

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO WATER  
CONSERVANCY DISTRICT  
MINUTES**

**January 21, 2021**

A virtual meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, January 21, 2021 at 9:31 a.m. via ZOOM.

President Bill Long welcomed all in attendance to the virtual meeting. Mr. Long asked Patty Rivas to do a roll call. Mr. Long established that a Quorum was present.

**DIRECTORS CONNECTED:**

Alan Hamel	Dallas May	Pat Edelmann
Andrew Colosimo	Greg Felt	Patrick Garcia
Ann Nichols	Howard "Bub" Miller	Seth Clayton
Bill Long	Kevin Karney	Tom Goodwin
Curtis Mitchell	Mark Pifher	
Carl McClure connected @ 9:53 AM		

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

None

**DISTRICT OFFICIALS CONNECTED:**

Executive Director James Broderick; General Counsel Lee Miller; Principal Engineer Kevin Meador; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Administrative Manager Toni Gonzales; Finance Manager Leann Noga; Administrative Support Specialist Margie Medina; and Administrative Support Associate Patty Rivas, and Federal Lobbyist Christine Arbogast, Kogosovek & Associates.

**VISITORS CONNECTED:**

Abba Mohammed and Rick Kieniz, Aurora Water; Jenny Bishop, Colorado Springs Utilities; Rachel Duran, State of Kansas Department of Agriculture; Jeffery DeHerrera, Pueblo West Metro District; Mark Scott, Providence Infrastructure Consultants; Curtis Thompson, AECOM; Cathy Garcia and Clarice Novarro, Congresswoman Boebert's Office; Jerry Pena, Kennedy Jenks and Warren Paul with Mott McDonald.

**APPROVAL OF MINUTES:**

President Long said the minutes of the December 3, 2020 Board meeting were posted to the Board website for review and asked if there were any corrections or additions. Mr. Garcia moved, seconded by Mr. Hamel to approve the minutes. Motion unanimously carried.

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**TREASURER REPORT:**

Treasurer Nichols reported the financial statements for November 2020 and DRAFT December 2020, were posted to the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton for acceptance of the November 2020 and DRAFT December 2020 financial statements and payment of the January 2021 bills. Motion unanimously carried.

**PRESENTATION ITEM:**

Mrs. Noga gave a presentation to the Board on the District once again being awarded the GFOA Distinguished Budget Presentation Award for the 2020 Budget.

The District first applied for the Government Finance Officers Association Distinguished Budget Presentation Award in 2012. The District earned the award for the 2012 through 2020 Budgets. The District has now earned the award for the ninth time for the 2020 Budget Publication. The 2020 Distinguished Budget Presentation Award is presented to the Finance Team of the Southeastern Colorado Water Conservancy District. The Finance Team is made up of Jim Broderick, Leann Noga, Chris Woodka, Stephanie Shipley and Toni Gonzales.

The Government Finance Officers Association (GFOA) established the Distinguished Budget Presentation Awards Program to encourage and assist state and local governments in preparing budget documents with a very high quality that reflect both the guidelines established by the National Advisory Council on state and local budgeting and the GFOA's best practices on budgeting. In addition, to then recognize these individual governments with the success in achieving this goal.

The guidelines are designed to assess how well an entity's budget serves as; a policy document, a financial plan, an operations guide, and a communications device. The GFOA Distinguished Budget Presentation Award is the highest form of recognition in governmental budgeting. More information can be found at <http://www.gfoa.org/budgetaward>.

**ACTION ITEM:**

**OPEN MEETING RESOLUTION NO. 2021-01D**

Mr. Lee Miller reported a Resolution Relating to the Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law is required under Colorado Revised Statute §37-45-101 *et seq.* This resolution defines where the public notice of each meeting will be posted at least 24 hours prior to a meeting. After the approval of the resolution, notice will be sent to the County Clerk and Recorder of each of the nine counties within the District boundaries. The Board was provided a copy of the Resolution No. 2021-01D and memorandum to the County Clerk and Recorder.

