

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Regular Meeting of the Board of Directors

**April 14, 2022
1:30 P.M.**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, April 14, 2022, commencing at 1:30pm 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 13, 2022, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

DIRECTORS PRESENT (IN PERSON)

Tim C. Canterbury	Gregory W. Felt (acting Chair)	Warren Diesslin
Tom French	Brett McMurry	Mike Shields
Thomas Goodwin	Tony Telck	Albert Eggleston
		Robert B. (Bill) Donley

DIRECTORS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Mannie Colon
Tim Payne

DIRECTORS ABSENT

Franklin J. (Jay) Moore, (Honorary)
Rich Hilderbrand

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

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

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

Denise Sanchez, Office Manager
Richard Brown, Legislative Consultant

DISTRICT OFFICIALS ABSENT

None

STATE OFFICIALS PRESENT

Dan Henrichs, Water Commissioner, District 12

STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

None

STATE OFFICIALS ABSENT

Brian Sutton, Augmentation Coordinator
Bill Tyner, Division Engineer
Will Scott, Water Commissioner District 11

EX-OFFICIO REPRESENTATIVE PRESENT

None

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

Dwayne McFall, Fremont County Commissioner
Tom Flower, Custer County Commissioner

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EX-OFFICIO REPRESENTATIVES ABSENT

Brian Berger, Poncha Springs Administrator
Michael Patterson, Florence City Manager
John Roorda, Chaffee County Planning Manager
Shawn Williams, Buena Vista Public Works Director
Philip Puckett, Buena Vista Town Administrator

GUESTS PRESENT

None

GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Amy Ostdiek, CWCB Section Chief, Interstate, Federal & Water Information Section
Erik Aadland, Candidate for Congress, 7th Congressional District
Joel Benson, Town of Buena Vista
Bobby Banham, Pueblo West Metropolitan District
Joe Stone, Heart of the Rockies Radio News
Emily Tracy, Canon City Council Member

PLEDGE OF ALLEGIANCE

Vice Chairman Felt led attendees in the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Guests were asked to introduce themselves.

MINUTES OF THE MEETING OF March 10, 2022

The minutes of the meeting of March 10, 2022 were approved upon motion by Director Donley with second by Chairman Canterbury.

FINANCIAL REPORTS

Upon motion by Director Goodwin with second by Director Telck, the Board approved the monthly financial reports dated March 31, 2022. The District quarterly financials were reviewed.

PROGRAM PRESENTATIONS

Amy Ostdiek, Section Chief for Interstate, Federal & Water Information from the Colorado Water Conservation Board (CWCB) gave a presentation concerning the Colorado River Compact and Demand Management and provided an update on the Drought Contingency Plan.

Ms. Ostdiek noted that there are no plans to renegotiate the Colorado River Compact and it remains the foundation when dealing with significant demands on the river that surpass the supply. She mentioned the equities guaranteed in the compact to the upper basin states and discussed what those equities are. Ms. Ostdiek explained that those equities include equal share of the use of the river from the upper basin to the lower basin. She said the reality today is that the lower basin is using nearly double compared to the upper basin. She added that the underlying guarantee in the compact of equal shares of the river is important to keep in mind. Ms. Ostdiek further added that there have been several agreements put on top of the compact over time being implemented today and subject to the compact.

Ms. Ostdiek explained that current operations are subject to the 2007 Interim Guidelines that coordinate the operations of Lake Powell and Lake Mead, and the bottom line is that what happens at Lake Mead impacts Lake Powell. She stated that the 2019 Drought Contingency Plans (DCP) consists of several elements that are being implemented quicker than expected. The DCP's were intended to be a band aid on top of the 2007 guidelines to protect critical elevations at both Lake Powell and Lake Mead and there are several provisions considered target elevations when the reservoirs hit certain levels. She stated that is what is happening right now as the reservoirs are dropping very quickly.

Ms. Ostdiek noted that shortages are being taken by a only a couple of the lower basin states for the first time ever. She expressed that it is important to keep in mind that the upper basin uses what is available from snow pack and the lower basin has been drawing storage from Lake Mead and consequently Lake

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Powell due to how the 2007 guidelines operate, although they haven't been taking the same type of shortages that have been a reality for water users in the upper basin states and hence the reason for the lower levels in those reservoirs.

