

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

May 18, 2017

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, May 18, 2017 at 9:45 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Gary Bostrom
Vera Ortegon	Kevin Karney	Gibson Hazard
Tom Goodwin	Carl McClure	Curtis Mitchell
Howard "Bub" Miller	Mark Pifher	Seth Clayton
Greg Felt		

DIRECTOR(S) ABSENT AND EXCUSED:

Dallas May 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 Resources Engineer Garrett Markus; Issues Management Program Coordinator Chris Woodka; Administrative Support Specialist Margie Medina; and Federal Lobbyist Christine Arbogast.

VISITORS PRESENT:

Tom Simpson, Aurora Water; Abby Ortega, Colorado Springs Utilities; Roy Vaughan and Shane Hayden, U.S. Bureau of Reclamation; Curt Thompson, AECOM; Jerry Peña, GEI Consultants; Mark Scott, GHD; Jim Chapman; Doug Fitzgerald, Congressman Scott Tipton's office; Bill McDonald, McDonald Consulting; and Willard Behm.

APPROVAL OF MINUTES:

President Long said the minutes of the April 20, 2017 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Mitchell moved, seconded by Mr. Howard "Bub" Miller, to approve the minutes. Motion unanimously carried.

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FINANCE COMMITTEE REPORT:

Treasure Nichols reported the financial statements for April were posted to the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the April financial statements and payment of the May 2017 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

FEDERAL LEGISLATION

President Long did share his and the Board's condolences to Christine Arbogast, saying the loss of Ray Kogovsek was going to be a void in several people's lives, and he will surely be missed by many.

Christine Arbogast reported the budget and appropriations process has moved along. Congress passed an omnibus appropriations bill which includes \$3 million for the Arkansas Valley Conduit (AVC) and additional funding under conservation and delivery. It also includes language which makes it possible for AVC to qualify for some of that additional funding. The President's budget for FY 18 is to be released next week

David Bernhardt, a native Coloradan, has been nominated to be Deputy Secretary of Interior. Hopeful for confirmation; he is well versed in western water issues. There are no other nominees at this time.

Mark Pifher gave a summary of what NWRA and the Western Region Coalition are working on regarding the Water of the U.S. and EPA issues.

PUEBLO DAM HYDRO UPDATE

Kevin Meador reported the Pueblo Dam Hydro Project continues to progress towards a start of construction by the fall of 2017. Critical activities completed in March and April included finalization of a Power Purchase Agreement (PPA) with the City of Fountain and draft of Construction and Turbine Supply contracts with Mountain States Hydro, LLC. Remaining activities include a final PPA with Colorado Springs Utilities/Fort Carson and the final Construction and Turbine Supply contracts.

The Construction and Turbine Supply contracts are anticipated to be ready for final Board review in June. Colorado Springs Utilities anticipates having a final draft PPA ready for our legal review by late May. They anticipate submitting the final PPA to their Utilities Board and City Council for final approval in July, 2017.

Once the Power Purchase Agreements are executed, the Board can execute the Colorado Water Conservation Board loan contract, the final Lease of Power Privilege, and the Construction and Turbine Supply contracts. A notice to proceed will be issued to Mountain States Hydro, LLC at that time and

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construction can start. An April/May, 2018 commissioning is anticipated at this time based on completion of the remaining activities.

FRYINGPANY ARKANSAS PROJECT WATER AND RETURN FLOW ALLOCATION
Garrett Markus gave a PowerPoint reviewing the breakdown of each allocation.

ACTION ITEMS:

FRYINGPANY ARKANSAS PROJECT WATER AND RETURN FLOW ALLOCATION

Garrett Markus reported Reclamation has forecasted an import basis for allocation of 68,000 acre-feet (AF) based on the snowpack of May 1, 2017; which will net 55,044 AF for allocation. The recommended municipal allocation is 9,372 AF of Project water with 1,976 AF of NPANIW to total 11,348 AF for municipal. The agricultural allocation calculates to be 43,696 AF of Project water producing 15,454 AF of Return Flows.

Mr. McClure moved, seconded by Mr. Hazard, the Board allocate 55,044 AF of Project water and 15,454 AF of Return Flows. Project water allocations would be available initially at eighty percent (80%) of the allocated amount available to municipal and agricultural entities following payment for 100 percent (100%) of the allocation. The remaining twenty percent (20%) would be made available when the District is confident that imports will meet Project obligations. If any portion of the twenty percent (20%) of allocated Project water is not available to the entities at that time, that portion of their Project water payments will be refunded.

