

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

March 19, 2015

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, March 19, 2015 at 9:31 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

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

DIRECTOR(S) ABSENT AND EXCUSED:

Harold Miskel and Alan Hamel-Advisory Board Member

ENTERPRISE OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Water Resource Specialist/Engineer Garrett Markus; Program-Project Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt and Alix Joseph; and Federal Lobbyist Christine Arbogast.

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; Kurt Thompson; Bob Hartzman, City of Canon City Water; David Mau and Rodger Ortiz, U.S. Geological Survey; Kevin Niles, AGUA; Jim Baldwin, Otero County; Terry Scanga, Upper Arkansas Water Conservancy District; Mike Weber, Colorado Water Protective Development Association; Jerry Edwards, Bohannon Huston, Inc.; Scott Lorenz, Colorado Springs Utilities; Terry Book, Board of Water Works of Pueblo.

RECORD OF PROCEEDING

APPROVAL OF MINUTES:

President Long said the minutes of the February 19, 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. McClure, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasure Nichols reported the financial statements for February were posted to the Board website for review. Ms. Nichols moved, seconded by Mrs. Ortegon, for acceptance of the February 2015 financial statements and payment of the March 2015 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

AVC AND EXCESS CAPACITY MASTER CONTRACT UPDATE

Jean Van Pelt reported:

- The Arkansas Valley Conduit (AVC) water quality working group is progressing.
 - Putting together a plan of action and contacting several participants to participate in a Read Ahead group for input and feedback on the action plan.
 - Anticipate the meetings will begin in April.
- Reclamation's Non-Disclosure Agreements have been secured in order to share data with the City of Pueblo and Pueblo County GIS and Planning and Development departments.
 - Still requesting an agreement from Pueblo County Public Works.
- February 24 and 25 District staff and Reclamation met with Crowley County officials, municipalities, and water providers in Pueblo and Crowley County.
 - Topics of discussion included the AVC alignment, construction regulations, permitting, and utilizing the Crowley County's water system to deliver AVC water to some of the Crowley County participants.
 - Working with participants to get copies of their distribution system for Technical Service Center.
 - Will schedule additional meetings with Otero County officials, municipalities, and water providers for the first of May.
- A field verification trip to ground proof the delivery locations for the AVC was completed on March 10-12, 2015.
 - The GPS coordinates and elevation of each delivery point was verified and photographed.
 - The participants played an active part in this process and were very cooperative.
 - It was very enlightening to visit the participants' treatment facilities. Seeing the conditions of some of them really reinforced the need for the Working Group and the AVC itself.
- Kevin Meador continues to work with Black and Veatch to develop water quality strategies for the AVC water treatment plant.

RECORD OF PROCEEDING

- Three meetings were conducted in February with Reclamation and CDPHE to discuss treatment concepts.
- The next step will be to establish preliminary design criteria for the water treatment concepts.
- This will form the basis for the treatment operations plan and initiating negotiations of an operating agreement between Reclamation and the Board of Water Works of Pueblo.
- Reclamation has distributed a letter requesting permission for the Right to Enter (ROE) private property to landowners in Pueblo County.
 - Permission is needed to conduct various data collection field activities. The activities will be conducted by Reclamation and support consultants.
- Work on the Regional Water Conservation Plan continues.
 - Wrapping up the development of individual Water Conservation Plans.
 - Schedule may need to be extended to accommodate the public review process for the Upper and Lower District's individual Water Management and Efficiency Plans.
- A request was made to the Excess Capacity Master Contract participants to provide the amount of acre-feet of storage they will need in the Master Contract for the first five years of the contract.
 - This information is needed as the District prepares for negotiations.
 - It appears that the storage needs for 2016 - 2020 would be approximately one third of the total amount of the Master Contract.
 - Many of the AVC participants in the Master Contract are unable to utilize storage in Pueblo Reservoir until the AVC is operational.

PRIMER ON RIGHTS OF FIRST REFUSAL FOR AGRICULTURAL ENTITIES TO PURCHASE RETURN FLOWS FROM PROJECT WATER

Lee Miller said that the memorandum from Burns, Figa & Will, dated December 31, 2014 is not a confidential document and can be shared with others the Board members would like to share the information with.