Ms. Ostdiek further explained that due to the elevations at Lake Mead, two lower basin states, Nevada and Arizona are taking cuts for the first time and clarified the 500 Plus Plan for the lower basin. Ms. Ostdiek stated that at times when Lake Mead is projected to hit very low elevations, the lower basin states discuss what additional measures to take to protect Lake Mead. The 500 Plus Plan is a commitment to conserve 500,000 acre-feet of water in 2022 and in 2023 for a total of 1 million acre-feet. According to Ms. Ostdiek, the plan has not yet materialized but there is work in progress to have it implemented.

Ms. Ostdiek mentioned the Direct Response Operations Agreement which states that when Lake Powell is projected to potentially hit an elevation of 3525, the upper basin states are required to begin a planning process of reclamation to consider releases from upper basin initial units including Flaming Gorge, Aspinall and Navajo Reservoirs to protect critical elevations at Lake Powell. She stated that several months ago, reclamation decided that there was not adequate time to draft that plan before critical elevations could be reached. Based on that, reclamation took the action of calling for 161,000 acre-feet to be released from the upper basin reservoirs and 36,000 of that came from Blue Mesa Reservoir in Colorado.

Ms. Ostdiek reported on a plan in progress for potential future releases to be responsive to projections. She stated that 24-month studies were conducted by reclamation to gain information to be used to create a plan for an idea of how much water will be available at the initial units, and how Lake Powell might be affected. She said the plan will be completed by the end of the month and available for review. Ms. Ostdiek conveyed that most likely there will be a release from Flaming Gorge but nothing is final but there is more capacity for Flaming Gorge to participate than the other upper basin reservoirs. She stated that the benefit to drafting this plan is the ability to discuss timing for releases, quantity of water available, and the impacts to other resources. Ms. Ostdiek also noted that there were some adjustments to Lake Powell and 350 acre-feet of water was held back that would otherwise have been released January through April.

Ms. Ostdiek explained that there has been a lot of discussion around the idea of Demand Management. She informed the Board of the what the CWCB is working on and what is happening at the Upper Colorado River Commission (UCRC) level with the investigation.

Ms. Ostdiek stated that the idea of Demand Management is the temporary, voluntary compensated reductions, and consumptive use of water in the upper basin states. She said that along with Colorado, all the upper basin states would have to agree to do this before a program can be set up. She further stated that a water agreement would have to be set up with the other upper basin states before water could be stored in Lake Powell. Ms. Ostdiek explained that the plan would allow water to be conserved in Lake Powell and released only for compact compliance purposes to ensure ongoing compliance with the 1922 compact. She added that there are many constraints on Demand Management as a tool and it cannot be done alone and reiterated that it could only be used for compact compliance. She further added that it would rely on storage in Lake Powell. Ms. Ostdiek expressed that Colorado is ahead of the other upper basin states in its feasibility investigation and that is largely due to proactive and forward thinking of the CWCB and many stakeholders across the state have been engaged in the process as well. She said Colorado has significant human infrastructure which has made it possible to get ahead and develop a lot of information and research analysis in ways that the other upper basin states have not been able to do. Ms. Ostdiek displayed a slide that highlighted the steps CWCB is taking. She added that there is a lot of information on their website including a decision-making road map with the purpose to lay out different types of questions regarding Demand Management. Ms. Ostdiek communicated that Demand Management is a specific tool for a specific purpose and is dependent on many factors, however focusing on what can be done without help from the other upper basin states to get through these tough times, is of utmost importance.

