

RECORD OF PROCEEDING

---

---

**SOUTHEASTERN COLORADO WATER  
ACTIVITY ENTERPRISE**

**MINUTES**

**July 17, 2014**

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, July 17, 2014 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	Harold Miskel	Ann Nichols
Vera Ortegon	Leonard Pruett	Kevin Karney
Tom Goodwin	Gibson Hazard	Carl McClure
Jay Moore	David Simpson	Pat Edelman
Howard "Bub" Miller		

**DIRECTOR(S) ABSENT AND EXCUSED:**

Gary Bostrom, Curtis Mitchell, and Alan Hamel-Advisory Board Member.

**ENTERPRISE OFFICIALS PRESENT:**

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Director of Engineering and Resource Management Bob Hamilton; Water Resources Specialist/Engineer Garrett Markus; Program-Project Coordinator Jean Van Pelt; Special Water Counsel Alix Joseph; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

**VISITORS PRESENT:**

Chris Woodka, The Pueblo Chieftain; Tom Simpson, Aurora Water; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Doris Morgan, Congressman Cory Gardner's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Roy Vaughan, U.S. Bureau of Reclamation; David Mau, U.S. Geological Survey; Mark Scott, GEI Consultants; Steve Pool, HDR; Curt Thompson, Consultant; Roy Heald, Security Water District and Fountain Valley Authority; Terry Book, Board of Water Works of Pueblo; Dan Henrichs, High Line Canal Company; Lloyd Gronning, Capital Program Management Services; Bob Hartzman, City of Canon City Water; Ann Lopkoff, Colorado Water Protective Development Association; and Jay Winner, Lower Arkansas Valley Water Conservancy District.

RECORD OF PROCEEDING

---

---

**APPROVAL OF MINUTES:**

President Long said the minutes of the June 19, 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. Howard “Bud” Miller, to approve the minutes. Motion unanimously carried.

**FINANCE COMMITTEE REPORT:**

Treasurer Nichols reported the financial statements for June 2014 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Pruett, for acceptance of the June 2014 financial statements and payment of the July 2014 bills. Motion unanimously carried.

**CONSENT ITEMS:**

None

**PRESENTATIONS:**

**FEDERAL LEGISLATION**

Christine Arbogast reported it has been a very good month for the Arkansas Valley Conduit (AVC), given the challenges of project funding in this fiscal and political environment.

As reported last month, the Senate energy and water appropriations subcommittee marked up its bill, only to have its further consideration indefinitely postponed because of “riders” regarding the EPA’s proposed carbon rule and rule on the Clean Water Act. But, the subcommittee mark up and report includes an increase in funding in a category which can include the AVC, and language which guides the Bureau of Reclamation (Reclamation) on which type of projects should receive that increased funding.

In the House, Congressmen Gardner and Tipton were successful in passing on voice vote a similar amendment to the House bill when it was considered on the floor.

All of this language must thread a needle, given ongoing direct earmark bans. And so while the funding measures do not mandate this increased spending on the AVC, they send a clear signal of congressional intent and desire that this happen. Coupled with our ongoing contact with Reclamation and contact with the Department of the Interior and administration, support for the AVC remains loud and clear from our congressional delegation and Congress.

Ms. Arbogast continues to monitor the proposed Clean Water Act rule and guidance. This issue is connected to the appropriations process, with riders prohibiting funding to implement the rule in both the energy and water and Interior and environment appropriations bills. And as previously reported, these provisions are preventing further consideration of bills in the Senate. And clearly, the Administration would veto any bill which included the rider.

In the meantime, a bipartisan bill is now under consideration in the House. It would call for the withdrawal of the rule and the guidance, and direct the Administration to conduct a formal consultation

RECORD OF PROCEEDING

---

---

with states and related agencies and then submit a report to Congress. This process may gain momentum but it does kick the can down the road at least two years and does not in and of itself address the confusion caused by previous court decisions. Ms. Arbogast stated she will see if this bill gets support in the Senate. The House hopes to pass it this month.

Reclamation partners continue to wait for confirmation of Estevan Lopez as commissioner of Reclamation.

