

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

November 20, 2014

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, November 20, 2014 at 9:45 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado. President Long recessed the meeting at 10:36 a.m. and reconvened at 10:50 a.m.

President Long announced a quorum was present.

DIRECTORS PRESENT:

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

DIRECTOR(S) ABSENT AND EXCUSED:

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

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Project Manager Kevin Meador; Director of Engineering and Resource Management Bob Hamilton; Water Resources Specialist/Engineer Garrett Markus; Program-Project Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt and Alix Joseph; and Federal Lobbyist, 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, U.S. Congressman Cory Gardner's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Roy Vaughan, U.S. Bureau of Reclamation; Rodger Ortiz, U.S. Geological Survey; Steve Witte, Colorado Division of Water Resources-Division 2; Mark Scott, GEI Consultants; Terry Book, Board of Water Works of Pueblo; Kevin Niles, Arkansas Groundwater Users Association; Mark McCuiston, Oxford Farmers Ditch; Jerry Edwards, Bohannon Huston, Inc; Scott Lorenz, Brett Gracely, and Allison Plute, Colorado Springs Utilities; and Bill Stoner, Black and Veatch.

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INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

APPROVAL OF MINUTES:

President Long said the minutes of the October 16, 2014 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. Edelman, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported the financial statements for October 2014 were posted to the Board website for review. Treasurer Nichols moved, seconded by Dr. Moore, for acceptance of the October 2014 financial statements and payment of the November 2014 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

PUBLIC HEARING

Mr. Broderick presented a PowerPoint presentation titled, *2015 Proposed Budget*, reviewing the following:

- Budget Policy
- All District Activity
- Fryingpan-Arkansas Revenue
- Fryingpan-Arkansas Tax Revenue
- Fryingpan-Arkansas Expenditures
- Grant Revenue
- Grant Expenditures
- Operating Revenue
- Capital Outlay Expense Budget Compared to Actual
- Government Activity-Budget Comparison
- Enterprise
- Business Activity Consolidated
- Enterprise Revenue Grants
- Enterprise Grant Expenditures
- Enterprise Operating Revenue
- Partnership Contributions
- Enterprise Operating Expenditures
- Enterprise Capital Outlay
- Government-Wide Overview
- Fund Balance Summary

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President Long asked the Board members if there were any questions. The few that were asked were answered by Mr. Broderick. President Long then asked if there were any questions from the public, there were none. It was noted that the budget process and presentation has improved from past years.

ACTION ITEMS:**INCLUSION OF THREE PROPERTIES ANNEXED BY THE CITY OF LAMAR**

Bob Hamilton reported Reclamation completed environmental reviews on three properties in Lamar and in July 2014 Reclamation assented to the inclusion of the Ordinance No. 1175 and Ordinance No. 1176 properties into the District and in October 2014 assented to the inclusion of the Ordinance No. 1189) property into the District.

The Resource and Engineering Planning Committee reviewed these annexations and voted to recommend the District adopt the three resolutions and petition the District Court to confirm the inclusion of these properties described in the City of Lamar Ordinances numbered 1175, 1176, and 1189 into the District.

Mrs. Ortegon moved, seconded by Mr. Simpson, the Board adopt Resolutions Nos. 2014D-01 INCL-AX, 2014D-02 INCL-AX, and 2014D-03 INCL-AX and direct staff and special water counsel to petition the District Court for confirmation of inclusion of the three properties described by City of Lamar Annexation Ordinances numbered 1175, 1176, and 1189 into the District. Motion unanimously carried.

**PIONEER NATURAL RESOURCES, ET AL. (CASE NO. 10CW2, WATER DIVISION 2)
WITHDRAWAL OF OPPOSITION**

Steve Leonhardt reported Pioneer and three co-applicants have requested approval of a plan for augmentation, including exchanges, for water produced by their tributary coalbed methane (CBM) gas wells in the Central Raton Basin. Colorado laws require CBM producers to adjudicate augmentation plans to replace stream depletions caused by their production of tributary groundwater from CBM wells.

The District was concerned with keeping the river whole; protecting the District's water rights and Winter Water Storage Program (WWSP); monitoring for potential legal precedent on adequacy of the augmentation plan; assuring compliance with the Arkansas River Compact; and assuring compliance with the District's previous stipulation regarding the Applicants' claim of nontributary groundwater. The District monitored a hearing held in March 2010 by the State Engineer to determine of the extent of non-tributary groundwater in this basin where the Applicants have CBM wells. The District and others stipulated with the Applicants to limit the nontributary area, which increases the number of tributary wells that they will have to augment.

