

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

January 15, 2015

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, January 15, 2015 at 9:42 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	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:

Ann Nichols

ENTERPRISE OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Water Resources Specialist/Engineer Garrett Markus; Program-Project Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt and Courtney Shephard; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

Chris Woodka, The Pueblo Chieftain; Gerry Knapp and 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; Bill Tyner, Colorado Division of Water Resources-Division 2; Jerry Peña, GEI Consultants; Terry Book, Board of Water Works of Pueblo; John Knapp, NRCS (retired); Curt Thompson, AECOM; Bob Hartzman, City of Canon City Water; Roy Heald, Security Water District and Fountain Valley Authority.

APPROVAL OF MINUTES:

President Long said the minutes of the December 4, 2014 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. Hazard, to approve the minutes. Motion unanimously carried.

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FINANCE COMMITTEE REPORT:

Mr. Karney reported the financial statements for November and draft December 2014 were posted to the Board website for review. Mr. Karney moved, seconded by Mr. Howard "Bub" Miller, for acceptance of the November and draft December 2014 financial statements and payment of the January 2015 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

FEDERAL LEGISLATION

Christine Arbogast reported Commissioner of Reclamation, Estevan Lopez, was confirmed by the Senate right before Christmas. Federal lobbyist and District staff will look forward to establishing a strong working relationship with him and plan to invite him to tour Fry-Ark facilities and brief him on District projects.

Congress passed what is labeled a "CRomnibus" appropriations bill. It's funding level for the Arkansas Valley Conduit (AVC) as a line item is \$500,000. There was some plus up of Reclamation funding, which may offer the District an opportunity to receive more funding from Reclamation. The lobbyist will work with the Colorado delegation and Reclamation to try to obtain the funding. The Colorado delegation is continuing to work with the Administration on future budget requests.

The President's budget should be out about the first week in February. The District's federal lobbyists have been working with the delegation for the entire year about getting this number increased to approximately \$3 million.

Also in the CRomnibus there was some good news regarding the proposed Waters of the United States rule. While the rider to defund any Environmental Protection Agency (EPA) or Corps of Engineers ability to implement the proposed rule was not included, there was a rider which voided the interpretive rule issued by the agencies, which was directed at the exemptions for agriculture and required producers to employ some 50 plus practices identified by United States Department of Agriculture. This interpretive rule raised many objections voiding it had a lot of bipartisan support. EPA has yet to indicate if it will issue a new interpretive rule.

Otherwise, the agencies are indicating they plan to issue the final WOTUS rule during the first six months of this year, after reviewing more than 800,000 comments. There is an attempt expected at a legislative solution but no bills have been introduced to date. In discussions with committee staff, they are working on a bill, but are not ready to release a draft.

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AVC AND EXCESS CAPACITY MASTER CONTRACT UPDATE

Jean Van Pelt reported:

- A Grant application for \$30,000 to develop the Arkansas Valley Conduit (AVC)/Colorado Department of Public Health and Environment (CDPHE) Working Group will go before the Colorado Water Conservation Board for approval at their January Board meeting. The District anticipates organizing the Working Group in February once Notice to Proceed is received.
- Reclamation consented to begin a two-year IPA beginning on December 2014 for Kevin Meador and Jean Van Pelt. The IPA will pay for wages, benefits, and travel when working on the AVC. This a great benefit to the District and especially to the participants by reducing their costs.
- Reclamation Eastern Colorado Area Office and Technical Services Center staff and District staff met in December with administrators from Pueblo County and the City of Pueblo to discuss the alignment of the AVC through Pueblo County.
- Reclamation and District staff also met with CDOT to discuss the entire alignment. Each entity provided their preferences for the alignment and regulations regarding construction. Ms. Van Pelt is working on scheduling additional meetings with participants and governmental entities.
- Ms. Van Pelt has been working with AVC participants to determine the GPS locations for each delivery point. Mr. Meador is developing an Operating Plan for the conduit.
- In December, the District amended a contract with Black and Veatch for \$25,000. Mr. Meador is working closely with Black and Veatch to develop water quality strategies and operation scenarios for the AVC.
- In December, the District's Consultant Tracy Bouvette and Ms. Van Pelt met with several of the Excess Capacity Master Contract participants to review the water system audit white papers. The final papers will be delivered to them in February. The information derived from the white papers will be used to update the Regional Water Conservation Plan (WCP). The District continues to work on WCPs for the upper and lower districts and individual AVC participants. This phase of the project should wrap up in May.
- The District will submit a grant request for approximately \$40,000 to Reclamation the end of January for 2015 funding to continue implementation of this project and to fund updating the District's Five-Year Water Management and Conservation Plan.

ACTION ITEMS:**RESTORATION OF YIELD (ROY) EXCHANGE (CASE NO. 06CW120) APPROVAL OF STIPULATION WITH OTERO COUNTY**

The Enterprise Board authorized legal counsel to join with the other co-applicants (the Board of Water Works of Pueblo and the Cities of Colorado Springs, Aurora, and Fountain) to file the application in this case in late 2006, and approved stipulations with several opposers, most recently with Holbrook Mutual Irrigating Company in November 2014. The Board previously approved a related intergovernmental agreement (IGA) with the co-applicants and the City of Pueblo in 2004.

Steve Leonhardt reported the applicants (also known as the ROY participants) are parties to the 2004 six-party IGA with the City of Pueblo, which provides for the ROY participants to forego certain

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diversions to maintain specified flow levels on the Arkansas River through Pueblo. They can then recover the foregone yield through downstream storage, followed by exchanges to upstream storage (mainly Pueblo Reservoir) when the flows are sufficient. The application seeks appropriate rights of exchange of Foregone Diversions (within the meaning of the six-party IGA) through the reach of the Arkansas River from its confluence with Timpas Creek, in Otero County, upstream to Pueblo Reservoir.

The co-applicants circulated a proposed decree and supplemental engineering on March 14, 2014. Otero County recently communicated with counsel for co-applicants that Otero County will stipulate to the March 14, 2014 proposed decree. Some of the exchanges involve facilities in Otero County.

The Board has approved previous stipulations to the March 14, 2014 proposed decree, which contains appropriate terms and conditions on the operation of the exchange in paragraph 15. The co-applicants removed Turquoise, Twin Lakes, and Clear Creek Reservoirs as additional exchange-to points in the March 14, 2014 proposed decree.

Mr. Leonhardt recommended the Board approve a standard stipulation by which Otero County will consent to entry of a decree in the form of co-applicants' March 14, 2014 proposed decree. Counsel for co-applicant Aurora is circulating such a stipulation for signature. If the stipulation is executed, ten parties will have fully settled their participation in this case.

Mr. Hazard moved, seconded by Mr. McClure, to authorize special water counsel to execute a Stipulation with the Board of County Commissioners of Otero County and the co-applicants, consenting to entry of the co-applicants' proposed decree dated March 14, 2014. Motion passed, with Mr. Karney recusing.

INFORMATION ITEMS:

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

- AVC and Excess Capacity Master Contract 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 10:00 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

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