

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE
MINUTES**

September 16, 2021

A meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, September 15, 2021, at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors. President Long recessed the District meeting and called to order the Enterprise meeting @ 9:43 a.m. so that Christine Arbogast could present her Federal Legislation update.

President Long recessed the Enterprise meeting and reconvened the District meeting @ 9:54 a.m. President Long reconvened the Enterprise meeting at 12:05 p.m.

President Long established that a Quorum was present.

DIRECTORS PRESENT:

Alan Hamel	Carl McClure(remote)	Pat Edelmann
Andy Colosimo	Curtis Mitchell	Patrick Garcia
Ann Nichols	Dallas May	Seth Clayton
Bill Long	Mark Pifher	Tom Goodwin

DIRECTOR(S) ABSENT AND EXCUSED:

Kevin Karney, Howard "Bub" Miller, and Greg Felt

ENTERPRISE OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Administrator of Finance and Administration Leann Noga; Administrative Support Specialist Margie Medina; Accountant Stephanie Shipley; Accounting Specialist Support Lynette Holt; Administrative Support Associate Patty Rivas; and Kogovsek and Associates Christine Arbogast.

VISITORS PRESENT:

Bill Tyner (remote) Colorado Division of Water Resources; Curtis Thompson(remote) AECOM; Jenny Bishop Colorado Springs Utilities; Jerry Pena (remote) Kennedy Jenks; Mark Scott(remote) Providence Infrastructure Consulting; Mike Holmberg(remote) USBR; Toni Gonzales (remote); Will Landon HDR Engineering, and Bill McDonald McDonald Water Policy.

APPROVAL OF MINUTES:

President Long said the minutes of the August 19, 2021, Board meeting were posted to the Board website for review and asked if there were any corrections or additions. Mr. Hamel moved, seconded by Mr. Garcia, to approve the minutes. Motion unanimously carried.

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TREASURER REPORT:

Treasurer Nichols reported the financial statements for August 2021, were posted to the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the August 2021 financial statements and payment of the September 2021 bills. Motion unanimously carried.

PRESENTATION ITEMS:

President Long recessed the District meeting and called to order the Enterprise meeting @ 9:43 a.m. so that Christine Arbogast could present her Federal Legislation update.

FEDERAL LEGISLATION UPDATE

Ms. Arbogast reported that funding for the Arkansas Valley Conduit (AVC), House and Senate are working on appropriations for FY22. The 10-million-dollar administration Budget request for the AVC is solid. Both committees also provided significant plus ups for Bureau of Reclamation in the range of 300 million. This funding will afford us the opportunity, when the appropriations process moves into the final stage of the bill being enacted, to request additional funds to move the project along in FY22.

There will be a continuing resolution, as there has been in the past, although the length is not known at this time. This continuing resolution does come with its controversies revolving around increasing the debt ceiling, as well as a large emergency package for storms and fires, there has not been an agreement as of yet. Worst case scenario, if the continuing resolution goes for a year, it will cut our funding by a minimum, from 10 million to 8 million.

Budget Reconciliation package, both the house and senate have agreed on a number, some funding authorizations are in areas of interest to the District. This will be to the Bureau of Reclamation its pretty good funding, most importantly there is 450 million to go out to emergency drought relief, this will be able to go out immediately, with a ten-year spending period, up until fiscal year 2031. Forest health was also allotted 40 billion dollars, divided into several areas. Currently the votes are not there to pass the Budget Reconciliation, one of the biggest disagreements is the size, which is 3.5 trillion. Where the vote will end up, is an unknown at this time. The Reconciliation is also tied to the broad bipartisan infrastructure package. This has passed the Senate, other parties are still in disagreement, there is a deadline of September 27th.

Ultimately what this all comes down to for us is the availability of additional funds to the Bureau of Reclamation, for storage and conveyance projects such as the AVC. If both packages get thru and the appropriations bill, we are looking at a much more significant investment in water infrastructure then we have seen in a long time. This will be a huge positive for the AVC, because how far we get on the project is all contingent on funding. 43 million is what will be needed as we move into the construction phase of the project.

Ms. Arbogast concluded by letting the Board know that Camille Touton, the nominee for Commissioner of the Bureau of Reclamation, her confirmation hearing will be held September 21, 2021. We will have a confirmed Commissioner of Reclamation, as opposed to and acting Commissioner.