Ms. Arbogast handed out the amendment offered by Congressman Gardner for the Energy and Water Development and Related Agencies Appropriations Act, 2015, House of Representatives July 9, 2014.

**AVC AND EXCESS CAPACITY MASTER CONTRACT UPDATE**

Jean Van Pelt reported:

- Following a meeting between Technical Service Center (TSC) and the District on April 15, 2014, TSC updated the project's construction schedule and budgets. The District is reviewing the updated documents.
- Reclamation's support activities in preparation for the Feasibility Level (30 percent) design have included:
  - Scour studies to investigate AVC impacts to drainage and creek crossings
  - Investigation of potential utility conflicts along the AVC alignment
  - Soil investigations to determine pipeline materials and coatings design needs,
  - Supplemental aerial mapping to cover areas not previously covered by the corridor mapping
  - Development of a land acquisition plan
- Future activities coming up will include coordination between the District, AVC participants, and TSC to establish the connection points with the AVC. Also, TSC is planning a late summer site visit, to field to verify design conditions along the proposed alignment sometime late August or early September.
- Staff is working on contacting a few landowners who have not responded to Reclamation's Right of Entry letters to conduct the surveys.

**2014 PROJECT WATER UPDATE**

Bob Hamilton presented a PowerPoint titled, *2014 Fry-Ark Project Water Update*, reviewing the following:

- Imports through July 16, 2014
- Chart of 2009-2014 and 1997 Imports
- Additional Fry-Ark Imports
- Commitments to be Met
- Colorado Springs Utilities Safety of Dams Payback
- Voluntary Reduction of Allocation Requests
- Summary of Distribution

RECORD OF PROCEEDING

---

---

**ACTION ITEMS:**

**RESTORATION OF YIELD (ROY) EXCHANGE (CASE NO. 06CW120) APPROVAL OF STIPULATION**

Alix Joseph reported 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 the City of Salida in May of 2014. The Board previously approved a related intergovernmental agreement (IGA) with the co-applicants and the City of Pueblo in 2004.

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 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. The application and earlier proposed decree had listed Turquoise, Twin Lakes, and Clear Creek Reservoirs as additional exchange-to points in this case, but the co-applicants removed those facilities from the March 14, 2014 proposed decree. The co-applicants' decision to remove the upstream storage facilities from this case facilitated settlement with several parties, including Penrose and likely PC Water, LLC.

The March 14, 2014 proposed decree contains appropriate terms and conditions on the operation of the exchange in paragraph 15, including language on the co-applicants' use of Pueblo Reservoir in subparagraph 15.9 (the same language proposed to address the United States' initial comments). With the removal of the upstream facilities from the proposed decree, terms and conditions related exclusively to the exchange reach above Pueblo Reservoir were also removed from the proposed decree.

Ms. Joseph recommended the Board approve standard stipulations by which Penrose and PC Water, LLC will consent to entry of a decree in the form of co-applicants' March 14, 2014 proposed decree. The attorneys for Penrose and PC Water, LLC have approved and signed such stipulations, and the co-applicants' attorneys are circulating the stipulations for signature. If the stipulations are executed, eight parties will have fully settled their participation in this case.

Dr. Moore moved, seconded by Mr. Pruett, to authorize legal counsel to execute Stipulations with Penrose Water District and PC Water, LLC and the co-applicants, consenting to entry of the co-applicants' proposed ruling dated March 14, 2014. Motion unanimously carried.

RECORD OF PROCEEDING

---

---

**REALLOCATION OF FRY-ARK PROJECT WATER TO AGRICULTURAL ENTITIES ON FOUNTAIN CREEK**

Bob Hamilton reported on May 29, 2014, the District received an email from Mr. Doug Hollister, Division of Water Resources, District 10 Water Commissioner, stating that Fry-Ark Project water return flows (return flows) are not suitable for Bannister Ditch, Hanna Ranch, and the Steele Ditches given the agreement with Colorado Springs Utilities (CS-U) on how Fry-Ark water is delivered, consumed, and exchanged on Fountain Creek. The ditches mentioned above were allocated return flows due to their requests that 100 percent of their allocated water will be used for well augmentation.