In closing, Ms. Ostdiek informed Board members of immediate news and stated that there has been recognition across the basin to be responsive to the conditions with the need to find flexible, interim type

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agreements that work to get Colorado through the rapidly changing conditions. She explained that most recently the Assistant Secretary for Water and Science sent a letter to the seven basin state principles indicating her proposal to reduce releases out of Lake Powell this water year. She said that instead of a 7.74-million-acre-feet release from Lake Powell it will be adjusted to 7 million acre-feet. Ms. Ostdiek said this will be done within the Secretary's authority to protect infrastructure at Lake Powell and the underlying reason for this is because Lake Powell has never been this low and without any operational experience to manage levels this low, the objective is to protect infrastructure, hydro power production and all other health and safety issues. She stated that the basin states are in communication about how to make sure this is carried out correctly with protection in mind. She expressed that from the perspective of the CWCB, Lake Powell cannot be fixed by solely looking at what is going into it, but also what is going out of it. She added that the reality is what is going into Lake Powell is out of alignment with what is going out. Ms. Ostdiek noted that this is only a temporary fix, it is not a long-term solution and the 07 guidelines will expire in 2026. She stated that this is an opportunity to take a step back and evaluate the operational needs at Lake Powell and Lake Mead, keeping it fair and sustainable with a different approach than what has been done for the past 20 years. Ms. Ostdiek further expressed that there talk about calling this Post 2026 operations instead of renegotiations and during implementation of the Drought Contingency Plans, the main advantage has been the ability to see how the reservoirs operate in very dry hydrology. She commented that CWCB has developed priorities and goals for moving forward to create a fair and sustainable solution to managing the river to bring more supply particularly downstream of Lake Powell and Lake Mead. She expressed that there are many solid examples of how the upper basin states are living within their water means, however that has not been the case across the whole basin.

Director Goodwin asked if there is discussion regarding only 4 million acre-feet of water going into Lake Powell with 7 million going out? Ms. Ostdiek stated that she is hoping for more than 4 million and would like to think the estimates on the higher end will materialize, but thinks the Secretary's action to reduce the amount going out is a good start and recognizes that for the long-term there needs to be more of a balance. She added that the lower basin continues to rely on storage that at some point will no longer be there and what needs to be considered is what our supply is and what appropriate demand is downstream in Lake Powell.

Director Donley asked how long it takes to get water from Lake Powell to Lake Mead? Ms. Ostdiek answered that she is unsure, but she knows that reclamation has conducted studies and may have those numbers.

Vice Chairman Felt asked what the precedent is for the secretary to step in and dictate to the Bureau of Reclamation the reoperation of the release plan from Lake Powell? Ms. Ostdiek stated that it is completely unprecedented and there have been past circumstances when the secretary has had to step in and in this case, it is an imminent situation that requires urgent action.

Manager Scanga asked the typical operational protocol for filling reservoirs in the upper basin, mainly Blue Mesa, and asked if the reclamation allows those to fill in the upper basin first or the lower basin first and then the upper basin from the runoff? Ms. Ostdiek said that for each of the reservoirs it depends on the record of decision and several very specific factors go into it. She added that it is not a calculation where reclamation considers how to move water downstream and is not necessarily the priority. She expressed that focus is on the individual reservoir and the record of decision as well as environmental considerations and factors unique to each one. Ms. Ostdiek further expressed that the initial units were designed for multiple purposes including support to Lake Powell, and it is more of a balance among all factors and why the Drought Response Operations Plan and Agreement of figuring it all out has been complicated.

Atty Burgemeister asked what the chances are that in 2027 the operational guidelines are adjusted so the upper basin states are not bound to what California does and is there discussion concerning reducing releases from Lake Mead and telling California they cannot take anymore? Ms. Ostdiek expressed that during these challenging times this is something being contemplated, and she does not want Lake Powell to be so dependent on what happens in California or anywhere in the lower basin. She stated that in terms of efforts being made to manage what is going out of Lake Mead, the 500 Plus Plan comes into

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play. She added that the lower basin states have recognized that they need to reduce demands and they are working on it, however 500 acre-feet has not yet materialized and there is a push on it while also recognizing that the short term issues are separate from the longer term plan.

Chairman Canterbury noted a discrepancy in the numbers given at the Colorado Basin Round Table meeting from the numbers discussed by Ms. Ostdiek and asked her for clarification. Ms. Ostdiek explained that 3525 is the target elevation identified in the Drought Response Operations Agreement and when Lake Powell is projected to hit 3525, the upper basin states will begin to plan for potential releases from initial units to protect Lake Powell pursuant to the agreement. She further explained that 3525 is acknowledged in the agreement and meant to provide a buffer for 3490 which is the point when hydro power production becomes a problem at Glen Canyon Dam. Ms. Ostdiek stated that the reality is as Assistant Secretary Trujillo acknowledged in her letter, there is not a lot of operational experience below 3525. Ms. Ostdiek added that the current elevation is somewhere around 3524.

