

UPPER ARKANSAS WATER
CONSERVANCY DISTRICT

Regular Meeting of the Board of Directors

April 13, 2023
1:30 PM

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, April 13, 2023, commencing at 1:30 pm at the District offices, 339 East Hwy 50, Salida, Colorado, following the Water Activity Enterprise committee meeting, notice having been given by posting of Notice and Agenda on April 12, 2023, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

DIRECTORS PRESENT (IN PERSON)

Tim C. Canterbury	Richard Hilderbrand	Tony Telek
Gregory W. Felt	Tim Payne	Warren Diesslin
Tom French	Brett McMurry	Albert Eggleston
Robert B. (Bill) Donley		

DIRECTORS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Mannie Colon

DIRECTORS ABSENT

Thomas Goodwin
Mike Shields

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

Ralph L. (Terry) Scanga, General Manager	Kendall Burgemeister, Attorney
Ken Baker, Consultant	Gracy Goodwin, Projects Manager
Jord Gertson, Hydrologist	Jennifer A. Scanga, Administrative Assistant
Chris Manera, Engineer	

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Denise Sanchez, Office Manager

DISTRICT OFFICIALS ABSENT

Richard Brown, Legislative Consultant
Wendy Ryan, Engineer

STATE OFFICIALS PRESENT

Ashleigh Cogan, Deputy Water Commissioner, District 11
Talon Canterbury, Deputy Water Commissioner, District 12
Jerry Livengood, Water Commissioner, District 13

STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Will Scott, Water Commissioner District 11

STATE OFFICIALS ABSENT

Brian Sutton, Augmentation Coordinator
Dan Henrichs, Water Commissioner, District 12
Rachel Zancanella, Division Engineer

EX-OFFICIO REPRESENTATIVE PRESENT

Bill Canda, Custer County Commissioner

EX-OFFICIO REPRESENTATIVES PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Dave Schneider, Round Mountain Water and Sanitation District Manager

RECORD OF PROCEEDING

EX-OFFICIO REPRESENTATIVES ABSENT

Brian Berger, Poncha Springs Town Administrative Officer
Shawn Williams, Buena Vista Public Works Director
Drew Nelson, City of Salida Administrator
Dwayne McFall, Fremont County Commissioner

GUESTS PRESENT

Joe Stone, Heart of the Rockies Radio
Travis Payne, City of Canon City
Brandon Forbes, USGS
Krystal Brown, USGS

GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERRING)

None

PLEDGE OF ALLEGIANCE

Chairman Canterbury led attendees in the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Guests were asked to introduce themselves.

MINUTES OF THE MEETING OF February 9, 2023

The minutes of the meeting of February 9, 2023, were approved upon motion by Director French with second by Director Donley.

FINANCIAL REPORTS

Upon motion by Director Felt with second by Director Telck, the Board approved the monthly financial reports dated February 28, 2023.

Upon motion by Director Felt with second by Director French, the Board approved the monthly financial reports dated March 31, 2023.

PROGRAM PRESENTATIONS

Brandon Forbes from the United States Geological Survey gave a presentation on data collection in the Upper Arkansas Basin. He displayed the Colorado Data Collection overview, stream gage and water quality programs, Groundwater Monitoring Program, and applied studies. Mr. Forbes explained that the Colorado Water Science Center data program has maintained long-term collection networks for streamflow, water quality, groundwater, precipitation, and sediment. He further added that the stream gage program uses 360 real-time streamflow sites and 29 gages have been collecting data for over 100 years. He further added that the Pueblo Stream gage Program has 54 year-round and 19 seasonal sites and 21 continuous water quality gages with a combination of real-time water, temperature, specific conductance, dissolved oxygen, turbidity, and pH data.

Mr. Forbes explained that the Pueblo Groundwater Program has over 1600 discrete groundwater levels published each year for 8 different monitoring networks. He pointed out that the Upper Arkansas Groundwater Program has 34 wells total with 22 of those wells adjacent to the Arkansas River from Leadville to Canon City and 12 wells in the Wet Mountain Valley. He said that each well is measured each year in the spring and fall. Mr. Forbes displayed the Upper Arkansas Groundwater Model Proposal indicating leverage data collected in the past. The proposal suggests the collecting of data from key locations in the basin and calibration of a groundwater model to increase the understanding of flow paths, residence time, sources of recharge, and sustainability within the Upper Arkansas Basin. Mr. Forbes explained that groundwater models can help better characterize effects from groundwater pumping, groundwater and surface water interactions, and groundwater recharge.

Mr. Forbes also explained that work is in progress for snow monitoring stations to transmit continuous data in real time into the USGS National Water Information System database. Snow stations collect, precipitation, snow water equivalent (SWE), snow depth, snow density, snow liquid water content (LWC), snow surface temperature, blowing snow particle flux, soil moisture, soil temperature, 4-

RECORD OF PROCEEDING

component radiation, wind speed, wind direction, air temperature, relative humidity, and barometric pressure.

Director Colon asked if any monitoring is being done on Wolf Creek Pass? Mr. Forbes stated that there are not any USGS snow stations in that area.

Manager Scanga asked Mr. Forbes how he feels about the airborne snow station system. Mr. Forbes stated that it is very expensive but provides a huge footprint of valuable information. He said the limitation is that it only gives a snapshot with only one or two flights per year.

Director Colon asked for the snowpack on the Arkansas Basin. Mr. Forbes answered that there are no snow monitoring stations in the basin, so they rely on the NRCS Snotel stations providing the estimate. He said last time he checked it was little over 100% of average. Mr. Forbes clarified that most Snotel stations are at lower elevations and at high elevations snow is so spatially distributed by wind that it is hard to get an accurate reading or accounting.

EX-OFFICIO REPORTS

None

PROJECT MANAGEMENT REPORT- Gracy Goodwin

PM Goodwin provided a summary of grants in progress via a power point presentation. She gave an update for April 2023 projects which included Round Mountain Reservoir Feasibility Study, Round Mountain Reservoir Construction, DeWeese Enlargement Feasibility Study, USGS Study Phase 3, Trout Creek Park Alluvial Storage, Trout Creek Park Intra-Ditch Exchange, and DCP Upgrade and Expansion. PM Goodwin informed Board members of a meeting with the Cogan family regarding updates on the Cogan alluvial storage project design.

Manager Scanga asked about the DCP grant amount. PM Goodwin said the total project cost is a little over \$100,000.

CONSULTANT REPORT – Richard Brown

A current Legislative Update was made available to all Board members prior to the meeting date. Mr. Brown was unable to attend April's Board meetings due to attending the committee hearing.

Consultant Baker expressed his views on legislation regarding the stream restoration senate bill, 23-270.

Manager Scanga explained that there is a need for some stream restoration projects but the key is how to accomplish it without injury to water rights. Manager Scanga stated that the stream restoration legislation is essentially an exemption from administration which creates a rebuttable presumption of non-injury. He said this means that if there is injury to water rights due to any stream restoration project, the property owner must go to court to prove material injury to his water right to defend his property right. He questioned how these types of projects can be accomplished without injury to water rights and what is the tradeoff. Manager Scanga further explained that a section in the bill talks about more extensive projects where an individual treatment could be exempt from a quarter of an acre up to 8 acres with multiple treatments in each stream mile. He stated this could be problematic. Manager Scanga also stated that he spoke with Senator Roberts, the prime sponsor of the bill and other people of DNR proposing this legislation. He stated there are funds appropriated for these types of projects but the hesitation for undertaking these projects is for fear of being sued by water right owners and to have to augment the stream. He expressed that increased depletions to the stream should be augmented. He further expressed that there is a pragmatic approach and the approach depends on the tradeoff and benefit from stream restoration. Manager Scanga suggested not increasing surface area over 10% in a one-mile area as a place to compromise and an amendment to the bill.

Manager Scanga expressed that these projects have an impact on the District and the Voluntary Flow Management Program. He said the District must meet out of priority depletions and many stipulations in our decrees to comply with would become for difficult with this legislation. He stated that these are important things for the Board to consider.

RECORD OF PROCEEDING

Manager Scanga clarified for Director Colon that the bill is in Committee at this time and he will know more when Legislative Consultant Brown returns.

COMMITTEE REPORTS

None

RESUME REVIEW COMMITTEE

Nothing of significance in the January, February, and March 2023 Resumes.

MANAGER'S REPORT – Terry Scanga

Desert Reef Hot Springs Long Term Lease:

Manager Scanga explained that Desert Reef has requested a long-term lease of 6.15-acre feet of water for 30 years with an option to extend for an additional 30 years. He said the water would be delivered directly or by exchange to the Arkansas River above the confluence of 8 Mile Creek and the Arkansas River in Fremont County. The agreement was included in Director binders and on the Board webpage for Board review. Manager Scanga recommended approving the long-term lease as presented.

