSINESS MATTERS:

President Long announced the Board meeting in December will be held on Thursday, December 5, the Board will be notified of the time at a later date.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:32 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary
