

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO WATER  
ACTIVITY ENTERPRISE  
MINUTES  
June 16, 2022**

A meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, June 16, 2022, at the District office, 31717 United Avenue, Pueblo, Colorado. President Long called to order the Enterprise meeting at 11:27 a.m. The ZOOM platform was also made available for Board members and visitors.

President Long established that a Quorum was present.

**DIRECTORS PRESENT:**

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

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

Pat Edelmann

**ENTERPRISE OFFICIALS PRESENT:**

Executive Director James Broderick; General Counsel Lee Miller; Staff Attorney Peter Levish; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Principal Engineers Kevin Meador (remote) and Mark Scott; Administrator of Finance and Administration Leann Noga (remote); Administrative Support Specialists Margie Medina and Patty Rivas (remote); Intern, Eleanor Ludwig; and Christine Arbogast, Kogovsek & Associates.

**VISITORS PRESENT:**

Krystal Brown and Brandon Forbes, USGS; Mike Holmberg, Bureau of Reclamation; Rachel Zancanella, Division Engineers Office; Scott Lorenz, Colorado Springs Utilities.

**VISITORS CONNECTED REMOTELY:**

Barbara Crockett, Jacobs (@ 9:42); Jeffery DeHerrera, Pueblo West Metro District; Cathy Garcia, Congress-woman Lauren Boebert's Office; Jerry Pena, Kennedy Jenks; Kari Linker, Senator Hickenlooper's Office; Lisa Brown, Wilson Water Group; Rick Kienitz, Aurora Water; and Travis White, JHL Constructors.

**APPROVAL OF MINUTES:**

President Long said the minutes of the May 19, 2022 , Enterprise Board meeting were posted to OnBoard as well as the Board website for review and asked if there were any corrections or additions. Hearing none, Mr. Pifher moved, seconded by Mr. Colosimo to approve the minutes. Motion unanimously carried.

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**PRESENTATION ITEMS:**

**FEDERAL LEGISLATION UPDATE**

Christine Arbogast reported Congressional focus related to us includes the start of the appropriations process, and hearings in two Senate committees on drought.

House Energy and Water appropriations will mark up next week, so we will see whether the committee chooses continued plus-up for Bureau of Reclamation after last year's \$8 billion infrastructure package. The bill is expected to include \$8 million for the Arkansas Valley Conduit to be folded in with carryover funds to continue work on the project.

One hearing, chaired by Senator Bennet, focused more on the impact of drought on watersheds and wildfire. The other, in the Senate Energy and Natural Resources Committee, focused on drought in the West, including, but not limited to the Colorado River.

Since the District's visit in early May to DC, the proposals to spend infrastructure funding on AVC are being monitored. The response to any funding inquiry is mostly "soon" (no definite time).

**ARKANSAS VALLEY CONDUIT UPDATE**

Mr. Woodka and Mr. Scott presented the Board with an update on the Arkansas Valley Conduit (AVC). A complete description of the updated topics below is available in the information item reports, agenda item VI.A. Staff will provide updates on each of the following topics:

**Governance meetings** – Meetings with six counties and two home-rule cities were held in preparation for a meeting held June 15, 2022, at Otero College in La Junta. The purpose of these meetings is to discuss how the AVC will be governed.

**CDPHE Enforcement Orders** – The Colorado Department of Public Health and Environment (CDPHE) issued updated Drinking Water Enforcement Orders to 18 AVC water systems on May 31, 2022, based on their ongoing water quality testing results and their responses from May 6, 2022, where they had to indicate how their communities intended to address their ongoing water quality violations.

**Design Bids** – The Enterprise closed its Request for Proposals (RFP) for design of AVC delivery lines to Avondale and Boone on Wednesday, June 8, 2022. Request for Qualifications (RFQ) for designing AVC delivery lines for the remaining 37 water systems closed on Wednesday, June 15, 2022.

**GMS Services** – Consultants for the Enterprise have been meeting with participants and preparing reports on each AVC participant to assess needs each water system has in connecting to the AVC. These reports also will look at the financial information associated with those water systems for loan applications.

So far, 90 percent of the water systems have been visited to obtain system data and 36 percent of the water system reports are final or under final review.

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**Repayment Contract** – Reclamation will develop a Basis of Negotiation (BON), and negotiations are expected to begin by the end of 2022.

**Reclamation AVC Project** – Boone Reach 1 is being advertised for construction and Boone Reach 2 will follow within the next year while other segment design activities continue.