Upon motion from Director Colon, with a second by Director Telck, the lease was approved by the Board.

2023 Family Farm Alliance Conference Report:

Manager Scanga gave an update on his attendance to the two day Family Farm Alliance Conference. He said the conference focused on the plight of farming and ranching in the primarily arid west. He stated that President Patrick O'Toole summarized the condition of farming, ranching, and the US Forest lands where he has grazing allotments. Manager Scanga stated that Mr. O'Toole's opinion is that since the 1990's there has been an overt attack on agriculture, and it is still continuing. Today there is an attack on the prior appropriation system in the west and growing crops such as alfalfa. He said there is an attempt by the Feds to use system management of water in the Upper Colorado River Basin. Mr. O'Toole stated that the conference is about finding solutions to problems of farming and ranching and the need to fix the forest due to prolonged drought coupled with many years of poor forest management.

Manager Scanga discussed the Farm Bill and what is in store for the 118th Congress. He said that the good news is there appears to be bipartisan support for the water portion of the bill. He added that there will be an effort to remove barriers to more production and allow the farms and ranches to produce enough for our entire food supply needs. Manager Scanga further added that a lot of focus will be on the Colorado River issues and Congress is looking to the states to reach a compromise and Congress does not want to interfere with negotiations.

Manager Scanga stated that there was some discussion about the knowledge of reclamation that the hydrology on the Colorado river and west was always variable. He said one of the comments made was, "you can't turn money into water".

A copy of the Family Farm Alliance Annual Conference draft schedule was attached to the Manager's Report.

ENGINEER'S REPORT – Chris Manera, Colorado River Engineering (CRE)

Engineer Manera gave a current report and presentation on the Van Norman Stream Restoration Oak Creek Project. The complete report and analysis was made available to all Board members and staff. Mr. Manera stated that the project is located approximately 7.5 miles south of Canon City and the restoration is on 1 mile of Oak Creek, above the Town of Rockvale. He said the District is working on the project with River Science. Mr. Manera provided a power point presentation of the project and listed goals for the project, including improvement of the hydrologic geomorphic and/or ecological processes in degraded watersheds, and to replace lost, damaged, or compromised elements of the natural system. He also listed the potential impacts of increased consumptive use including evaporation, surface area changes, such as ponding and channel alterations, vegetation evapotranspiration, and groundwater timing impacts.

RECORD OF PROCEEDING

Mr. Manera reported what the project will consist of. He explained that 34 PALS (Post-Assisted Log Structures) will be installed with the use of trees/branches secured in the channel with wooden posts. The posts will be 4-6 feet in length, totaling 624 linear feet. He said these posts will be used to trap sediment and slow flow velocity. Mr. Manera stated that monitoring wells will be installed to show disconnected groundwater/surface water. He added that the installation of the 34 PALS will result in increased channel widths, water ponding, altered groundwater timing, and increased vegetation. He also added that the PALS act similar to beaver-like activity in the channel.

Mr. Manera's analysis included discussion of historical conditions. He explained that there is no historical analysis from River Science to determine if Oak Creek historically had beaver-like structures and review of aerial photography in modern history does not show these types of activities.

Mr. Manera concluded his presentation with water right impacts. He stated that in an over-appropriated system all water is used to satisfy tributary and mainstem Arkansas River water rights and Arkansas River Compact obligations. He further stated that any increased consumptive use can injure vested water rights. Mr. Manera said that the Tatman Ditch and the W H May Ditch are the controlling water rights. These water rights are downstream of the Van Norman Ranch in Rockvale where 6 wells with APOD to W H May Ditch. He added that there is potential for more ground water availability from increased infiltration but also the potential to injure the senior Tatman Ditch through increase in groundwater withdrawals.

He summarized with explaining that impacts from any project may seem small but the cumulative effect of multiple projects throughout over-appropriated systems could be significant. He said there could be injury to downstream water rights and compact obligations.

After the presentation discussion pursued between Board members and Engineer Manera. Mr. Manera answered questions as thoroughly as possible from the completed engineering analysis.

Engineer Manera clarified for Director Colon that because of the many variables it is hard to determine month to month or year to year impacts to water rights. He said the report details the full potential of injury.