The 119 acre-feet (AF) of Project water for reallocation is available because the Canon Heights Irrigation and Reservoir Company has declined their allocation 133 AF as there is no opportunity for them to exchange water this year.

Mr. McClure moved, seconded by Mr. Goodwin, the Board reallocate 119 AF of Project water to be distributed 79 AF to the Bannister Ditch, 15 AF to Hanna Ranches Inc., 25 AF to the HR and MW Steele Ditches on Fountain Creek to make the delivery of Project water available to them, subject to the payment of \$1.75 per AF difference in charges. Motion unanimously carried.

**ALLOCATION OF FRY-ARK PROJECT WATER FOR CS-U PAYBACK AND VOLUNTARY REDUCTIONS**

Mr. Hamilton reported as of July 14, 2014 Reclamation had imported 74,500 AF of Project water through Boustead Tunnel. The May 2014 allocation was based on forecasted imports of 64,000 AF. The additional 10,500 AF will net approximately 9,000 AF in Pueblo Reservoir.

The CS-U Payback dates back to the late 1990's when Pueblo Reservoir was under storage restrictions because of Safety of Dams (SOD) issues. During that period, the City of Colorado Springs volunteered not to take allocations of Project water. In 2005, the Board determined CS-U was entitled to additional allocations of 9,289 AF of Project water which would be paid back over several years by the allocation of Not Previously Allocated Non-Irrigation Water (NPANIW). NPANIW allocations were made to CS-U from 2007 through the May 2014 allocation. The balance now due to CS-U is 2,502 AF. There is currently sufficient additional Project water imports available this year to retire this debt. CS-U has confirmed they are willing accept this allocation.

During the 2014, allocation process, there was not sufficient municipal Project water available to meet the requests of all of the entities east of Pueblo. Staff contacted the Cities of Lamar and Rocky Ford, and the Town of Fowler and asked if they would voluntarily reduce their requests for Project water and if there was additional Project water available, they would be allocated additional water up to their original requests. Because of this reduction and the fact the Board of Water Works did not request any Project water all Municipal request were met.

Mr. Hamilton recommended, after discussion with the Allocation Committee, the Board allocated 4,365 AF of 2014 Project water. This allocation would be broken down as follows, CS-U Payback 2,502 AF,

RECORD OF PROCEEDING

---

---

and for voluntarily reducing their requests for an allocation of Project water, 1,000 AF to the City of Lamar, 500 AF to the Town of Fowler, and 100 AF to the City of Rocky Ford. The remaining 263 AF (with no revenue) will be put in the District Reserve account to bring it up to the 3,000 AF limit.

The Allocation Committee discussed an additional allocation if significantly more Project water was imported. The consensus of the Committee was to authorize the Executive Director to allocate additional Project water, if in his opinion; there is sufficient water available to be used efficiently. This allocation would be in consultation with an Ad Hoc Committee consisting of the Board President, the Chairman of the Allocation Committee, the Executive Director, and the Director of Engineering and Resource Management.

Mr. McClure moved, seconded by Dr. Moore, the Board allocate 4,365 AF of 2014 Project water as listed below:

- 2,502 AF to Colorado Springs Utilities for CS-U Payback
- 1,600 AF for Voluntary Reduction of Project water Allocation Request
  - City of Lamar - 1,000 AF
  - Town of Fowler – 500 AF
  - City of Rocky Ford – 100 AF
- Enterprise Reserve Account – 263 AF and

Authorize the Executive Director, in consultation with the Ad Hoc Committee, to determine if the remainder of the non-allocated 2014 Project water will be allocated in 2014 or held until the 2015 allocation. Motion unanimously carried.

**INFORMATIONAL 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
- Update on the First Right of Refusal Pilot Project with Fort Lyon Canal Company

**OTHER BUSINESS MATTERS:**

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 10:35 a.m.

Respectfully submitted,

RECORD OF PROCEEDING

---

---

Toni Gonzales  
Administrative Manager

\_\_\_\_\_  
Secretary

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---