Director Goodwin asked if the fact that the lower basin states have consistently taken more than their share, will be taken into consideration during negotiations? Ms. Ostdiek explained that this is where the concept of equity comes in and how the upper basin states uses have been lower due to using less water when less is available. She added that the message and approach is what can be done to have more equity and sharing the need across the basin, but the reality is that 3 states and a basin have collectively been using significantly more than half of that flow.

Manager Scanga asked how much the lower basin states take on average? Ms. Ostdiek stated that it is complicated and variable. She explained the concept of intentionally created surplus which is where the lower basin states can essentially bank water in Lake Mead for later use with conditions. Ms. Ostdiek said the answer is yes, there is an idea of the consumptive use in the lower basin and state by state, however year to year the calculation of deliveries is reviewed. She added that she does not have those numbers a but would be able to find them.

EX-OFFICIO REPORTS

There were no ex-officio reports

PROJECT MANAGEMENT REPORT- Gracy Goodwin

Project Manager Goodwin presented the April 2022 projects update.

Round Mountain Reservoir Feasibility Study

- PM Goodwin reported that she met with both engineering companies.
- Engineering Analytics revised the draft and version 2 is under review.
- PM Goodwin stated she is drafting agreements for Lease of Excess Water and Operations.

DeWeese Enlargement Feasibility Study

- PM Goodwin reported that GEI & CRE feasibility draft reports are still under review by all entities involved.

Water Balance Phase 2-Wet Mountain Valley

- PM Goodwin submitted final reimbursement request
- USGS will publish final report
- A presentation will be completed soon.

Trout Creek Alluvial Storage

- Test holes were dug on Cogan property to evaluate gravel and soil.
- Work in progress on additional land surveying.

Engineer Manera explained that several holes were dug at varying depths and consisting of 10-12 feet of topsoil before reaching the alluvium, which is the more permeable part of the soil. He said the most promising site was the southwest corner of the property which is currently being mined for topsoil. Mr. Manera stated that over half of the southwest corner has been excavated to remove the topsoil and there is only a thin clay layer above the aluminum. He added that it would require very little disturbance to use as a recharge site since most of the soil has been removed creating more surface area for infiltration.

Arkansas River Basin Water Forum

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- PM Goodwin reminded Board members of the upcoming event and the UAWCD tour of Lake Ranch property and integrated management with Poncha Springs on Friday, April 29th.

Pueblo Excess Capacity Master Contract

- PM Goodwin noted the listing of additional sources of water on the master contract.

Vice Chairman Felt asked if there will be a Phase 3 to the Water Balance study? Manager Scanga stated that there is a possibility of another phase but more information from the United States Geological Survey (USGS) is needed to see what the value would be to the District by looking at the fractured rock aquifers on the east side of the Wet Mountain area.

CONSULTANT REPORT – Richard Brown

A Legislative Report was provided to Board members for review.

Consultant Baker briefly commented on the fire suppression pond bill which has been an important part of Board discussion in the past several months. Mr. Baker said that the bill is very concerning and has the intention of using water from small ponds for forest fires. He stated what he did not anticipate was the pronouncement of promoters of the bill not taking into consideration the rivers that have been over-appropriated and how it will deprive water users the right to divert. He added that it is serious legislation.

Legislative Consultant Brown said this is the 100th day of the 120 calendar day session and there is a lot happening in the final days of legislation with less than 37 calendar days remaining before the last day to adjourn *sine die* and approximately 20 working days. He said that as of the close of business on Friday, April 1, 551 bills had been introduced: 358 House bills and 193 Senate bills to date. Mr. Brown added that the House numbers were increased by the introduction of the long appropriations bill and its two dozen satellite bills.

Mr. Brown highlighted several bills of interest to the District.

He stated that the CWCB Construction Project Bill is out of the House and in the Senate and the Species Conservation Bill is on its way to the Governor.