RIVERSIDE WATER COMPANY REQUEST TO BECOME AN AVC PARTICIPANT

Chris Woodka reported a total of 39 participants signed 2011 agreements for the AVC to share in local costs associated with the project. The Riverside Water Company (Riverside) indicated its desire to join in 2015, and has been a part of planning activities since then. A formal agreement is needed to begin assessing Riverside for costs related to the AVC.

On April 17, 2017, the Arkansas Valley Conduit Committee resumed action on including Riverside among AVC participants after the request was withdrawn in late 2015.

Staff presented to the Committee on June 18, 2015, a request dated May 4, 2015, from Riverside to participate in the AVC project. Riverside is located north of the Town of Swink and north of the Arkansas River. Riverside was notified by the Colorado Department of Public Health and Environment that it is out of compliance because of violations of radionuclide levels in wells. Riverside is asking that 20 acre-feet be delivered to them through the AVC on an annual basis to service 57 taps.

The Bureau of Reclamation (Reclamation) was informed of this request and determined that a Supplemental Environmental Impact Statement would not be needed for the small amount of acre-feet requested. An Environmental Assessment (EA) of Categorical Inclusion would be required. Riverside will be responsible for any costs.

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Riverside will also be responsible to pay back a percentage of the costs incurred from May 11, 2011, through March 30, 2017, for AVC administration and U.S. Geological Survey (USGS) water quality studies. Riverside's percentage of costs is 0.22 percent for AVC administration, and 0.02 percent for water quality studies. This amounts to a repayment of \$1,452.16 for AVC administration and \$69.33 for USGS studies, bringing the total to \$1,521.49. This payment would be applied as a credit to the current AVC participants.

At the November 19, 2015, AVC committee meeting, Riverside withdrew its request to become a participant because of uncertain costs for the EA.

The Riverside Board of Directors met on January 8, 2016, and passed a resolution to become part of the AVC project, affirming letters to the District that were delivered on February 27, 2015 and May 4, 2015. Staff received an email on January 22, 2016. No new letter of request has been received, but staff confirmed in a telephone conversation on April 17, 2017, with Larry Adcock, Riverside President, that Riverside still wants to become an AVC participant.

In order to become a participant, Riverside must:

- A. Remit back payment of \$1,521.49 to the Enterprise for expenses from May 11, 2011, to March 31, 2017.
- B. Sign a Memorandum of Agreement executed in May 2011 with other AVC participants.
- C. Agree to pay costs for U.S. Bureau of Reclamation Environmental Assessment, estimated to be \$42,000 in 2015, but subject to change.

Mr. Karney moved, seconded by Mr. Howard "Bub" Miller, to approve the request from Riverside Water Company to participate in the AVC project, contingent upon receipt of back payment, signature of the May 2011 Memorandum of Agreement for the Arkansas Valley Conduit, and payment to the U.S. Bureau of Reclamation for costs associated with environmental compliance. Motion unanimously carried.

REVISIONS TO POLICY CONCERNING SALE OF RETURN FLOWS

Lee Miller reported the Board was provided a copy of the Policy Concerning Sales of Return Flows (Policy) dated May 18, 2017, with the proposed revisions that eliminate Special Provisions B and C and renumbers Special Provision A as Policy No. 20. Special Provision B is deleted in its entirety, thus eliminating reference to storage of Return Flows in Project space, since Reclamation's and the Enterprise's current practice is to require Return Flows to be stored in excess capacity accounts. Special Provision C is deleted in its entirety to eliminate a requirement for water rights decrees to include language that is not included in the District's current standard language memorandum. In compiling the Standard Language memo, Burns, Figa & Will advised the general counsel that the language in Special Provision C was never required to be included in any decrees and does not reflect the District's preferred

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approach to addressing the issues addressed by Special Provision C. The Allocation Committee did recommend the Policy be taken to the Board for approval.

Mr. Bostrom moved, seconded by Mrs. Ortegon, that the Board adopt the proposed revisions to the Policy Concerning Sales of Return Flows dated May 18, 2017. Motion unanimously carried.

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 10:39 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary
