

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

September 17, 2015

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, September 17, 2015 at 10:37 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Vera Ortegon	Harold Miskel
Kevin Karney	Gibson Hazard	Curtis Mitchell
Carl McClure	Howard "Bub" Miller	Gary Bostrom
Jay Moore	Pat Edelmann	Tom Goodwin
Leonard Pruett	David Simpson	

DIRECTOR(S) ABSENT AND EXCUSED:

Ann Nichols and Alan Hamel-Advisory Board Member.

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; and Special Water Counsel Alix Joseph.

VISITORS PRESENT:

Chris Woodka, The Pueblo Chieftain; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Brandon Gould, U.S. Senator Gardner's office; Roy Vaughan, U.S. Bureau of Reclamation; Bill Tyner, Colorado Division of Water Resources-Division 2; Bill Banks, U.S. Geological Survey; Mark Scott, GEI; Brett Gracely, Colorado Springs Utilities; Terry Book, Board of Water Works of Pueblo; Tom Simpson, Aurora Water; Bob Hamilton, retired; Jim Baldwin, Otero County; Roy Heald, Security Water District and Fountain Valley Authority; Dan Kugler, Black & Veatch; Bob Hartzman, Canon City Water; Mark Carmel, Pueblo West Metropolitan District; and Bill McDonald, McDonald Consulting, LLC.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

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APPROVAL OF MINUTES:

President Long said the minutes of the June 18, 2015 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. Pruet, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Mr. Kevin Karney reported the financial statements for June, July, and August were posted to the Board website for review. Mr. Karney moved, seconded by Mr. Goodwin, for acceptance of the June, July, and August 2015 financial statements and payment of the July, August, and September 2015 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

DISTINGUISHED BUDGET PRESENTATION AWARD FOR THE 2015 BUDGET PUBLICATION
Mr. Broderick reported the Government Finance Officers Association (GFOA) awards the Distinguished Budget Presentation Award to governments with very high quality that reflects both the guidelines established by the National Advisory Council on state and local budgeting and the GFOA's best practices on budgeting.

President Long read the letter notifying the District of its receipt of the Distinguished Budget Presentation Award for the current budget from the GFOA. When the Distinguished Budget Presentation Award is granted to an entity a Certificate of Recognition for Budget Presentation is also presented to the individual or department designed as being primarily responsible for its having achieved the award. The Finance Team was presented the Certificate of Recognition for Budget Presentation. The Finance Team is made up of James Broderick, Leann Noga, Jean Van Pelt, and Toni Gonzales. President Long presented the Distinguished Budget Presentation Award to the Finance Team. This is the fourth consecutive year the District has received this award.

ACTION ITEMS:

APPOINTMENT OF BUDGET OFFICER

Mr. Karney moved to appoint the Finance Team, made up of James Broderick, Leann Noga, Jean Van Pelt, and Toni Gonzales as the Budget Officers for the 2016 District budget. Mr. Goodwin seconded the motion. Motion unanimously carried.

CITY OF LAMAR (CASE No. 13CW3060) APPROVAL OF STIPULATION

Alix Joseph reported Case No. 13CW3060 is Lamar's plan for augmentation and a conditional appropriative right of exchange involving the Gateway Park Ponds. The Gateway Park Ponds are located on the North Gateway Park Property, are left over from reclamation activities following the end of mining operations, and will be used for recreational, piscatorial, and wildlife purposes. Lamar plans to replace the evaporative depletions from the Gateway Park Ponds with 2,813.6 shares of Fort Bent

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Ditch Company (Fort Bent shares), Fryingpan-Arkansas Project water (Project Water) and return flows therefrom (Project Return Flows), wastewater return flows, and lawn irrigation return flows. Lamar exchanges its Fort Bent shares and Project Water from a recharge facility at the confluence of Clay Creek and the Arkansas River to the Gateway Park Ponds. Lamar annexed the North Gateway Park property, which includes the three Gateway Park Ponds. After it filed this case, Lamar requested inclusion of the Gateway Ponds into the District. The District Board approved the inclusion within the District of the North Gateway Park property through Resolution No. 2014D-03 INCL-AX in November 2014.

Special water counsel understand that the District's primary objectives in this case are to ensure that: (1) the decree contains terms and conditions prohibiting Lamar from using Project water to augment any structures located outside District boundaries; (2) the decree includes appropriate terms and conditions for use of Project water and Project Return Flows; (3) the decree contains terms and conditions stating that Lamar's exchange will operate in accordance with its 2013 priority date; and (4) any decree in this case is consistent with the Decree in Case No. 05CW107(A).

Legal counsel and District staff believe this proposed decree, which the Board was provided, satisfies the District's objectives and recommend stipulating to entry of a decree in this case that is no less restrictive on Lamar and no less protective of the District than the attached proposed decree.

Mr. Edelman moved, seconded by Dr. Moore, to authorize special water counsel to enter into a stipulation with Lamar in Case No. 13CW3060 consenting to entry of a decree that is no less restrictive on Lamar and no less protective of the District than the proposed decree dated July 24, 2015. Motion unanimously carried.

UNITED STATES OF AMERICA AND PARK CENTER WATER DISTRICT (CASE NO. 12CW125)
APPROVAL OF STIPULATION

Alix Joseph reported Case No. 12CW125 is Bureau of Land Management (BLM) and Park Center's application for a plan of augmentation to replace depletions from the Park Center Well and for appropriative rights of exchange. Case No. 97CW169 determined that diversions of up to 227 acre-feet annually from the Park Center Well are non-tributary. The Division Engineer has determined that diversions in excess of the 227 acre-feet are tributary. Accordingly, BLM and Park Center propose to replace out-of-priority depletions caused by pumping in excess of the 227 acre-feet per year (up to an additional 770 acre-feet per year) from the Park Center Well, with the non-tributary water first pumped from the Park Center Well. Some of this non-tributary water will be stored in Pueblo Reservoir and DeWeese Reservoir. BLM and Park Center also propose to exchange water up Fourmile Creek to Mt. Pisgah Reservoir.

Case No. 12CW125 was re-referred to the water judge on July 1, 2013. It is currently set for a five day trial beginning on February 23, 2016. The District's expert witness disclosures are due on October 20, 2015. If the District does not settle with BLM and Park Center before the opposer 26(a)(2) disclosure

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deadline, the District will need to spend time and money to meet the upcoming court-mandated deadlines.

The District's five primary objectives in this case include ensuring that: (1) no Project water is used to replace depletions from the Park Center Well; (2) water is stored in Pueblo Reservoir under an appropriate contract; (3) no water stored in an in-District excess capacity account will be used to replace depletions from the Park Center Well, which will occur outside of District boundaries; (4) the decree includes appropriate terms and conditions for use of Project facilities by including appropriate standard language terms; and (5) the proposed exchanges will not adversely impact the District's water rights and exchanges on Fourmile Creek. BLM and Park Center amended their application to exclude Project water as an augmentation source. The remaining concerns were resolved by inclusion of the requested standard language. BLM and Park Center included appropriate terms and conditions for use of Pueblo Reservoir in the proposed decree. At the District's request, BLM and Park Center also included in the proposed decree accounting procedures which allow the input of the District and other opposers, and a period of retained jurisdiction for recalculation of depletion credits. The impacts of the exchanges were determined to be non-injurious.

Mr. Goodwin moved, seconded by Dr. Moore, to authorize special water counsel to enter into a stipulation with the United States and the Park Center Water District consenting to entry of a decree that is no less restrictive on the United States and the Park Center Water District, and no less protective of the District than the proposed decree provided on August 17, 2015. Motion unanimously carried.

INCLUSION OF LAND ANNEXED BY THE CITY OF COLORADO SPRINGS

Mr. Broderick reported Reclamation has completed environmental reviews on the following properties:

Property
Ordinance No. 15-8, Dublin North 1D Annexation
Ordinance No. 15-43, Tutt Corners Addition

Reclamation assented to the inclusion of the Ordinance No. 15-8 and Ordinance No. 15-43 properties into the District.

The Resource and Engineering Planning Committee reviewed these annexations and voted to recommend the Board adopt the two resolutions and petition the District Court to confirm the inclusion of these properties described in the City of Colorado Springs Ordinances numbered 15-8 and 15-43 into the District.

Mrs. Ortegon moved, seconded by Mr. Hazard, the Board adopt Resolutions No. 2015-09D INCL-AX and No. 2015-10D INCL-AX and direct staff and legal counsel to petition the District Court for confirmation of inclusion of the two properties described by City of Colorado Springs Annexation Ordinances numbered 15-8 and 15-43 into the District. Motion unanimously carried.