Mr. Brown stated that Senate Bill 29, the Anti-Speculation Bill has been lingering for such a long time and recently has proposed, conceptual amendments that are vague and hard to understand even to the drafters of the bill. He expressed that he thinks the Bill will not make it out of the Senate and into the House.

Legislative Consultant Brown updated Consultant Baker on the Roger Hill Case informing him that the Attorney General filed a request with the Supreme Court for an appeal.

Mr. Brown informed the Board of a claim that the Commission for Fire Prevention may be coming in with a late bill on a mandate on local governments on certain areas to conduct extensive fire mitigation, fire prevention codes, and fire suppression.

Mr. Brown mentioned a bill that came out of the Water Resources Review Committee that would establish a financing mechanism to use federal money for Compact Compliance with the Republican and Rio Grande River went to the Senate quickly and is sitting in the House waiting for the budget to be completed and then back fill with whatever money might be available. Mr. Brown commented that the bill is still sitting in Joint Budget Committee (JBC). He said the budget is completed and the JBC is ready to finalize their negotiations. He expressed that he has heard no new information and it has a price tag of \$100 million.

Legislative Consultant Brown went into much discussion regarding SB22-114, the Fire Suppression Bill. He said that it passed the Senate with amendment and is a high-priority bill from Colorado Counties Inc. (CCI). The District has been involved with the bill since its introduction and Mr. Brown stated that he has spent many hours working with the staff of CCI attempting to get clarification and modifications to the bill and was unsuccessful. He added that the bill came out of the Senate quicker than anticipated and there was another negotiation session set with CCI. Mr. Brown expressed that CCI did not think any of

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the District's issues were relevant. The bill proceeded to committee and then came out of committee and into the appropriations committee. Mr. Brown said he received an email from Representative Roberts, the House sponsor, stating that he wanted to work with Mr. Brown and Joan Green who represents the South Platte water users, to draft amendments to the bill. He said he made time frame indications or what he has in mind. Mr. Brown expressed that he is unsure if he understands the issues that need to be addressed and he has been attempting to get the drafter to give the District time to figure things out.

Mr. Brown stated that the biggest issue the District is focusing on deals with two parts. The first part deals with the ponds that would be used for fire suppression as a fire source to fill fire trucks. These ponds are those in existence before June 1, 1972, and each may not exceed more than 6 acres of surface area. He expressed that these ponds do not lend themselves to being used by helicopters or other firefighting aircraft. Mr. Brown explained that the proponents have brought the bill to classify certain ponds as potential sources of water replenishment and to exempt those ponds from fundamental Colorado water law and the regulatory authority of the State Engineer which presently is largely focused on ponds that are impounding water outside the priority system. The bill would allow for certain, described ponds to be given special status to preclude state regulatory actions to be taken to correct their out of priority use. That protection would prevail for 365 days a year even if the pond water is never used to replenish a fire truck.

Mr. Brown further explained that what these ponds would have in common is that each is currently out of compliance with Colorado water law, and each is diverting and impounding water out of priority. He added that each pond is exposed to a regulatory action by the State Engineer to be drained, backfilled or brought into compliance with Colorado Water law and the bill would prohibit the State Engineer from acting with respect to such a pond if it has been designated as a fire suppression pond by the county of jurisdiction.

Mr. Brown noted that the bill provides that a county has up to one year to conduct a needs assessment for the pond before formally asking the State Engineer to designate it as a fire suppression pond.

Legislative Consultant conveyed that the proponents argue that the ponds should enjoy a special exemption from water law because they represent a potential source of water to replenish firefighting equipment. He added that the ponds would not be a primary source of water for firefighting but rather would sit idle until such time as a fire would necessitate their use.

Mr. Brown expressed that given the nature of wildfires, a pond might be used only once in several years or not at all or a pond might need to be used more than once in each fire season. He further expressed that what is not disputed is that once a pond has been identified as a fire suppression pond, it will be exempt from regulation by the State Engineer and Colorado water law for a period of 15 years. The exemption will protect its out of priority diversion if it is designated a fire suppression pond.

Director Canterbury stated that he had talked to Manager Scanga and asked him to communicate the District's opposition to SB22-114 on the grounds that it did not protect water rights from out of priority diversions since the evaporation that these ponds would cause to the system.

