

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER CONSERVANCY DISTRICT
MINUTES
April 20, 2023**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, April 20, 2023, at 9:32 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors. Mr. Long asked Margie Medina for a roll call for those connected via ZOOM.

President Long established that a Quorum was present.

DIRECTORS PRESENT:

Alan Hamel (remote)	Dallas May	Matt Heimerich
Ann Nichols	Greg Felt	Pat Edelmann
Bill Long	Howard “Bub” Miller (remote)	Patrick Garcia
Curtis Mitchell (remote)	Kevin Karney	Seth Clayton
	Mark Pifher	Tom Goodwin

DIRECTOR(S) ABSENT AND EXCUSED:

Andy Colosimo

DISTRICT OFFICIALS:

Executive Director James Broderick; Senior Policy and Issues Manager Chris Woodka; Water Resources Principal Engineer Garrett Markus; Administrator of Administration and Finance Leann Noga; General Counsel Lee Miller; Administrative Support Specialist’s Margie Medina and Patty Rivas; Principal Engineer/Project Coordinator Mark Scott; Staff Attorney Peter Levish; Finance Manager Stephanie Shipley; Kogovsek and Associates, Christine Arbogast; Kleinfelder, Gordon Dillon; H2O Consultants, Roy Vaughan, and Burns, Figa & Will, Stephen Leonhardt (remote) @ 9:56.

VISITORS PRESENT:

Bill Tyner, Tyner Engineering; Dustin Ethridge and Krystal Brown, USGS; Dustin Mueller and Mitch Downs Erickson, Brown & Kloster, LLC; Mark Shea, Colorado Springs Utilities; Mike Holmberg, USBR; Curtis Thompson, AECOM; Jerry Pena, Kennedy Jenks; Krystal Brown, USGS; Mike Holmberg, USBR; and Rachel Zancanella, Division of Water Resources.

VISITORS CONNECTED VIA ZOOM:

Curtis Thompson AECOM; Jeffery DeHerrera, Pueblo West Metro; Kevin Salter, Kansas Dept of Ag; Luke Mecklenburg, Assistant Attorney General, Federal and Interstate Water Unit; Otero Commissioners; and Roy Heald, Security Water & Sanitation.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting.

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APPROVAL OF MINUTES:

President Long said the minutes from the March 16, 2023, District Board meeting were posted to OnBoard and the website for review and asked if there were any corrections or additions. Hearing none, Mr. Karney moved, seconded by Mr. Pifher to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Ms. Nichols reported the financial statements for March 2023 were posted to OnBoard and the website for review. Ms. Nichols moved, seconded by Mr. Clayton for acceptance of the March 2023 financial statements and payment of the April 2023 bills. Motion unanimously carried.

PRESENTATION ITEMS:

2022 ANNUAL AUDIT

President Long convened the meeting of the Enterprise Board meeting to order at 9:36 a.m. to be held in conjunction with the District Board meeting to present the 2022 Annual Audit presentation.

Mrs. Noga introduced Mitchell Downs from Erickson, Brown & Kolster, Inc, who represents the firm that conducted the 2022 audit. Mr. Downs read the Independent Auditor's Report.

ACTION ITEMS:

APPROVAL OF 2022 ANNUAL AUDIT

Ms. Nichols moved seconded by Mr. Clayton, the audit of the 2022 financial statement of the District and Enterprise be approved as presented. Motion unanimously carried.

Ms. Noga received and addressed questions by the Board.

APPROVAL OF 2022 FINANCIAL STATEMENTS

Ms. Nichols moved, seconded by Mr. Clayton, the 2022 financial statements of the District and Enterprise be approved as audited. Motion unanimously carried.

President Long thanked Leann Noga and the finance team.

Mr. Long recessed the Enterprise Board meeting at 9:42 a.m. that was held in conjunction with the District Board meeting.

INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS

Mr. Markus presented an action item recommending the Board approve the inclusion of Capital Drive No. 2 and No. 3 annexations in the City of Colorado Springs into the Southeastern Colorado Water Conservancy District (District) with the standard terms and conditions. Once approved by the Board of Directors, staff will send the annexation to the Bureau of Reclamation (Reclamation) for assent. The District will submit the inclusion to the District Court for final decree.

There are three methods of including lands into the District

1. Annexation by a town or city located in the District.
2. Petition of the property owners.

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3. Vote by the property owners.

