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**SOUTHEASTERN COLORADO WATER  
CONSERVANCY DISTRICT**

**MINUTES**

**March 15, 2018**

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, March 15, 2018 at 9:38 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

**DIRECTORS PRESENT:**

Bill Long	Ann Nichols	Curtis Mitchell
Gibson Hazard	Kevin Karney	Carl McClure
Howard "Bub" Miller	Tom Goodwin	Mark Pifher
Alan Hamel	Seth Clayton	Greg Felt
Andy Colosimo		

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

Dallas May

**DISTRICT OFFICIALS PRESENT:**

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Water Resources Engineer Garrett Markus; Issues Management Program Coordinator Chris Woodka; Finance Manager Leann Noga; and Federal Lobbyist Christine Arbogast.

**VISITORS PRESENT:**

Scott Lorenz, Colorado Springs-Utilities; Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Cathy Garcia, U.S. Senator Cory Gardner's office; Roy Vaughan and Shane Hayden, U.S. Bureau of Reclamation; Jerry Peña, GEI Consultants; Mark Scott, GHD; Judy Leonard, Pueblo West Metropolitan District; Bob Hamilton, citizen; Kevin Niles, Arkansas Groundwater Users Association; Jack Goble, Lower Arkansas Valley Water Conservancy District; Tom Simpson, Aurora Water; Bill Banks, U.S. Geological Survey; and Bill Tyner, Colorado Division of Water Resources.

**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 February 15, 2018 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Clayton moved, seconded by Mr. Howard “Bub” Miller, to approve the minutes. Motion unanimously carried.

**FINANCE COMMITTEE REPORT:**

Treasurer Nichols reported the financial statements for February 2018 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Hamel, for acceptance of the February 2018 financial statements and payment of the March 2018 bills. Motion unanimously carried.

**CONSENT ITEMS:**

None

**PRESENTATIONS:**

**2018 ADOPTED BUDGET**

Leann Noga and Chris Woodka gave a PowerPoint presentation titled, *2018 Annual Budget, Business Plan & Strategic Plan*. Leann reviewed the following:

- Annual Budget Document
- Offices and Human Capital
- Financial Planning
- Budget Overview, Description & Comparison

Chris Woodka reviewed the following:

- Executive Summary
- Major Fund Driving Factors, Partnerships, Programs and Projects
- Strategic Long-Range Planning
- Appendix

In 2017, the District took several steps toward changing its planning processes, including its financial procedures. Staff produced a comprehensive Annual Budget that incorporates these important decisions.

The 2018 Adopted Budget is on the District website. The Board members were very impressed with the document, and thanked the staff for the great work on the creation of the document.

**BASIN OUTLOOK**

Garrett Markus presented a PowerPoint titled, *Southeastern Colorado Water Conservancy District Basin Outlook*, reviewing the following:

- West Slope-Colorado River
- Fry-Ark Collection Basin Snowpack vs Annual Basin Average w/Assoc.Fry-Ark Imports
- Fry-Ark Collection Basin Snowpack w/ Individual Sites
- Upper Colorado River Basin Snowpack and Streamflow Forecasts

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- Drought Monitor
- Fry-Ark Imports
- Fry-Ark Imports Ranked
- Pueblo Reservoir End-of-Month Content 1996 to Current
- Pueblo Winter Water Storage Program
- John Martin Reservoir
- Outlook

**ACTION ITEMS**

None

**MONTHLY/QUARTERLY REPORTS:**

**U.S. BUREAU OF RECLAMATION REPORT**

Roy Vaughan presented a PowerPoint presentation reviewing the following:

