

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

February 19, 2015

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, February 19, 2015 at 10:20 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Harold Miskel
Kevin Karney	Gibson Hazard	Gary Bostrom
Carl McClure	Howard "Bub" Miller	Leonard Pruett
Jay Moore	David Simpson	Pat Edelmann
Tom Goodwin	Curtis Mitchell	
Alan Hamel-Advisory Board Member		

DIRECTOR(S) ABSENT AND EXCUSED:

Vera Ortegon

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Program-Project Coordinator Jean Van Pelt; Finance Coordinator/IT Leann Noga; Administrative Support Specialist Margie Medina; Special Water Counsel Steve Leonhardt and Alix Joseph; and Federal Lobbyist Ray Kogovsek.

VISITORS PRESENT:

Chris Woodka, The Pueblo Chieftain; Tom Simpson, Aurora Water; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Roy Vaughan, U.S. Bureau of Reclamation; Steve Witte, Colorado Division of Water Resources-Division 2; Curt Thompson, AECOM; Bob Hartzman, City of Canon City Water; Paul Blanchard, Northwest Pipe Company; Greg DeYoung and Lucy Harrington, Westervelt Ecological Services; Henry Schnabel, Prowers County; Rodger Ortiz, U.S. Geological Survey; Kevin Niles, AGUA; Jim Baldwin, Otero County; Bob Hamilton, civilian; Kevin Bergschneider, HDR Engineering; and Matt Brown, Wilson Water Group.

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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 said the minutes of the January 15, 2015 Board meeting were posted to the Board website for review, and if there were any corrections or additions. Hearing none, Mr. Pruett moved, seconded by Mr. Howard "Bub" Miller, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for January 2015 were posted to the Board website for review. Ms. Nichols moved, seconded by Dr. Moore, for acceptance of the January 2015 financial statements and payment of the February 2015 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

XERISCAPE WEB PAGES

Jean Van Pelt said that Garden Coordinator Liz Catt spent considerable time and energy to update the xeriscape pages on the District's website. The information can be accessed by clicking on the Conservation and Education tab and then clicking on Xeriscape.

Ms. Van Pelt reviewed the following drop down menus:

- SECWCD Xeriscape Garden
- Xeriscape Information
- Ornament Grasses
- Irrigated Systems
- Lawn and Turf
- Events and Resources

Mrs. Catt will be sending out postcards to water providers within the District boundaries notifying them of the updated website.

FIVE YEAR (2015-2020) WATER CONSERVATION AND MANAGEMENT PLAN UPDATE

Ms. Van Pelt reported the District's contract with Reclamation states the District must submit a Water Conservation and Management plan to Reclamation every five years. The plan is developed to be flexible depending on funding and staff to implement the plan.

Over the last ten years Reclamation has provided a Water Conservation Field Services (WCFS) grant to the District in order to perform this mandatory update to the plan. The District submitted a grant application in 2014 stating the scope of work and budget was to update the District's plan.

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Unfortunately, in 2014 Reclamation reprioritized the project they were funding and planning efforts were not funded. Since then Reclamation has assured the District that funding would be available for these efforts in 2015. District staff has confirmed this with both the Great Plains Regional Office and the Eastern Colorado Area Office personnel that oversee the WCFS grants. Both offices have acknowledged and approval was granted to update the plan using 2015 WCFS funds available in September 2015. The plan would then be delivered to Reclamation in the first quarter of 2016.

ACTION ITEMS:**HUMAN RESOURCES COMMITTEE**

Chairman of the Human Resources (HR) Committee Gary Bostrom reported the HR Committee met in January and discussed the evaluations submitted by HR Committee members for the Executive Director. Mr. Bostrom reported the HR Committee recommends the Executive Director be awarded a one-time performance award of five percent (5%) of his 2014 salary. Mr. Bostrom moved, seconded by Mr. Goodwin, the Board approved the HR Committee's recommendation. Motion unanimously carried.

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

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of February 16, 2015 there were 246,553 acre-feet stored in Pueblo Reservoir; 141,241 acre-feet of Project water; 48,981 acre-feet of Excess Capacity water; 54,343 acre-feet of Winter water.
- There is currently 115,708 acre-feet of Project space in Pueblo Reservoir and 51,006 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 99%; Twin Lakes 104%; Pueblo 130%
- Arkansas River Basin Time Series Snowpack Summary February 18, 2015
- Upper Colorado River Basin Time Series Snowpack Summary February 18, 2015
- February 1, 2015 forecast for Project water 63,950 acre-feet

Mr. Vaughan reported Mt Elbert Conduit is running 250 cfs. Currently Reclamation is moving 112 cfs. The movement of water will be adjusted according to the forecast and customer's needs.

Mr. Vaughan showed pictures of the Bessemer Ditch rehabilitation and of Fort Carson troops testing a new bridging system.

DIVISION ENGINEER'S REPORT

Steve Witte reported on the following:

- River and Reservoir Report
 - Arkansas River Daily Report. River Call is
 - 3/1/1910 Winter Water Storage Program
 - 5/31/1949 Compact Call

<http://www.dwr.state.co.us/div2/aras/arascal.asp>

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- Current River/Reservoir Operations
 - Winter Water Storage status as of February 15, equal 129 percent last year and 99.6 percent of 20 year average
 - Only 3 plus weeks remaining in this Winter Water Storage Program
 - Currently Colorado Canal is taking all water available to them
 - We are relatively strong in Pueblo Reservoir and may soon decide to increase release from Pueblo Reservoir (Fishermen approve, Levee project concerns)
- John Martin Reservoir Storage status as of February 15, equal 164 percent of last year but only 77 percent of 1950-1975 average
 - Increased flow from Pueblo will also increase storage in John Martin
 - Expect to remain in Compact Storage until at least April 1, 2015
- Compact Issues
 - Began storing inflow to John Martin on November 1, 2014
 - Division Engineers Office is currently in the process of compiling 2014 update input data sets for HI model Compact Compliance run
- Miscellaneous
 - 14 Replacement plans review in March
 - 10 Compact Compliance plans review in April
 - Results of Pond Study to be considered
 - HB-1248 Pilot Program
 - Colorado Open Records Act Request re Independence Pass Transmountain Diversion System

Lee Miller and Alan Hamel wanted to recognize the work the Division Engineers Office did on the Catlin Pilot project, each expressed the Division Engineers Office produced a lot of work in a short time period.