A meeting will be held on Thursday July 7, 2022, in La Junta to the AVC Participant to present an update on the AVC Project.

The floor was opened for questions.

**2022 FRYINGPAN-ARKANSAS PROJECT WATER IMPORTS STATUS**

Mr. Garrett Markus gave an update to the Board that the Bureau of Reclamation (Reclamation) has forecasted 46,300 acre-feet (AF) of imports based on the snowpack of May 1, 2022, which will net 32,848 AF for allocation.

The current Fryingpan-Arkansas Project Water imports as of June 7, 2022, are 29,080 AF which is 63 percent of forecasted imports. Sixty-three percent of the projected imports produces an allocation of 19,710 AF of Project Water, which is 136 percent of the Project Water initially released to water users. The current imports have exceeded the initial release but have not exceeded the 2022 budgeted amount nor the May 1, 2022, forecast. District staff will release additional Project Water to our stakeholders on the first and fifteenth of each month to match the amount of imported water at that point in time.

This information was provided in the form of a PowerPoint Presentation. Questions were taken after.

**ACTION ITEMS:**

**AUTHORIZATION TO PARTICIPATE IN DILIGENCE APPLICATION FOR THE RECOVERY OF YIELD EXCHANGE**

Mr. Lee Miller presented an action item recommending the Board authorize Special Water Counsel to file a joint application with the City of Aurora, the City of Colorado Springs, the City of Fountain, and the Pueblo Board of Water Works (Co-applicants) for a finding of reasonable diligence to maintain the conditional exchange rights decreed in Case No. 06CW120.

The Co-applicants (also known as the ROY participants) are parties to the 2004 six-party IGA with the City of Pueblo, which provides for the ROY participants to forego certain diversions to maintain specified flow levels on the Arkansas River through Pueblo. They can then recover the foregone yield through downstream storage, followed by exchanges to upstream storage (mainly Pueblo Reservoir) when the flows are sufficient. The decree in Case No. 06CW120 confirms conditional appropriative rights of exchange of the Foregone Diversions (within the meaning of the six-party IGA) through the reach of the Arkansas River from its confluence with the Holbrook Outlet Canal, in Otero County, upstream to Pueblo Reservoir.

Every six years, the owner(s) of a conditional water right must file an application with the Water Court explaining what progress, or diligence, has been made to complete the appropriation and use of the

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conditionally decreed rights. In a diligence application, the applicants may also apply to convert some of the conditional rights to absolute rights, if they have sufficient evidence to do so. If the District and the Co-applicants do not file their next diligence application for the ROY Exchange by August 31, 2022, then the remaining conditional portions of these water rights will be cancelled.

District staff and legal counsel believe that the main diligence activities for the ROY exchange during the past six-year period have been studying and pursuing potential reservoir sites for downstream storage. The Foregone Diversions need to be recaptured in a downstream reservoir (“ROY Storage”) to maximize efficient use of the exchanged water for long-term operation of the ROY Exchange. In 2014, the ROY Participants undertook a comprehensive screening study to identify potential water storage sites within the decreed exchange reach. The study identified a site on Haynes Creek near the Town of Boone in Pueblo County that has the potential to meet the ROY Participants’ storage needs (“Haynes Creek Reservoir Site”). In October 2021, the District signed a new IGA with the ROY Participants to acquire the Haynes Creek Reservoir Site for future development of a ROY Storage reservoir project. In December 2021, the District and the other ROY Participants purchased the Haynes Creek Reservoir Site. The District’s portion of the total purchase price for the property was \$135,373.10.

Counsel for the City of Aurora is taking the lead in drafting the diligence application for the ROY Exchange. The District provides evidence of its diligence activities and reviews the draft application, including any engineering or accounting supplied by a co-applicant to support any claims to make portions of these exchange rights absolute. While the District does not have evidence to make an absolute claim in this application, we understand one or two other co-applicants likely will include absolute claims for their exchanges from existing storage in Holbrook Reservoir or Lake Meredith.

Mr. Clayton moved, seconded by Mr. Hamel to authorize Special Water Counsel to join with the Co-Applicants in the Roy Exchange and file an application for diligence with the Water Court by August 31, 2022, to maintain the conditional exchange rights decreed in Case No. 06CW120. Mr. Patrick Garcia abstained from the vote. Motion unanimously carried

**INFORMATION ITEMS:**

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

- AVC Update
- JWBHP Update
- Excess Capacity Master Contract Update

President Long asked if there were any other matter to come before the Board, hearing none, President Long adjourned the Enterprise meeting at 11:54 a.m.