- As of March 11, 2018 there were 274,887 acre-feet stored in Pueblo Reservoir; 139,150 acre-feet of Project water; 47,014 acre-feet of Excess Capacity water; 88,261 acre-feet of Winter water.
- There is currently 106,223 acre-feet of Project space in Pueblo Reservoir and 38,946 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 122%; Twin Lakes 95%; Pueblo 137%
- Total M&I Project Water in the System
- First Use Project + PCO Municipal Water
- Kiln Snotel Site
- Ivanhoe Snotel Site
- Independence Pass Snotel Site
- Nast Lake Snotel Site
- U.S. Drought Monitor-West, March 13, 2018
- Arkansas River Basin Time Series Snowpack Summary March 14, 2018
- Arkansas River Basin Snow Water Equivalent (SWE) Summary March 14, 2018
- Upper Colorado River Basin Time Series Snowpack Summary March 14, 2018
- Upper Colorado River Basin Water Equivalent (SWE) Summary March 14, 2018
- March Forecast - 38,200 acre-feet

Mr. Vaughan showed pictures of the Hydro project activity.

Mr. Vaughan reported the collection system has been winterized. Mt. Elbert Conduit is currently running 250 cfs. Currently Reclamation is moving Project water from Twin to Pueblo to meet minimum flow targets. The movement of water will be adjusted according to the forecast and customer's needs.

Mr. Vaughan reported on the Fry-Ark Operational Requirements, reviewing the following:

- Minimum Bypasses and Capacities of Collection System
- Boustead, Thomasville & Hunter Creek Gages

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- Thomasville Gaging Station
- Thomasville Minimum Flows
- Hunter Creek Near Aspen Gaging Station
- Hunter Creek Minimum Flows

Mr. Vaughan reported on Spill Priorities, reviewing the following;

- Pueblo Reservoir Allocations
- Excess Capacity Contracting Program
- Storage Accounts in Pueblo
- Southeastern Colorado Water Conservancy District Spill Priorities
- Pueblo Reservoir Operations

DIVISION ENGINEER'S REPORT

Bill Tyner reported on the written report Steve Witte provided reviewing the following:

A) River and Reservoir Report

1) Reference Arkansas River Daily Report. River Call is:

- i) 3/1/1887 Fort Lyon 2nd
  - ii) 5/31/1949 Compact Call (State line to John Martin)
- <http://www.dwr.state.co.us/div2/aras/arascal.asp>

2) Current River/Reservoir Operations

- i) Pueblo Reservoir
  - Content is 274,347 af.
- ii) John Martin
  - Current content is 314,972 af
- iii) Trinidad Reservoir
  - Current content is 39,246 af.
  - Storage reached 20,000 af limit of the transferred Model Storage right. Inflows are currently being by-passed downstream to John Martin.
  - The PRWCD requested and the USBR approved an exception to the Operating Principles for the Trinidad Project to allow the irrigation season to begin as soon as possible, rather than April 1, as specified in the Principles. The USBR announced its decision on 2/16/18, but made the approval subject to compliance with Colorado law. The PRWCD has not challenged the Division Engineer's determination that the 20,000 af limit imposed by the change decree, applies to the changed direct flow rights during the winter season, prior to April 1 of any year.

B) Compact Issues

- 1) ARCA Special Telephonic Meeting scheduled 10 a.m., Tuesday, March 20, 2018
  - i) Renewal of resolution allowing Highland Canal to be used as a source of water for the Permanent Pool in John Martin Reservoir.

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- 2) Meetings of the Special Engineering Committee
  - i) Manhattan, KS on 2/28
    - ARF Article V.H. request
    - Spill issues, concerning conditions that initiate a spill at John Martin, the rate of spill as well as how upstream post-Compact storage rights are affected.
  - ii) Denver, CO on 5/14
    - Continued discussion of spill issues.