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MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of September 14, 2015 there were 205,456 acre-feet stored in Pueblo Reservoir; 125,721 acre-feet of Project water; 55,026 acre-feet of Excess Capacity water; 24,334 acre-feet of Winter water.
- There is currently 131,228 acre-feet of Project space in Pueblo Reservoir and 7,658 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 108%; Twin Lakes 109%; Pueblo 148%
- Boustead Imports 72,206 acre-feet
- Arkansas River Basin Time Series Snowpack Summary April 14, 2015, May 18, 2015, June 16, 2015.
- Upper Colorado River Basin Time Series Snowpack Summary April 14, 2015, May 18, 2015, and June 16, 2015.

DIVISION ENGINEER'S REPORT

Bill Tyner presented a PowerPoint reviewing the following:

- Off-channel Reservoir/John Martin Reservoir Storage Outlook
- X-Factor and Things to Watch
- Overview
- Colorado Canal System
- Holbrook Canal System
- Fort Lyon Canal System
- Great Plains System
- John Martin Reservoir
- X-Factors and Things to Watch

U.S. GEOLOGICAL SURVEY REPORT

Bill Banks presented a PowerPoint reviewing the following:

- Pictures of Mouth of Timpas Creek, Swink, CO
- Peaks for 2015 Water Year-to-Date at Timpas Creek near Swink, St. Charles River at Vineland, and Huerfano River near Boone
- Other Peaks of 2015 in the Fountain Creek and the Arkansas River Basin
- Long-term Flow and QW Monitoring
- Trends Website
- Monitoring and Data Collection
- Water Quality Sampling Program Cost for Calendar Year 2016: SECWAE
- Collection of Streamflow Data
- Long-term Water Quality Monitoring
- Collection of Continuous Specific-Conductance Data

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- Update of Website Used to Determine Short and Long-Term Water Quality Changes
- Collection of Streamflow Data for Voluntary Flow Program
- Suspended Sediment at Fountain Creek at Pueblo, CO
- Pueblo Reservoir Water Quality Monitoring
- Selected Constituents for Routine Samples Collected at Selected Sites

Mr. Banks said if there is a government shutdown on October 1, 2015, monitors will still provide the information.

STATE LEGISLATION UPDATE

Lee Miller said the State Legislative Update was posted to the Board website for review. He said November will be when there is action of the Water Resources Review Committee taken, and he will keep the Board updated.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Budget Calendar
- Bureau of Reclamation Status Report on Proposed Inclusions into the SECWCD
- Winter Water Storage Program Annual Meeting, October 16, La Junta, CO
- NWRA 2015 Annual Conference, November 4-6, Denver, CO
- December Board Meeting, December 3

EXECUTIVE SESSION

Lee Miller said a request has 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. Application of La Junta (Case No. 11CW13)
- b. Negotiation of Cost-Share Agreement with the United States re: Arkansas Valley Conduit

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)

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The presence of the following persons is requested at this Executive Session for the Application of La Junta (Case No. 11CW13):

1. Non-Excused Board Members (state for the record any who are excused)
2. Executive Director
3. General Counsel
4. Special Water Counsel
5. Water Resources Specialist/Engineer

The presence of the following persons is requested at this Executive Session for the Negotiation of Cost-Share Agreement with the United States re: Arkansas Valley Conduit:

1. Non-Excused Board Members (state for the record any who are excused)
2. Executive Director
3. General Counsel
4. Project – Program Coordinator
5. Principal Engineer
6. J. William McDonald, consultant to the District
7. Lobbyists for the District

The minutes will be electronically recorded as required by the Colorado Open Meeting act.

Mr. McClure moved, seconded by Mr. Bostrom, 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 11:50 a.m. to enter into Executive Session. The District meeting was reconvened at 12:54 p.m.

REPORT OUT OF EXECUTIVE SESSION:

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

- a. Application of La Junta (Case No. 11CW13)
- b. Negotiation of Cost-Share Agreement with the United States re: Arkansas Valley Conduit

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

President Long said if there were Board members that were going to attend the NWRA Conference, to inform Toni Gonzales, so that registrations and reservations can be sent in.

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President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:56 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