Alix Joseph presented a PowerPoint presentation titled, *Rights of First Refusal for Agricultural Entities to Purchase Return Flows from Project Water*. She reviewed the following:

- The Return Flow Policy Contains Three Agricultural Rights of First Refusal
- Operation of the Agricultural Rights of First Refusal

ACTION ITEMS:**AGRICULTURE FIRST RIGHT OF REFUSAL**

Lee Miller reported as discussed in the presentation, the Southeastern Colorado Water Conservancy District by and through its Water Activity Enterprise (the District) sells the return flows generated from first-use Fryingpan-Arkansas Project (Project) water to eligible entities within District boundaries. The sale of return flows from Project water (Project Return Flows) is governed by the District's Allocation Principles, Allocation Policies, and the Policy Concerning Sale of Return Flows from Fryingpan-

RECORD OF PROCEEDING

Arkansas Project Water (Return Flow Policy). The Return Flow Policy includes three rights of first refusal for agricultural entities:

- (1) Agricultural entities have the right to purchase the return flows they generate from their use of Project water where physically possible (the “Agricultural Right of First Refusal”);
- (2) Each agricultural entity has the right to purchase Project Return Flows it generated but did not claim at the time of initial allocation, to the extent those return flows remain unclaimed after the initial allocation and the District exchanges such return flows into Pueblo Reservoir pursuant to its Decree in Case No. 01CW151 (the “Agricultural Right to Exchanged Project Return Flows”); and
- (3) Winter Water Storage Program (WWSP) participants (WWSP Participants) without their own storage facilities may purchase agricultural Project Return Flows that the District exchanges into Pueblo Reservoir to the extent storage of exchanged Project Return Flows prevents those WWSP Participants’ Winter Water storage (the “WWSP Right”).

The District does not have any experience implementing any of the three agricultural first rights of refusal, so last year the District initiated the Fort Lyon Pilot Project, a five-year pilot project, to better understand how the policy provisions might be implemented. During the first year of operations, District staff and water users have identified issues that will be addressed in the second and future years of the pilot to make the policies workable. The Allocation Committee recommends that the agricultural first rights of refusal be limited to use in the Fort Lyon Pilot Project during the five-year period beginning in 2014.

Mr. McClure moved, seconded by Mr. Howard “Bub” Miller, that the agricultural first rights of refusal be limited to use in the Fort Lyon Pilot Project during the five-year period beginning in 2014. Motion unanimously carried.

**PRESENTATIONS CONTINUED:
FEDERAL LEGISLATION**

Christine Arbogast reported the beginning stages of the FY ’16 appropriations process for the AVC has started.

The Administration’s budget request is once again \$500,000. Mrs. Arbogast and District staff are working with the congressional delegation to find ways to make more funding available for the AVC, given the ban on specific earmarks. The goal is to add additional funding to the Water and Related Resources Account within Reclamation, and to the category historically referred to as Conservation and Delivery. In addition to adding funds to this category, Mrs. Arbogast and District staff are also asking that the category be renamed Water Supply, Conservation and Delivery. Mrs. Arbogast and District staff believe and the delegation agrees that this will give Reclamation broader flexibility in disbursing any additional funds Congress appropriates to the AVC.

RECORD OF PROCEEDING

A letter from members of our House delegation was provided to the Board members and a Senate letter should be available for the Board sometime next week. While Congressmen Buck and DeGette did not sign the letter, they have assured us of their support and will voice it individually.

We are also exploring non-federal funding options, at the request of Reclamation. It is important that we scour all possibilities so that the Office of Management and Budget is aware of that effort and if any resources can be utilized, and if not, why not. For instance, the state revolving fund for the Safe Drinking Water Act prohibits any funds being used for federally owned projects, which the AVC is. We plan to meet with CWCB, CDPHE, regional EPA, and others.

The issue of Clean Water Act definition of waters of the United States remains an active topic. EPA and the Corps of Engineers have now indicated that their rule may not be released until this summer. In the meantime, there are two pieces of legislation being considered in draft form, one from the House and one from the Senate. They do not take the same approach. The District federal lobbyists will be watching to see how any legislative solution emerges.

PUEBLO DAM HYDROELECTRIC PROJECT UPDATE

Mr. Meador reported the six-month Progress Report dated February 27, 2015 was provided to Reclamation as an update of tasks completed in the previous six months and activities anticipated for the next six months. The next report will be due August 27, 2015. The Board members were provided the Pueblo Dam Hydroelectric Project Six-Month Progress Report and Pueblo Dam Hydroelectric Facility Schedule.

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 10:34 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