C) Administrative Activities

- 1) Winter Water Storage Program
  - i) System Grand total as of 2/28/18 was 125,852 af or 5% > last year at the same time and the previous 20 yr avg.
- 2) Rule 14 Plans for 2018 are under review.
- 3) Rule 10 Plans have been submitted and posted for public comment.
- 4) DWR has been involved in discussions between Aurora and West Slope opposers concerning a possible settlement concerning the Busk-Ivanhoe change application, case no. 09CW142.
  - i) A status hearing occurred on 2/16 to request an extension, which was granted.
- 5) Hearing on motion for preliminary injunction to enforce zero storage order held in Huerfano County District Court concerning Cucharas Reservoir #5, Two Rivers Water and Farming.
  - i) A preliminary injunction was issued on or about January 29, 2018.
  - ii) The trash racks which had become enmeshed with debris were removed on February 19, 2018 which released all water impounded in the reservoir over a period of about two days. An order has been issued to reinstall trash racks.
  - iii) Deadline for completion of the breach of Cucharas Reservoir #5 is on or about April 1, 2018. Deconstruction has yet to begin.
  - iv) A 30 day notice of intent to file motion for contempt on March 31 has been filed.

Bill Tyner presented a PowerPoint titled, *Overview of the Arkansas River Basin 2018*, reviewing the following:

- Overview of the West Region
  - Key Features and Key Native Water Rights of Water District 11, 12, and 13
- Overview of the North Region
  - Key Features and Key Native Water Rights of Water District 10, 14, and 15
- Overview of the South Region
  - Key Features and Key Native Water Rights of Water District 16, 18, 19 and 79
- Overview of the East Region
  - Key Features and Key Native Water Rights of Water District 17, 66 and 67
- Ground Water Administration Division 2 Staff Members
- River/Reservoir Operations Staff Members
- Litigation Support Staff Members
- Hydrographic Support Staff Members

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## U.S. GEOLOGICAL SURVEY REPORT

Bill Banks presented a PowerPoint titled, *USGS Update; Evaluation of Selected Water-Quality Issues*, reviewing the following:

- Proposed PFOS/PFOA Site Specific Standard Boundary in Central El Paso County

## STATE LEGISLATION UPDATE

Lee Miller reported the Southeastern Colorado Water Conservancy District (District) participates in the Colorado Water Congress State Affairs Committee, which generally meets on Monday mornings in Denver before the Legislature begins its work for the week. Information on bills being followed and positions taken by the State Affairs Committee can be found at <http://www.cowatercongress.org/state-issues.html>.

Among the bills the District is actively following is **SB18-038**, sponsored by Senator Donovan with Senator Coram and Representative Esgar with Representative Willett, concerning the use of reclaimed water to produce hemp passed Senate Agriculture, Natural Resources, and Energy with an amendment. It is pending Senate Appropriations Committee.

As reported previously, Lee Miller has been actively participating in meetings convened by Northern Water to address issues related to Northern Water's mitigation requirements for permitting of its Northern Integrated Supply Project. The multiple meetings have involved more than 50 people representing water interests throughout the state, resulting in the introduction of **SB18-170**. Senator Jerry Sonnenberg introduced a predecessor bill, SB17-282, during the last session to address this problem, but that bill failed. This bill is designed to allow the use of certain stored water to satisfy mitigation requirements established by the State of Colorado. The stored water that could be applied to this use must be in a newly constructed reservoir or an existing reservoir that has been expanded. The bill sets forth the process and requirements for the water right owner to follow in order to be able to use the stored water for mitigation purposes. Once the applicant has secured the mitigation requirements, the applicant could make an application to the Colorado Water Conservation Board (CWCB) to establish the conditions under which the stored water could be released in the designated stream reach. The considerations for the CWCB are related to the amount of water to be released, the timing requirements associated with the release, and the termination point on the designated stream reach. Once those matters have been resolved, an application is to be made to the water court for approval and assurance that no other water users would be adversely affected by the release.

A key element of the concept is that the water to be released is considered to be an increment of water that travels along the stream in addition to the usual water that flows in the stream. This increment would be restricted from diversion by other water users, but the normal flow of water would remain available for diversion and use in conformance with existing water law and the doctrine of prior appropriation.