Suggested motion to adopt Resolution No. 2021-01D, A Resolution Relating to the Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law. Mr. Pifher moved, seconded by Mr. Garcia, the Board approve Resolution 2021-01D. Motion unanimously carried.  
**APPROVAL OF STIPULATIONS IN THE APPLICATIONS FOR AUGMENTATION PLANS BY THE CITY OF COLORADO SPRINGS, CASE NO. 19CW3052 AND 3053.**

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Mr. Lee Miller requested the Board authorize Special Water Counsel to execute stipulations with the City of Colorado Springs (“CS-U”) regarding CS-U’s two applications for augmentation plans to replace depletions from constructed wetlands and out-of-priority storage and evaporation from ponds, consenting to entry of a decrees that are no less restrictive on CS-U and no less protective of the District than the proposed decrees dated October 20, 2020 in Case No. 19CW3052 and November 4, 2020 in Case No. 19CW3053.

In Case No. 19CW3052, CS-U seeks a plan for augmentation to replace depletions from constructed wetlands on the Clear Springs Ranch and Pinello Ranch, along Fountain Creek, built to mitigate impacts to existing wetlands caused by construction of the Southern Delivery System Project. The augmentation plan includes exchanges to the depletion locations. The amended application and proposed decree include the use of Project water return flows among several sources for augmentation water.

In Case No. 19CW3053, CS-U seeks a plan for augmentation to replace depletions resulting from out-of-priority storage and evaporation from ponds and other storage structures and out-of-priority diversions from undecreed surface diversions located within Colorado Springs’s water service territory. The amended application and proposed decree include the use of Project water return flows as one of several augmentation sources.

The District’s objectives in both cases are to: (1) ensure appropriate terms and conditions for CS-U’s use of Project water return flows, by including Standard Language terms; (2) ensure CS-U accounts for Project return flows as a source of reusable water in order to have a complete accounting for CS-U’s use of Project water and return flows; (3) assure that material terms and conditions are consistent with previous District stipulations (including stipulations in lieu of opposition) in previous CS-U cases, including 84CW202, 84CW203, 86CW118(B), 89CW36, and 07CW122. General and Special Water Counsel and District staff believe that terms and conditions in the proposed decrees and stipulations satisfy the District’s objectives for this case.

Mr. Edelmann moved, seconded by Mr. Hamel to authorize Special Water Counsel to execute stipulations in the City of Colorado Springs’s Case Nos. 19CW3052 and 19CW3053, consenting to entry of a decree in both cases upon terms that are no less restrictive on CS-U and no less protective of the District than the current proposed stipulations and the proposed decrees dated October 20, 2020 and November 4, 2020, respectively. Mr. Andy Colosimo recused himself from the vote. Motion Carried.

### INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS

Mr. Markus presented an action item recommending the Board approve the inclusion of Colorado Springs Utilities – Advanced Technology Campus Annexation by Colorado Springs into the Southeastern Colorado Water Conservancy District (District) with the standard terms and conditions (shown below). Once approved by the Board of Directors, staff will send the annexation to Bureau of Reclamation (Reclamation) for assent. The District will submit the inclusion to the District Court for final decree.

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The Board has approved inclusions of properties located outside of the District, which were annexed by towns and cities in the District. These inclusions are subject to the standard terms and conditions, Secretarial Assent, and District Court decree including the lands within the District.

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.
3. Vote of 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.

The Resolution for Inclusion is:

RESOLUTION NO.	More Commonly Known As	Legal	Acres	County
2021-01D INCL-AX	Colorado Springs Utilities – Advanced Technology Campus Annexation	Sec 4 T15SR65	106.05	El Paso

Mr. Garcia moved, seconded by Mr. Pifher, that the Board approve, by Resolution, the inclusion of the Colorado Springs Utilities – Advanced Technology Campus Annexation 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.

Mr. Andy Colosimo recused himself from the vote. Motion carried.

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### RECOVERY OF STORAGE SCOPE OF WORK

Mr. Woodka presented an action item recommending the Board approve to develop a statement of work or RFP to assess the impact of the loss of storage due to sedimentation in District storage and operations, as well as other storage contracts; and project at what point storage loss becomes critical to limiting Fry-Ark operations. Using available GIS coverages and basin characteristics, identify and rank/prioritize drainages that are likely major sediment sources to Pueblo Reservoir in the upper Arkansas basin downstream of Wellsville (amended to say Browns Canyon).