Manager Scanga discussed with Board members the letter he wrote to The Colorado House of Agriculture, Livestock & Water Committee on behalf of the District, describing the issues with the legislation and the Board's interest in gaining clarity and insight. The letter was made available to all Board members for review. He also discussed his testimony given to the Committee about the District's objection to SB22-114 in that the concept of fire ponds may be for a good cause but there would be injury to water rights and this injury should be ascertained and the depletions from evaporation need to be augmented.

Director Felt stated that he supported SB22-114 and had worked with CCI with this legislation. He expressed that Chaffee County probably may never need these type structures since it has an active requirement for subdivisions to provide cisterns for fire protection. He said he had testified for the bill in the house committee hearing on the bill.

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Mr. Henrichs clarified for Vice-chairman Felt the process for pond regulations.

Manager Scanga stated that the bill could go to the Governor before next month's meeting and asked approval from Board members to move forward with negotiations to amend the fire suppression bill.

After several attempted motions, a motion was finally decided upon and a final motion was made by Director Donley, seconded by Director Shields. The Board approved to give Manager Scanga the authority to move forward with negotiations for amendments to the fire suppression bill, SB22-114. Vice Chairman Felt abstained from voting.

COMMITTEE REPORTS

None

RESUME REVIEW COMMITTEE

Nothing of significance in the March 2022 Resume.

MANAGER'S REPORT – Terry Scanga

Manager Scanga reported that there are four Director seats expiring in June and clarified that directors seeking reappointment must send application letters to the District Court Judges by May 1st.

The Managed Aquifer Storage Project update was presented by PM Goodwin in her Projects report.

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

Engineer Manera reviewed current engineering projects. He gave an update regarding the meeting with Round Mountain Water and Sanitation District regarding the joint storage project with Engineering Analytics (EA).

He said it was a productive meeting and EA is focusing more on the design than water rights. Engineer Manera expressed that Colorado River Engineering is the water rights identifier of how things will operate while providing comments on behalf of the District in terms of the design.

Engineer Manera explained that they were able to identify that if the reservoir is filled through a pump system from Grape Creek, releases for augmentation and pumping from the reservoir would not be feasible. He said that the original design had a fill line and return line which can be removed. He said from a water rights standpoint, making releases for augmentation and filling the reservoir at the same time would require a bi-directional pipeline because the physical supply is not available to accommodate both. He added that the bi-directional pipeline allows for one direction at a time.

Engineer Manera stated that the pipeline is 1000 feet long but has a large diameter to fill the reservoir in shorter periods. He said that there will be several stages of pump to accommodate 200 gallons to 2000 gallons.

LEGAL REPORT – Law of the Rockies, Kendall Burgemeister

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

UAWCD Applications:

21CW3059: Chalk Creek Exchange

- Decree signed by Water Judge/Case closed.

21CW3060: Cherry Creek Exchange

- Ruling signed by Referee
- Waiting for Judge to sign Decree

21CW3033: Application to make 04CW96 exchanges in part and for finding of diligence

- Aurora stipulation approved

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- Before the Referee

21CW3089: Change of Cottonwood Irrigating Ditch

- Responded to opposer comments. Additional comments from opposers are due April 29
- Before the Referee until May 31, 2022
- Atty Burgemeister suggested a form of motion to approve stipulation.

Atty Burgemeister explained that language in the stipulation is not standard language. He said that part of the language in the stipulation differs from other stipulations. Atty Burgemeister stated that it is language by which the District is recognizing that the water rights were not included in the environmental impact statement for the Excess Capacity Contract on Pueblo Reservoir and water rights are not to be stored until the analysis is completed. He added that it is a “state the obvious” type of provision that is not typical.

Atty Burgemeister said the second piece is an excerpt from the proposed decree which is a modification of the language that Southeastern had been wanting us to use that relates to the Voluntary Flow Management Program (VFMP) which allows the District to make augmentation releases out of Pueblo Reservoir. The 04CW96 exchange decree has some language that recognizes the VFMP except for certain situations where we get to dip into it. He stated that there are certain times we replace return flows from the Cottonwood Irrigating Ditch out of Pueblo Reservoir which like augmentation or an exchange, depletes the reach between Pueblo Reservoir and Cottonwood beyond what would otherwise be depleted. Atty Burgemeister added language that states that we will not do that when the VFMP is in effect. He stated that the important language for the District is the language that acknowledges our augmentation releases under 06CW32 are not subject to the VFMP language.