All three of these methods require assent from the Secretary of Interior, for which Reclamation requires a National Environmental Policy Act (NEPA) review of the lands to be included in the District boundaries. Once the Board approves the inclusion by Resolution, then Secretarial Assent by Reclamation is requested. The inclusion is submitted to the District Court for a decree including the lands within the District.

The Application of Assent has been submitted to the District and will be forwarded to Reclamation for the property.

RESOLUTION NO.	More Commonly Known As	Legal	Acres	County
2023-01D INCL-AX	Capital Drive Addition No. 2	W2 Sec33 T13SR65	6.6301	El Paso
2023-02D INCL-AX	Capital Drive Addition No. 3	W2 Sec33 T13SR65	1.0105	El Paso

Mr. Garcia moved, seconded by Mr. Pifher that the Board approves, by Resolution, the inclusion of the Capital Drive Addition No. 2 and 3 annexations annexed by Colorado Springs subject to the following terms and conditions:

1. Approval of these inclusions into the Southeastern Colorado Water Conservancy District will not increase the amount of Fryingpan-Arkansas Project water available to the city. Any Fryingpan-Arkansas Project water used on these included lands will need to come from the water allocated to the city through Fryingpan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingpan-Arkansas Project water on the included lands is subject to the decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, principles, policies, and contractual obligations of the District; and
3. The annexed lands will be subject to ad valorem taxes levied by the District as any other similarly situated lands in the District at the time of this inclusion; and
4. Prior to the District filing a petition for District Court approval of this inclusion, the Municipality, and/or owner(s) of the annexed lands shall have paid all the costs charged by the United States in connection with the contracting officer's assent to this inclusion.

Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:

U.S BUREAU OF RECLAMATION REPORT

Mr. Mike Holmberg provided a written report reviewing the following as of April 16, 2023:

- There were 219,715 acre-feet stored in Pueblo Reservoir; 114,498 acre-feet of Project water; 44,939 acre-feet of Excess Capacity water; 36,572 acre-feet of Winter water and winter carryover.
 1. 33,662 acre-feet 2023 winter water
 2. 2,910 acre-feet of winter water carryover

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- There is currently 130,875 acre-feet of Project space in Pueblo Reservoir and 54,563 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
 - SNOTEL water equivalent (SWE) % of Normal as of April 16, 2023
 1. Upper Arkansas
 2. Colorado Headwaters
 3. Fryingpan (Fremont, Independence, Ivanhoe, Nast)
 - Previous Forecast:
 1. February 1 – 59.9 KAF
 2. March 1 – 56.2 KAF
 - April 1, 2023 Forecast:
 1. 30% - 50.7 KAF
 2. 50% - 57.2 KAF
 3. 70% - 63.8 KAF

Mr. Holmberg presented a video titled, “From Snowpack to Tap, Fryingpan-Arkansas Project.” A review of the Mt. Elbert water section as they go through the process of Snow Removal and opening the Collection System getting ready to bring in water thru the Boustead Tunnel.

<https://www.youtube.com/watch?v=4TypwfmFB1c>

Before playing the video, Mr. Holmberg took questions from the Board about the information that was presented.

Questions were asked of Mr. Holmberg about the video.

COLORADO DIVISION OF WATER RESOURCES

Mrs. Rachel Zancanella presented a PowerPoint, first in a series, titled: Division of Water Resources Duties and Responsibilities

- Division 2 Main Areas of Focus
- Prior Appropriation Doctrine
 - First in time, first in right
 - Doctrine, a principle or position or the body of principles in a branch of knowledge of system or belief. A principle of law established through past decisions.

Postponement Doctrine

- Originally, Decrees were in each District Court
- Judge came around on a horse
- Original adjudication then rode on to the next county
- Supplemental Adjudication

1969 – water right determination and administration act

- Combined the district courts and caused the integrated tabulation

Admin Number- Holts number – the admin number was developed by the Division of Water Resources (Ken Holt, Division 6 hydrographer) to provide a simple ranking of water priorities. The number

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references the number of days since December 31, 1849, an entirely arbitrary date except for the fact that it is prior to those most senior Colorado water rights.