Mott MacDonald completed Phase I of the Recovery of Storage Study in September 2020, and recommended formation of a committee to look at additional information relating to sedimentation in the Arkansas River basin upstream of Pueblo Reservoir.

A subcommittee of the REPC was formed to look at this issue, and reviewed Phase I, history of storage in the Arkansas River basin and recommendations at the conclusion of Phase I at its first meeting on January 7, 2021.

Subcommittee members added a task to assess the impact of future losses of storage space in Pueblo Reservoir, and to determine when those losses would become critical to the operation of the Fryingpan-Arkansas Project.

A second part of the statement of work for 2021 will be to look at the watershed impacts downstream of the Wellsville gauge on sedimentation into Pueblo Reservoir, using available information. These will be prioritized according to likely impact on Pueblo Reservoir.

Mr. Goodwin moved, seconded by Mr. Clayton for the Board to have staff develop a statement of work or RFP to:

- 1) Assess the impact of the loss of storage due to sedimentation on District storage and operations, as well as other storage contracts; and project at what point storage loss becomes critical to limiting Fry-Ark operations.
- 2) Using available GIS coverages and basin characteristics, identify and rank/prioritize drainages that are likely major sediment sources to Pueblo Reservoir in the upper Arkansas basin downstream of Wellsville (Amended to say Browns Canyon).

Motion carried.

### MONTHLY/QUARTERLY REPORTS:

#### U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a written report reviewing the following:

As of January 15, 2021

- There were 197,244 acre-feet stored in Pueblo Reservoir; 129,077 acre-feet of Project water; 43,841 acre-feet of Excess Capacity water; 16,686 acre-feet of Winter water.
- There is currently 116,296 acre-feet of Project space in Pueblo Reservoir and 41,696 acre-feet of space in Turquoise and Twin Lakes Reservoirs

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- Charts illustrating storage amounts in Turquoise, Twin Lakes, and Pueblo Reservoir
- Project Reservoirs: Turquoise 92%, Twin Lakes 85%, Pueblo 102% as of January 15, 2021
- First Use Project + PCO Municipal Water
- Total M&I PW in the system is 126,655 as of December 31, 2020.

### U.S. GEOLOGICAL SURVEY REPORT

Krystal Brown provided a written report titled, *Current Precipitation and Arkansas River Tributary*. Charts on the following locations were included:

- Historical Perspective December 2019 & December 2020
- USGS Colorado Real Time Precipitation Network for:
  1. Fountain Creek at Security
  2. Halfmoon Creek nr Malta, CO
  3. Huerfano River nr Boone, CO
  4. Apishapa River near Fowler, CO
  5. Timpas Creek at Mouth nr Swink, CO
  6. Wildhorse Creek abv Holly, CO

### STATE LEGISLATION UPDATE

Mr. Lee Miller provided a written report updating the Board: In a normal year, this report would start out with the date that the legislature will convene, that the legislature is limited to 120 days, and the latest date by which the legislature must adjourn. This year is not a normal year. House and Senate Democratic leaders of the General Assembly announced January 11, 2021 that the legislature will come back on January 13, 2021 as planned to hold an initial three-day session, and then adjourn, probably until February 16, 2021.

But legislative leaders will "play it by ear" on that return date, based on the data on COVID-19 infection rates available at that time, according to Senate Majority Leader Steve Fenberg of Boulder. On April 1, 2020, the Colorado Supreme Court ruled that the legislature's 120-day session may be non-consecutive days in a declared public emergency disaster, paving the way for this action.

The first three days will allow lawmakers to be sworn in, deal with appointments, and work on at least six bills that are time-sensitive, primarily fixing errors in bills passed during the 2020 regular session and bills from the November special session. None of these bills are water related.

### COLORADO RIVER ISSUES STATUS

Mr. Lee Miller provided a written report on Colorado River issues that have had recent activity on:

#### *CWCB Demand Management Feasibility Investigation*

On November 18, 2020, the Colorado Water Conservation Board (CWCB) adopted the "Demand Management Feasibility Investigation Step II Work Plan," a copy of which was provided to the Board. The Work Plan is scheduled to be discussed during the January 25, 2021 virtual CWCB meeting.