U.S. GEOLOGICAL SURVEY REPORT

Rodger Ortiz reviewed the U.S. Geological Survey website reviewing the following:

- Feature Publications
- Water Quality Summaries
- Webcams
- Co.water/usgs.gov

Mr. Ortiz announced he will be retiring in April.

STATE LEGISLATION UPDATE

Lee Miller reported it is about a third of the way through the 2015 session of the General Assembly. The Colorado Constitution limits the length of regular legislative session to no more than 120 consecutive calendar days. Upcoming dates of interest are:

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- February 12, 2015 marks the date by when all Senate bills are to have cleared their committees of reference.
- February 19, 2015 marks the date by when all House bills are to have cleared their committees of reference.
- February 25, 2015 is the date by which all Senate and House bills that have reached the floor must have passed their respective chambers.
- The last day upon which the General Assembly may adjourn sine die is May 6, 2015. The General Assembly may adjourn earlier than that date, but not later than May 6, 2015.

The District participates in the Colorado Water Congress State Affairs Committee (Committee). A summary of bills of interest to the Committee is attached to this report. Some bills of particular interest to the District:

- **SB15-084**, prohibiting the reduction of a water right's actual historical use in a change of water right proceeding, sponsored by Senator Mary Hodge. The so-called "last man on the ditch" bill, this bill endeavored to assure that the Supreme Court doctrine requiring a "ditch-wide analysis" in change case would not allow earlier water users changing a water right to transfer essentially transfer another's unchanged historical consumptive use. This bill was heard in Senate Agriculture, Natural Resources & Energy Committee on February 5, 2015. Testimony was lengthy and Senator Sonnenberg laid the bill over until Feb. 11, 2015. The Senate Ag Committee postponed the bill indefinitely when it took up the bill again on February 11.
- **SB15-121**, eligibility of non-governmental water providers for financing provided by the Colorado Water Resources and Power Development Authority, sponsored by Senator Crowder. This bill specifies that the drinking water revolving fund may be used to provide financial assistance to private, nonprofit entities and clarifies that public water systems may be owned or operated by private, nonprofit entities. This bill addresses some of the financing hurdles faced earlier by Arkansas Valley Conduit participants, where the water system was not owned and managed by a governmental entity. This bill was passed by the Senate Ag Committee and referred to the Senate Appropriations Committee, because it has a fiscal impact. Bills which are pending in either appropriations committee are exempt from the Committee action deadlines noted above, since those bills must wait until the long appropriations bill has been finalized by the Joint Budget Committee.
- **HB15-1038**, concerning flexible water markets, sponsored by Representative Jeni Arndt. This year's effort to secure statutory recognition of a FLEX water right is being sponsored by Representative Arndt, who succeeded former Representative Randy Fischer who was term limited. Representative Fischer had sponsored the FLEX bill in previous sessions. Currently, 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

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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. Section 2 describes the procedures for obtaining a flex use change-in-use decree, and section 3 describes the procedures for obtaining a flex use substitute water supply plan. The bill passed the House Agriculture, Livestock & Natural Resources Committee with amendments. The amendments are designed to clarify some of the provisions and were considered by the sponsors to be "friendly." The bill passed second reading in the House on February 10, 2015.

The Board members were provided the Colorado Water Congress State Affairs Committee Water Legislation Bill Summary.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- NWRA Federal Water Issues Conference – April 13-15-Washington, DC
- Colorado Rural Water Association Annual– April 13-16-Denver
- Arkansas River Basin Water Forum –April 21-23-Pueblo

Mr. Broderick announced the District will host a retirement luncheon for Bob Hamilton after the March Board meeting.

EXECUTIVE SESSION:

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:

- a. Southeastern Exchange (Case No 06CW8)
- b. Application of the City of Aurora (Case No. 99CW169(A))

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)
 - Gary Bostrom for Case No. 06CW8
 - Kevin Karney for Case No. 06CW8

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2. Executive Director
3. General Counsel
4. Special Water Counsel
5. Water Resources Specialist/Engineer
6. Engineering Consultants for Case No. 06CW8

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

Mr. Howard "Bub" Miller moved, seconded by Dr. Moore, to convene into Executive Session. Motion unanimously carried.

At this time the Water Conservancy District Board will enter into Executive Session.

President Long recessed the District meeting at 11:22 a.m. to go into Executive Session. Mr. Simpson moved, seconded by Mr. Mitchell, to end the Executive Session. The District meeting was reconvened at 12:10 p.m.

REPORT OUT OF EXECUTIVE SESSION:

Lee Miller reported discussion was had with legal counsel on the following cases:

- a. Southeastern Exchange (Case No 06CW8)
- b. Application of the City of Aurora (Case No. 99CW169(A))

The Board received legal advice on each of the cases and provided guidance to assist in negotiations. There was no action as a result of the Executive Session.

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

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