CDSS Call tools

- Logic based on admin number
[HTTPS://DWR.STATE.CO.US/TOOLS/ADMINISTRATIVECALLS/WATERSOURCECALLS](https://dwr.state.co.us/tools/administrativecalls/watersourcecalls)
 - Shows some inconsistencies
 - Verified Tabulations are correct
 - May necessitate some changes in administrative practices

Questions were asked of Ms. Zancanella

U.S GEOLOGICAL SURVEY

Ms. Brown presented to the Board a presentation covering USGS StreamStats Program :

- StreamStats are a web-based map application for retrieving basin and streamflow characteristics.
- StreamStats Development
- Colorado Equations
- StreamStats: Gage statistics
- StreamStats: Storm Runoff Models
- StreamStats: Elevation profile
- StreamStats: Flow (raindrop) path

STATE LEGISLATION UPDATE

Mr. Lee Miller provided an update to the Board by reporting the 74th General Assembly will complete the 120-day session no later than Monday, May 8, 2023. This means that we will have less than three weeks remaining in the session on the date of this month's Board meeting.

Bills of interest to the District that have been introduced include:

SB23-177: This is the annual bill to identify construction projects under the Colorado Water Conservation Board (CWCB). Senator Dylan Roberts and Senator Cleave Simpson are the Senate sponsors, and the bill has been scheduled for a hearing on March 16, 2023, in the Senate Agriculture & Natural Resources Committee. This bill is of particular interest this year because Section 14 includes the additional \$20 million in grant funding proposed by the CWCB. In addition, this section includes Otero County as a recipient of grant funds from CWCB, consistent with the Intergovernmental Agreement (IGA) with Otero County. The bill has passed the Senate and was referred to the House Appropriations Committee during a hearing in the House Agriculture, Water and Natural Resources Committee on April 17, 2023.

SB23-270: After a lengthy period of discussion, the Department of Natural Resources (DNR) stream restoration bill concept was introduced as a bill for formal consideration by the legislature as SB23-270. The Colorado Water Congress (CWC) State Affairs Committee has formed a subcommittee to work on this issue; April Hendricks from Burns Figa & Will is on the subcommittee and reporting to Lee on the subcommittee's work. During a legislative hearing on April 13, 2023, that went beyond midnight, SB23-270 was significantly narrowed. A copy of a report prepared by Richard Brown on behalf of the

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Pikes Peak Regional Water Authority detailing the path of the bill was provided to the Board.

Mr. Miller took questions from the Board regarding SB23-270.

In addition to the introduced bills, there has been much discussion regarding possible legislation to address Colorado River Compact issues. Lee Miller joined several Front Range Water Council (FRWC) representatives in a meeting with House Speaker Julie McCluskie and Senator Dylan Roberts, Chair of both the Senate Agriculture and Natural Resources and the Water Resources and Agriculture Review Committees, to discuss a “discussion draft” of “drought security legislation.” The program proposed in the discussion draft would be managed by the Southwestern and Colorado River Water Conservation Districts, not the State of Colorado. FRWC representatives apparently persuaded the legislative leaders not to pursue this proposal during the final days of the legislature; instead, on Monday afternoon, April 17, 2023, we received a draft of legislation to create a “drought security task force” that would report to the Water Resources and Agriculture Review Committee with at least two legislative proposals for consideration during the next 2024 legislative session. FRWC representatives were given until noon on Tuesday, April 18, 2023, to comment on this new legislative proposal. Senator Roberts introduced the bill on Thursday, April 20, 2023.

Finally, the Water Resources and Agriculture Review Committee met on April 5, 2023, and received information on water quality standards rulemaking.

COLORADO RIVER ISSUES STATUS

Mr. Lee Miller updated the Board, as reported On April 11, 2023, the Bureau of Reclamation (Reclamation) released a draft Supplemental Environmental Impact Statement (SEIS) to potentially revise the current interim operating guidelines for the near-term operation of Glen Canyon and Hoover Dams. The draft SEIS released analyzes alternatives and measures to address potential shortages if such measures are required to protect Glen Canyon and Hoover Dam operations, system integrity, and public health and safety in 2024 through 2026, after which the current operating guidelines expire. According to Reclamation, the draft SEIS considers three alternatives:

- The No Action Alternative, required by the National Environmental Policy Act, describes the continued implementation of existing agreements that control operations of Glen Canyon and Hoover Dams.
- Action Alternative 1 models operational changes to both Glen Canyon Dam and Hoover Dam. Action Alternative 1 includes assumptions for reduced releases from Glen Canyon Dam as well as assumptions for additional Lower Colorado River Basin shortages based on the concept of priority. Action Alternative 1 models progressively larger additional shortages as Lake Mead's elevation declines and models larger additional shortages in 2025-2026 as compared with 2024. The total shortages and Drought Contingency Plan contributions in 2024, as modeled, are limited to 2.083 million-acre-feet because this is the maximum volume analyzed in the 2007 Interim Guidelines final environmental impact statement (FEIS).
- Action Alternative 2 is like Action Alternative 1, in how it models operational changes to both Glen Canyon Dam and Hoover Dam. Action Alternative 2 includes assumptions for reduced releases from Glen Canyon Dam as well as assumptions for additional Lower Colorado River Basin reductions

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that are distributed in the same percentage across all Lower Basin water users. While both the 2007 Interim Guidelines and the 2019 Drought Contingency Plan encompass shortages and contributions that reflect the priority system, the additional shortages identified in Action Alternative 2 for the remainder of the interim period would be distributed in the same percentage across all Lower Basin water users. Action Alternative 2 models progressively larger additional shortages as Lake Mead's elevation declines and models larger Lower Basin shortages in 2025-2026 as compared with 2024. The total shortages and Drought Contingency Plan contributions in 2024, as modeled, are limited to 2.083 million-acre-feet because this is the maximum volume analyzed in the 2007 Interim Guidelines FEIS.

The draft SEIS was published in the Federal Register on April 14, 2023, starting the 45-day public comment period. Written comments on the SEIS should be submitted by May 30, 2023. Reclamation states that they are particularly interested in receiving specific recommendations related to the analyses or alternatives that can be considered and potentially integrated into the SEIS. District staff has begun reviewing the SEIS and will be reaching out to other Colorado entities regarding plans to comment on the SEIS by the deadline.

Reclamation will hold four virtual public meetings to provide information on the draft SEIS, answer questions, and take verbal comments. For information on how to participate in the public meetings, go to <https://www.usbr.gov/ColoradoRiverBasin/SEIS.html>.

In August 2022, the Upper Division States, and the Upper Colorado River Commission (UCRC) developed and adopted a 5-Point Plan, which put forward several activities to help improve the Colorado River System in conjunction with commensurate conservation activities undertaken in the Lower Basin. The first element of the 5-Point Plan is the re-authorization and re-initiation of the System Conservation Pilot Program (SCPP), a large-scale program involving temporary, voluntary, and compensated reductions in consumptive use across the Upper Division States. The UCRC conducted a virtual special meeting on April 17, 2023 to review the status of the SCPP for 2023. Lee Miller attended this virtual meeting and reported the general results of the meeting.

A Colorado River and Water Supply Committee meeting will be held following the Board meeting.

CWCB REPORT

Mr. Greg Felt gave the Board an update on the CWCB.

The March Board Meeting was held in Steamboat on March 15-16, some highlights:

1. Three new members were appointed. Nathan Coombs, Barbara Vasquez, and Lorelei Cloud
2. A meeting was held with the Colorado Department of Agriculture (CDA)
3. Three significant funding actions were taken
 - a. ½ million to the Upper Ark Trout Creek Exchange
 - b. 3.3 million to Lake Beckwith Dam Modifications
 - c. 9.75 million BWWP – Southside Diversion Dam Improvement Project
4. This is the second year of high severance tax revenues, next year is expected to be average
5. Continuance for the next five years of the 3 million allocated for basin specific funding for Roundtables
6. Sports Betting generated 12.6 million for Water Grants

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7. The May Board Meeting will be held at Northern Water facilities May 17-18
8. May 31 – June 1, is the Governors Drought Summit
9. September a meeting will be held in Salida, more information to come

INFORMATIONAL ITEMS:

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

- Water Court Resume
- ARBWF 2023 Forum, April 25-26, 2023, Colorado Springs

President Long asked if there were any other matters to come before the District Board. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 11:22 a.m.

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Respectfully submitted,

Patty Rivas
Administrative Support Specialist

Seth Clayton – Secretary

Bill Long – President

Howard “Bub” Miller

Curtis Mitchell – Vice President

Kevin Karney

Ann Nichols – Treasurer

Mark Pifher

Alan Hamel

Matt Heimerich

Andy Colosimo

Pat Edelmann

Dallas May

Patrick Garcia

Greg Felt

Tom Goodwin