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### *2007 Interim Guidelines 7.D. Effectiveness Review*

On December 18, 2020, the Bureau of Reclamation issued its so-called “7.D. Effectiveness Review to evaluate the effectiveness of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. A copy of the report was provided to the Board. The technical report documents conservation efforts and operations on the Colorado River since 2007 and is expected to be used as a reference to inform future operations.

### *Aaron Million Pipeline Project/White Horse Resources’ Green Sun Storage Hydro Power Project*

Utah’s state engineer has rejected a proposal to pipe water from the Green River to Colorado’s Front Range, citing uncertainty over whether it would count against Colorado’s allocation of Colorado River water or Utah’s. Colorado entrepreneur Aaron Million has been pursuing this idea for more than a decade, resurrecting his pipeline proposal in 2018 after two prior failed attempts at approval. This time his firm White Horse Resources proposed a scaled-down pipeline tapping the Green River below Flaming Gorge Dam at Browns Park and running 325 miles underground to Denver. Dubbed the “Green Sun Storage Hydro Power Project,” it would generate hydropower along its 3,800-foot descent from the Continental Divide to the Front Range.

Million, managing director of Water Horse Resources, LLC, in Fort Collins, proposed to pipe 76 cubic feet per second, or 55,000 acre-feet a year, out of the Green River. Although the proposal is supported by a pipeline-builders union and the Central Colorado Water Conservancy District, it faced opposition from a number of water conservancy districts in Colorado and Utah, conservation groups, the Colorado River District in western Colorado, several Interior Department agencies, and other entities.

### *Lake Powell Pipeline*

A letter, sent to Reclamation by the Utah Division of Water Resources and Washington County Water Conservancy District, said more time was needed to sift through the roughly 14,000 comments on the project submitted during in the final stages of an expedited federal environmental review. The Utah entities also requested Reclamation prepare a supplemental study that would address some of those 14,000 comments, which would go alongside the draft environmental impact statement.

According to news reports, Todd Adams, director of the Utah Division of Water Resources, said the decision to ask for more time was primarily driven by a letter sent by the six other states with Colorado River water rights to Interior Secretary Mark Bernhardt on September 8, 2020, asking him to refrain from issuing a final environmental impact statement or record of decision on the project. A copy of this letter, as well as comments from the CWCB on the draft EIS were provided to the Board.

### *Colorado Water Congress Colorado River Project*

The District has for several decades participated as a member of the Executive Committee of the Colorado Water Congress Colorado River Project (Project), which represents water users as one of the partners of the Upper Colorado River Endangered Fish Recovery Program (Recovery Program). The Recovery Program, created by agreement and a programmatic biological opinion by the Fish and Wildlife Service in 1989, is tasked with recovering four species of endangered fish in the Colorado River and its tributaries in Colorado,

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Utah, and Wyoming while water use, and development continues to meet human needs in compliance with interstate compacts and applicable federal and state laws.

Recently, issues have been raised by the federal partners regarding the state and water user partners increasing their monetary contribution to the Recovery Program. An option paper on water user funding prepared by Tom Pitts, who provides the technical support to the Project, was provided to the Board. We will continue to participate in these discussions as they progress.

## **INFORMATIONAL ITEMS:**

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

- Water Court Resume
  - Director Appointment
  - 2021 Annual Conference Calendar
  - 2021 Board Meeting Schedule
  - 2021 Committee Meeting Schedule
  - Special Water Counsel Legal Report
  - 2021 CWCW Virtual 2021 Conference
  - Family Farm Alliance Annual Virtual Meeting
  - CRWA February 2021 Conference

President Long asked if there were any other matters to come before the Board. Mr. Hamel had some questions regarding the CWC conference, Jim Broderick advised that everyone has been registered that said they were attending, but the actual link for the conference has not yet been sent out. No other matters were brought before the Board, President Long adjourned the meeting at 10:07 a.m.

Respectfully submitted,

Patty Rivas  
Administrative Support Associate

## Secretary