Ms. Arbogast thanked President Long for allowing her to present out of order. President Long recessed the

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Enterprise meeting and reconvened the District meeting @ 9:54 a.m.

ARKANSAS VALLEY CONDUIT FINANCIAL MODEL

Mr. Kevin Meador presented to the Board a Presentation that covered:

1. AVC Background and Update
 - a. Identify potential improvements needed to receive AVC water
 - b. Improvements will not be part of the AVC
 - c. Funding
 - Self-funded
 - Grants or loans from government agencies
 - a. Design work will start next year
 - Meetings in 2021-22 will help participants prepare
2. P.L. 111-11 Requirements
 - 35% of total AVC cost must be paid upfront or repaid
 - What is credited to the 35%?
 - a. Costs incurred by Enterprise to construct spurs and DLs
 - b. Misc. revenues used by USBR for construction of trunk line
 - c. Misc. revenues used to repay USBR after construction is completed
 - d. Enterprise revenues used to repay USBR if misc. revenues insufficient
 - e. Debt service to repay loans (CWCB or others)
 - f. Repaying USBR if misc. revenues are insufficient (not expected)
 - g. OM&R of entire AVC
 - h. Improvements to participants' own systems if needed
3. Purpose of the Financial Model



4. AVC Model Methodology and Flow Chart
The model spreadsheet analysis is based on 6 steps:
Step 1 – Calculating 35% of Total AVC Construction Costs
Step 2 – Calculating Portion of 35% That Will Remain to Be Repaid to USBR
Step 3 – Repayment to USBR After Completion of Trunk Line
Step 4 – Determining Participants' Total Annual Debt Service
Step 5 – Determining Annual OM&R Costs
Step 6 – Determining Participants' Total Annual Costs
5. Model Variables, Inputs, and Outputs
6. Estimated Costs

ACTION ITEMS:

Mrs. Noga presented an action item regarding the appointment of a Budget Officer. This happens annually in order to be in compliance with Colorado State Budget Law.

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The first action the governing board must take under the Budget Law is to designate or appoint a Budget Officer to prepare and submit a proposed budget (Section 19-1-104, C.R.S.).

Mr. May moved, seconded by Mr. Clayton, that the Board of Directors appoint Leann Noga, Administrator of Finance and Administration as the Budget Officer for the 2022 District budget preparation. Motion unanimously carried.

SET PUBLIC HEARING FOR 2022 PROPOSED BUDGET

Mrs. Noga presented an action item regarding a public hearing for the 2022 Proposed Budget. This is done annually to be in compliance with Colorado State Law C.R.S – 29-1-108 (1).

A copy of the letter that will be sent to the newspapers for publication, and the Notice as to 2022 Proposed Budget was provided to the Board.

Mr. Garcia moved, seconded by Mr. Hamel that the Board of Directors set November 18, 2021 a.m. for the Southeastern Colorado Water Conservancy District to hold the Public Hearing of the 2022 Proposed Budget. Motion unanimously carried.

RESTORATION OF YIELD (ROY) PATH TO A HAYNES CREEK RESERVOIR

Mr. Garrett Markus presented an action item to the Board to recommend the Southeastern Colorado Water Activity Enterprise Board of Directors approve the attached Draft Fossil Property Purchase IGA, or a form of agreement that is substantially similar, on behalf of Southeastern Colorado Water Activity Enterprise within the Restoration of Yield (ROY) Partners.

The ROY Group was formed in 2004 to resolve several intergovernmental conflicts among water users on the Arkansas River. Among the issues addressed was the desire of the City of Pueblo to have more consistent flows in the Arkansas River through the City of Pueblo for recreational and amenity purposes. In May 2004 six parties, City of Aurora, Colorado Springs Utilities, City of Pueblo, Pueblo Board of Water Works (Pueblo Water), Southeastern Colorado Water Conservancy District (the District) and City of Fountain, entered into an Intergovernmental Agreement (“6-party IGA”) that established the Arkansas River Flow Management Program. The original parties have since been joined by the Pueblo West Metropolitan District through a March 2011 letter agreement clarifying the 6-party IGA.