After amending their application, the Applicants provided a proposed decree and engineering in October 2014. District staff reviewed the proposed decree and engineering and determined that there do not appear to be serious concerns warranting the District's further participation in the case. Special water

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counsel has reviewed the amended application and proposed decree and concurs with District staff's conclusions and recommendation to withdraw the District's statement of opposition in the case. Special water counsel conferred with Applicants' counsel (a prerequisite to filing the motion to withdraw with the water court), who indicated they will not oppose such a motion.

Mr. Simpson moved, seconded by Mr. Howard "Bub" Miller, to authorize special water counsel to file a motion to withdraw the District's Statement of Opposition in Case No. 10CW2. Motion unanimously carried.

TOWN OF FOWLER (CASE NO. 13CW07) APPROVAL OF STIPULATION

Alix Joseph reported the Town of Fowler's application to change 10.7 shares (out of the 1,196 total) of the Oxford Farmer's Ditch on the Arkansas River. Fowler seeks to change its direct flow rights from irrigation to augmentation of all municipal uses. The changed water rights will be included as an augmentation source in CWPDA's Rule 14 Plan. This proposed change does not include any Project water allocated to the Oxford Farmer's Ditch for irrigation.

The District filed a Statement of Opposition to protect Project water and Winter Water Storage Program water rights. One of the questions at the outset was whether Fowler was trying to use Project water allocated to the Oxford Farmer's Ditch for municipal purposes. The District's Allocation Principles and Policies do not allow Project water allocated to a ditch to be used for municipal purposes. Fowler has acknowledged that they may not use any Project water allocated to Oxford Farmers Ditch for municipal purposes, even if it is augmentation of municipal irrigation uses. Additionally, Fowler has agreed that any Winter water to be used for municipal purposes will be stored in an excess capacity account and not the Winter water account in Pueblo Reservoir.

In October 2013, Fowler included a storage claim in Pueblo Reservoir in its proposed decree. Initially, this seemed to raise concerns about how they would get water into Pueblo Reservoir. After several discussions with Applicant's counsel about ways of resolving this concern, Fowler decided to amend the application to allow Fowler to participate and include its Oxford shares in the District's proposed exchange of non-Project water (pending in Case No. 06CW8). Special water counsel worked with Fowler's counsel to ensure their amendment was consistent with the Application in Case No. 06CW8. On July 31, 2014 Fowler filed the amended application, and in August provided a revised proposed decree for review.

Special water counsel has worked with Fowler's counsel to include the District's standard terms and conditions for use of Winter water and use of Pueblo Reservoir. There have been some minor modifications to the Winter water standard language to allow Fowler to release water from Pueblo Reservoir to replace non-irrigation season depletions, and to require the Court to reconsider winter use in the event the WWSP terminates. Special water counsel also drafted new language to address the fact that the District is likely to be the holder of a future master excess capacity storage contract in Pueblo Reservoir. This language likely will be used in future decrees where Excess Capacity Participants seek

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to exchange water into Pueblo Reservoir. All of this language is included in the proposed decree, which special water counsel and general counsel believe addresses the District's concerns in this case.

Mr. Goodwin moved, seconded by Mr. Pruett, to authorize special water counsel to enter into a stipulation with Fowler consenting to entry of a decree that is no less restrictive on Fowler and no less protective of the District than the proposed decree dated November 5, 2014. Motion unanimously carried.

SOUTHEASTERN'S EXCHANGE (CASE NO. 06CW08) APPROVAL OF STIPULATION WITH BOARD OF WATER WORKS, PUEBLO (BWWP)

Alix Joseph reported this exchange was designed to facilitate Arkansas Valley Conduit (AVC) operations by making non-Project water available in Pueblo Reservoir for use in the AVC. The Application requested co-equal priority with exchange applications filed in December 2005 by the City of Aurora (which has since been dismissed), Colorado Springs Utilities (CS-U) and the City of Lamar. The exchanges applied for in Case No. 06CW8 were designed to facilitate use of non-Project water by participants in the AVC and excess capacity storage. Nineteen parties filed statements of opposition. The Water Referee will re-refer the case to the Water Judge in mid-December.