Director French asked the total cost of the project. Mr. Manera stated that the total project grant is \$100,000 but he is unsure of the total cost of the project.

Chairman Canterbury asked about the minimum amount of injury from the stream restoration project? Mr. Manera stated that under historical conditions, if you are restoring what would be there historically then that would be the least amount of injury since you would not be changing something that was already historically there. He stated that outside of that, it is difficult to determine the amount of injury.

LEGAL REPORT – Law of the Rockies, Kendall Burgemeister

Opposition updates, transactional matters, applications, and updates were included in the Law of the Rockies legal report made available to all Board members prior to the meeting.

Manager Scanga recommended to the Board that the District send a letter of objection to the Tri-View SWSP amendment of dumping water into the recharge pit and claiming consumptive use credit in Cottonwood Creek. Manager Scanga stated that the District's opposition is to state the claim that the water would not reach Cottonwood Creek.

Upon motion by Director Hilderbrand, seconded by Director French, the Board approved sending a formal statement of opposition to the Tri-View SWSP case.

CHAIRMAN AND DIRECTOR REPORTS

Chairman Canterbury informed all expiring Director terms to submit letters to Judges by May 1, 2023

RECORD OF PROCEEDING

NOTICES & MEETINGS

April 25th & 26th Arkansas River Basin Water Forum, Colorado Springs, Hilton Doubletree;
May 11th UAWCD Program: Fryingpan-Arkansas Project Update and Current Conditions by Michael Holmberg, Facility Manager Pueblo Dam, US. Bureau of Reclamation
IBCC – June 8, 2023,
CWCB Board Meeting – May 17-18, Yampa, White & Green (hybrid)
CWCB Drought Summit Meeting, May 31-June 1, History Colorado Denver
C-9 Summit, November 14, South Platte Basin, specific time & location TBD

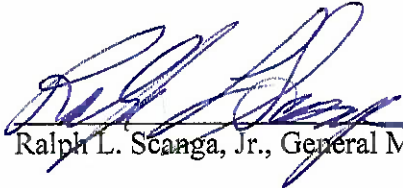
ADJOURN

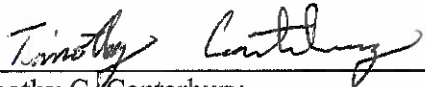
There being no further business to come before the Board or Enterprise and upon motion by Director McMurry seconded by Director Donley and approval of the Board, the meeting adjourned at 3:21pm.

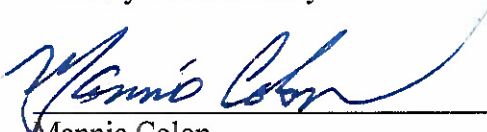
[The remainder of this page is intentionally left blank.]

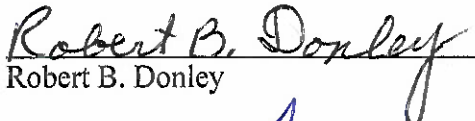
Respectfully submitted,


RECORD OF PROCEEDING


Ralph L. Scanga, Jr., General Manager


Timothy C. Canterbury

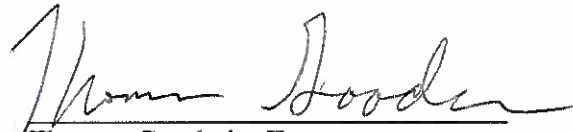

Mannie Colon

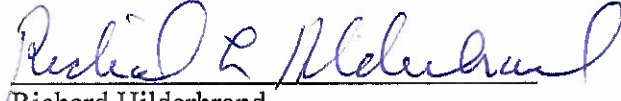

Robert B. Donley

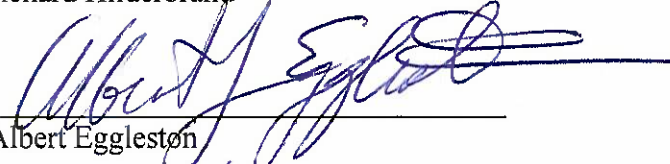

Gregory W. Felt


Tom E. French


Brett A. McMurry

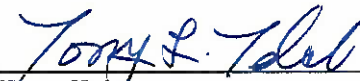

Thomas Goodwin, Treasurer


Richard Hilderbrand


Albert Eggleston


Warren Diesslin

approved remotely - no signature
Tihl Payne


Tony Telek


Mike Shields