Vice chairman Felt expressed that after reading through the stipulation he felt there is a situation missing. He stated that under scenario 3, when project water is released to maintain recreation flows between 500-700cfs, 25cfs is available for use and he remembered a time when target flows were below 500cfs and he questioned whether an element is missing, and it may happen again at some point.

Atty Burgemeister clarified that the blank spot is in Southeast’s standard terms and conditions. He explained that the numbers are hardwired into the stipulation. Atty Burgemeister clarified that it states several scenarios where the District is allowed to dip into the VFMP and if the flow is maintained below 500, the District would not be able to dip into it by 25cfs.

Atty Burgemeister recommended to the Board to approve the stipulation.

Upon motion by Director Canterbury and seconded by Director Telck, the Board approved the stipulation in Case No. 19CW3089 between UAWCD, acting through the Upper Arkansas Water Activity Enterprise, and the Southeastern Colorado Water Conservancy District.

Applications UAWCD is Opposing:

21CW3079: Timber Creek Ranch, Rock Cliff Ditch Applications

- No significant developments
- Before the Referee. Waiting for applicant’s proposed ruling.

21CW3086: Poncha Springs change of Acequia Ditch and plan for augmentation

- No significant developments.
- Before the Referee. Waiting for applicant’s proposed ruling and engineering.

21CW3058: Triview Exchange

- No significant developments.
- Before the Water Judge.

21CW3044: Triview Change of Arkansas Valley Irrigation Canal

- Court granted Triview’s motion to reschedule previously set April 2023 trial to allow Triview time to complete additional studies during 2022 irrigation season.
- Before the Water Judge.

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CHAIRMAN AND DIRECTOR REPORTS

None

NOTICES & MEETINGS

None


ADJOURN

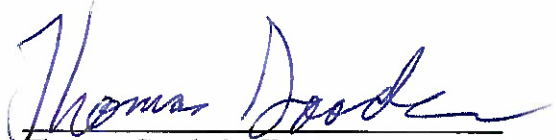
There being no further business to come before the Board or Enterprise and upon motion by Director Donley seconded by Director Colon and approval of the Board, the meeting adjourned at 3:43pm.

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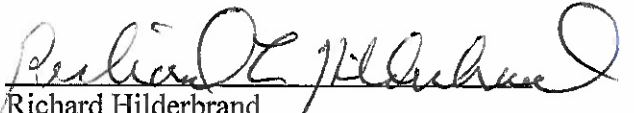
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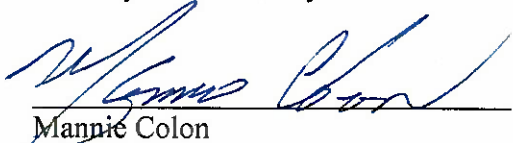
Respectfully submitted,


Ralph L. Scanga, Jr., General Manager

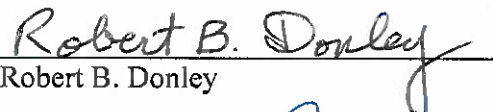

Thomas Goodwin, Treasurer

approved remotely - no signature
Timothy C. Canterbury

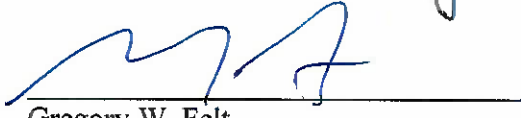

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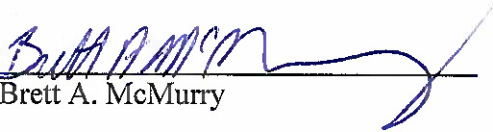
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Warren Diesslin


Gregory W. Felt

approved remotely - no signature
Tim Payne


Tom E. French


Tony Telck


Brett A. McMurry

approved remotely - no signature
Mike Shields