The fundamental agreement was that the seven parties would maintain an identified minimum flow through Pueblo and would agree to curtail the use of certain exchange water rights to accomplish that goal. The curtailment of the exchanges creates foregone exchange water (“Foregone Diversions”) which needs to be recaptured in a downstream reservoir that was to be acquired later (“ROY Storage”). The 2004 Agreement has operated successfully over the past 16 years in increasing flows in the Arkansas River through the City of Pueblo; however, a lack of an efficient ROY Storage option contemplated in the 6-party IGA continues to impact the ROY Participants ability to efficiently use Foregone Diversions. It is necessary for the ROY Participants to acquire efficient long-term storage to be utilized for the purposes of storing the Foregone Diversion for the long-term operation of the Restoration of Yield program (“Roy Storage Project”).

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In 2015 the ROY participants entered into a second IGA (“ROY Cost Share IGA”) that identified levels of participation for each of the parties to it to be applied to both costs associated with technical studies and participation in Roy Storage Projects. It also laid out an option and process for individual participants to “opt out” of a project or lessen their involvement in a Roy Storage Project at their sole discretion. The percentages identified in the ROY Cost Share IGA are as follows:

Roy Cost Share Allocations	
Enterprise	4.76%
City of Fountain	4.76%
Aurora	28.57%
Colorado Springs Utilities	28.57%
Pueblo Water	28.58%
Pueblo West	4.76%

In 2014 the ROY Planning Sub-Committee undertook a comprehensive screening study to identify potential water storage sites within a preferred geographic area. This study identified 25 potential sites that were then screened using criteria developed by the group and the contractor. That screening further narrowed the list of potential sites to 4. Through additional study of the top 3 sites, it was determined that a site identified as PA-6N (later renamed Haynes Creek) has the potential to meet the Roy Participants’ storage needs and be a ROY Storage Project.

Key points regarding Haynes Creek Reservoir Concept:

- The reservoir will be located near Boone, Colorado. Foregone Diversions will be diverted at the Colorado Canal headgate on the Arkansas River and delivered to the reservoir via the Colorado Canal (at a maximum inflow rate of 800 cfs) pursuant to a to be negotiated carriage agreement
- Preliminary design shows the potential for maximum of 4,300 acre-feet of above ground storage
- Dam would likely be classified as “Low Hazard” by SEO Dam Safety Branch
- Stored water released upstream of the Highline Canal headgate (minimum outflow rate of 400 cfs)
- Stored water released from the reservoir would be exchanged up to Pueblo Reservoir via Case No. 06CW120 Roy exchange decree Pueblo Water currently has an option to purchase the Haynes Creek Reservoir property (expires 12/31/2021)
- Total cost to acquire the property is \$2,850,000
- Cost to individual participants to acquire the property = total cost x level of participation (i.e. 2,850,000 x 5% participation = \$142,500)

Mr. Goodwin moved, seconded by Mr. Hamel, the Southeastern Colorado Water Activity Enterprise Board of Directors approve the Draft Fossil Property Purchase IGA, (provided to the Board) or a form of agreement that is substantially similar, on behalf of Southeastern Colorado Water Activity Enterprise within the Restoration of Yield (ROY) Partners. Mr. Patrick Garcia recused himself from the vote. The motion passed unanimously.

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feet (AF) of Fry-Ark Project water (Project water) to New Salida Ditch.

During the allocation process for Project water, the New Salida Ditch submitted their first and timely application for a Project water allocation. However, even though the New Salida Ditch followed the correct procedures, they were not included in the Allocation Model and were not properly allocated water. To resolve this oversight, New Salida Ditch would be allocated Project water from the District's emergency account on the same acre-foot per acre basis as all other agricultural entities. The 806 eligible acres would receive 51 acre-feet upon board approval and would be available for use upon payment.

Mr. Goodwin moved, seconded by Mr. Edelman, that the Board approve the allocation of 51 acre-feet (AF) of Fryingpan-Arkansas Project water to New Salida Ditch. Motion unanimously carried.

INFORMATION ITEMS:

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

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

Mr. Long asked if there were any other business matters to come before the Enterprise Board. Mr Lee Miller advised the Board that he was working with Burns, Figa & Will regarding preparation of some new guidance on Board and staff conflicts of interest, which he hopes will be ready by the beginning of next year.

Mr. Bill Long made mention of Toni Gonzales's upcoming retirement celebration. While he regrettably is unable to attend, he reminded everyone of Toni's 45 years of service and dedication and all the hard work she did for the Board. He encouraged all that could attend, should. Hearing no other matters to be brought before the Enterprise Board, Mr. Long adjourned the meeting at 11:30 a.m.

Respectfully submitted,

Patty Rivas
Administrative Support Associate

Secretary

SECWAE
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