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The District's main goal in working with Northern Water during the past session and these most recent meetings is to assure that the bill would not impact the Upper Arkansas Voluntary Flow Management (VFMP) Program and agreement that the District has been instrumental in effectuating since 1991. Lee Miller worked with lawyers from the River District and the environmental community to fashion the "savings clause" language that addresses the VFMP concern and similar concerns on the west slope. Lee Miller testified in favor of the bill at a hearing on February 28, 2018, to explain the basis of the savings clause. The bill passed the Senate and is scheduled for a hearing in the House Agriculture Committee on March 19, 2018.

Another bill of interest is **HB18-1008**, sponsored by Representative Esgar with Representative Arndt and Senator Donovan with Senator Coram, the "Mussel Free Colorado Act" would provide a partial solution to the funding problems of interdicting and eradicating the invasive aquatic nuisance Zebra mussels and quagga mussels. The bill proposes to levy a decal fee on motorboats and sail boats to raise an estimated \$2.3 million to combat the invasive species. For Colorado resident boaters, the fee would be \$25 and \$50 for non-resident boaters if the boat is to be in Colorado waters for more than 60 consecutive days. The program would go into effect beginning on January 1, 2019. This bill passed the House Agriculture, Livestock and Natural Resources Committee, with amendments, on a 10-3 vote. The bill passed the House and was scheduled for hearing on March 8, 2018, in Senate Finance.

A bill that would amend the Water Conservancy Act and the Water Activity Enterprise Act is **HB 18-1073**, sponsored by Representative Gray and Senator Gardner. The bill clarifies the contracting authority under the water conservancy district and water activity enterprise statutes. It adds the words "capacity in works" and uses broad language to allow the district board to set the security it will accept under the contract. The broad range of contract terms includes those found under the statutes governing municipal water and sewer contracts. The bill adds language to the water activity enterprise statute to expressly allow water districts and water activity enterprises to contract with other such entities. The reason for the bill is that the Northern Colorado Water Conservancy District (Northern) is developing the Northern Integrated Supply Project (NISP) on behalf of 15 project participants and the Municipal subdistrict of the Northern Colorado Water Conservancy District is developing the Windy Gap Firing Project on behalf of 12 project participants. Each project has formed a water activity enterprise under existing statute under which it will issue contracts to project participants. Northern believes it necessary to clarify and confirm in the Water Conservancy Act that both water supply and water capacity may be contracted for under the statute. While there is no harm to the District in adding this authority, because the District does not have its own facilities (Reclamation owns the facilities), it is unlikely to provide a benefit to the District at the current time. The House bill, as amended, passed the Senate without amendment on March 8, 2018.

A final bill the District is watching is **HB18-1151**, sponsored by Representative Arndt with Representative Catlin and Senator Crowder. This bill originated with the Lower Arkansas Valley Water Conservancy District and seeks to expand the types of programs that can be approved by the CWCB for inclusion in the crop fallowing pilot programs. The bill seeks to add deficit irrigation to the allowable projects. The bill defines "deficit irrigation" as using less than the optimal amount of water on a specific

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crop. The bill would also exclude the water use in such a deficit irrigation project from the calculation of historical consumptive use. The water generated from a deficit irrigation project could be used for lease. The bill has been amended to limit the applicability of the deficit irrigation program to Water Divisions 2, 3 and the boundaries of the Upper Gunnison River Water Conservancy District before passage in the House on March 6, 2018. The bill has been assigned to the State, Veterans, & Military Affairs Committee.

If passed into law, HB18-1151 likely will require the Board to consider amendments to the Allocation procedures to address how participation by an individual farm or ditch company may impact Project water allocation. Should the bill pass, District staff will work with the Allocation Committee on appropriate policy proposals for the Board to consider.

**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 9-11 – Washington, DC
- Arkansas River Basin Water Forum – April 11-12 – La Junta

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:58 a.m.

Respectfully submitted,

Toni Gonzales  
Administrative Manager

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Secretary

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