Following initial comments from several Opposers (including BWWP), special water counsel provided a revised proposed decree on September 2, 2014. This revised version of the proposed decree defines the entities eligible to participate in these exchanges and sources and amounts of non-Project water available for use in the exchange based on the Participants and water sources studied in the AVC EIS. This limits the annual amounts exchanged to 525 acre-feet from storage, and 2,000 acre-feet for direct-flow exchanges. Legal counsel then recognized that it would be appropriate to include further language requiring any constituent's use of the exchange to be consistent with the District's then current rules, regulations, policies, and contracts. Accordingly, special water counsel have asked BWWP to stipulate to this updated version dated October 27, 2014. Ms. Joseph recommended the Board approve a standard stipulation by which BWWP will consent to entry of a decree in a form no less restrictive than the October 27, 2014 Proposed Decree.

Mrs. Ortegon moved, seconded by Mr. Karney, to authorize special water counsel to execute a stipulation with the Board of Water Works of Pueblo, Colorado, consenting to entry of a decree no less restrictive than the Proposed Ruling dated October 27, 2014. Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:**U.S. BUREAU OF RECLAMATION REPORT**

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of November 17, 2014 there were 173,382 acre-feet stored in Pueblo Reservoir; 111,625 acre-feet of Project water; 46,898 acre-feet of Excess Capacity water; 13,200 acre-feet of Winter water.
- There is currently 145,324 acre-feet of Project space in Pueblo Reservoir and 15,513 acre-feet of space in Turquoise and Twin Lakes Reservoirs.

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- Project Reservoirs: Turquoise 104%; Twin Lakes 108%; Pueblo 125%
- Arkansas River Basin Time Series Snowpack Summary November 18, 2014
- Upper Colorado River Basin Time Series Snowpack Summary November 18, 2014

Mr. Vaughan reported the collection system has been winterized and Mt. Elbert conduit is running at 250 cfs. CPW is testing Silver Bullet boat chute with the Project water release from November 20-26, 2014. The movement of water will be adjusted according to the forecast and customer's needs.

DIVISION ENGINEER'S REPORT

Steve Witte reported on the following:

- River and Reservoir Report
 - Reference Arkansas River Daily Report. River Call is
 - 3/1/1910 Winter Water Storage Program
 - 5/31/1949 Compact Call
 - <http://www.dwr.state.co.us/div2/aras/arascal.asp>
- Current River/Res. Operations
 - Winter Water Storage
 - John Martin Storage
 - The front that passed through the region on 11/10/14 caused the Fort Lyon to discontinue diversions due to weed accumulation.
 - This caused the call to shift to the Amity's Great Plains storage right in John Martin.
 - Additional flows through ARKLASCO have complicated the Section III / Conservation Storage determination that normally rely on stable flows for the purpose of establishing the Conservation Storage base flow.
- Compact Issues
 - Began storing inflow to John Martin on November 1, 2013.
 - Met with Assistant Operations Secretary in Pueblo on November 14, 2014 in an effort to resolve: 1) the continuing concern related to the procedure used to determine the portion of John Martin inflow that is credited to the Winter Water Storage interests from that which is credited to Compact conservation storage, 2) dispute regarding the amount of transit loss experienced by Kansas' Section II delivery this past summer and 3) any concerns related to a resolution to amend Section III A. of the 1980 Operating Resolution.
 - Arkansas River Compact Administration will meet in Lamar on December 17, 2014 at the Elks Club. Committee meetings will be on the day before.
- Post -85 Well Rules Discussion
 - Meeting held November 13, 2014 in Pueblo was relatively well attended
 - Next public meeting will be the afternoon of January 22, 2015 at Otero Junior College in La Junta.

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U.S. GEOLOGICAL SURVEY REPORT

Rodger Ortiz presenting a PowerPoint titled, *Where is the Water?*, reviewing the following:

- Arkansas River at Canon City
- Arkansas River at Moffat Street at Pueblo, CO
- Fountain Creek Below Janitell Road Below Colorado Springs, CO
- Fountain Creek at Pueblo, CO
- Arkansas River Near Avondale, CO
- Arkansas River at Lamar, CO

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Winter Water Storage Program Board of Trustees Annual Meeting
- CRWUA Annual Conference – December 10-12, 2014 – Las Vegas, NV
- Arkansas River Compact Administration – December 17, 2014 – Lamar, CO
- Four States Irrigation Council – January 14-16, 2015 – Fort Collins, CO
- Colorado Water Congress Annual Meeting – January 28-30, 2015 – Denver, CO

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:30 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

