

**UPPER ARKANSAS WATER  
CONSERVANCY DISTRICT**

**Regular Meeting of the Board of Directors**

**June 10, 2021  
1:00 P.M.**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, June 10, 2021, commencing at 1:00pm 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 June 9, 2021, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

**DIRECTORS PRESENT (IN PERSON)**

Tim C. Canterbury	Tony Telck	Tim Payne
Franklin J. (Jay) Moore	Mike Shields	Brett McMurry
Robert B. (Bill) Donley	Tom French	Warren Diesslin

**DIRECTORS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)**

Gregory W. Felt  
Mannie Colon  
Richard Hilderbrand

**DIRECTORS ABSENT**

Thomas Goodwin

**DISTRICT OFFICIALS/STAFF MEMBERS PRESENT**

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

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

Richard Brown, Legislative Consultant

**DISTRICT OFFICIALS ABSENT**

None

**STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)**

Will Scott, Water Commissioner, District 12  
Dan Henrichs, Water Commissioner, District 11  
Bill Tyner, Division Engineer

**STATE OFFICIALS ABSENT**

Brian Sutton, Augmentation Coordinator

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

Dwayne McFall, Fremont County Commissioner  
Dave Schneider, District Manager, Round Mountain WSD  
Bob Hartzman, Canon City Water Superintendent

**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

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Philip Puckett, Buena Vista Town Administrator  
Tom Flower, Custer County Commissioner

### **GUESTS PRESENT**

Joe Stone, Heart of the Rockies Radio

### **GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERNING)**

Joel Benson, Town of Buena Vista  
Sarah Mudge, Lake County Commissioner  
Cathy Garcia, Southern Colorado Regional Director for Congresswoman, Lauren Boebert  
Clarice Navarro, Senior Staff for 3<sup>rd</sup> Congressional District for Congresswoman, Lauren Boebert  
Bill Canda, Custer County Commissioner

### **PLEDGE OF ALLEGIANCE**

Chairman Canterbury led attendees in the Pledge of Allegiance.

### **INTRODUCTION OF GUESTS**

Guests were asked to introduce themselves.

### **NEWLY APPOINTED DIRECTORS - OATH OF OFFICE**

Notary Public, Jennifer A. Scanga, swore in the newly appointed directors, Tom E. French (Division 1) and Warren Diesslin (Division 3). Newly appointed Directors not present during the swearing in were Thomas Goodwin (Director at large), and Richard Hilderbrand (Division 6, Seat A).

### **ELECTION OF OFFICERS**

Election of Officers: Chairman, Vice Chairman, Secretary, Treasurer, & Assistant Secretary-Treasurer

Manager Scanga pointed out to the board the current officers. They are as follows:

Chairman – Tim Canterbury

Vice Chairman – Greg Felt

Secretary – Tom French

Treasurer – Thomas Goodwin

Assistant Secretary-Treasurer – Terry Scanga

Re-Appointment of Enterprise Committee – All directors, Consultant Baker, & GM Scanga

Director Payne made a motion to leave officers as is and the motion was seconded by Director Colon. This motion was unanimously approved by the board

Chairman Canterbury commented that he is reconstructing the committees and asked Board members to let him know of any interest in a committee. Manager Scanga discussed some of the committee changes. He listed the new committees as follows:

Executive Committee: A new committee consisting of Officers of the Board.

Budget and Finance Committee

Storage and Water Acquisition Committee: A new consolidated committee

Human Resource (Personnel) Committee

Legislative Committee

Lake Ranch Project Committee

Augmentation Policy Committee

Resume Review Committee.

Manager Scanga explained that the Multiuse Project Committee was eliminated and the Storage and Water Acquisition Committees were consolidated into one committee. He added that the Personnel and Finance Committee was separated into two committees and broadened the Personnel Committee to Human Resource Committee.

Director Payne suggested constructing the Finance Committee with only Board Members to include the Co-chair in both committees. Manager Scanga explained that the General Manager is the budget officer, so he definitely needs to be on the Finance Committee. He added that committees do not pass any policies or regulations. The purpose of committees is to discuss issues and make recommendations to the Board.

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Chairman Canterbury reiterated that committees only make recommendations and that staff members have to take part in committees and present information to Board members on those committees so a determination can be made and offered to the Board for final approval.

### ***THE BOARD OF DIRECTOR MEETING RECESSED AT 1:10PM***

### ***MEETING RECONVENED AT 1:37pm***

### **MINUTES OF THE MEETING OF May 13, 2021**

The minutes of the meeting of May 13, 2021, and May 14, 2021, were approved upon motion by Director Donley with second by Director Colon. A correction was made to indicate Director Payne as present at the meeting.

### **FINANCIAL REPORTS**

Upon motion by Director Colon with second by Director Donley, the Board approved the monthly financial reports dated May 31, 2021.

### **PROGRAM PRESENTATIONS**

None

### **EX-OFFICIO REPORTS**

There were no ex-officio reports

### **PROJECT MANAGEMENT REPORT- Gracy Goodwin**

PM Goodwin reported on grants in progress and June project updates.

#### **Ice Lake Culvert and Outlet:**

- Replacement of 3 culverts on the outlet ditch of Ice Lake and Harvard Lake.
- Culverts were lowered without disturbing gas line
- More flows are reaching the stream.
- The design of outlet and spillway was completed by staff engineer.
- Design will be sent to HOA for review.

Director Donley asked about the cost to move the culverts. Chairman Canterbury stated that the cost per culvert is around \$5000. He commented on how well the water is flowing since they were lowered. He said he did not notice any standing water. Director Donley wanted to know if the gas company that was liable for the wrong placement of the culverts was picking up some of the cost to have them moved? Hydrologist Gertson answered that the gas company was very helpful locating where the culverts were and facilitating the corrections. Manager Scanga reiterated how accommodating and cooperative they were to work with on getting the culverts lowered and making the necessary corrections.

PM Goodwin stated that the District saved a lot of money purchasing the culverts last year because the price has gone up about 50-60% since then. She added that she worked with some great people to accomplish the project including ACA Products who stored the culverts at no cost to the District.

Director Colon commented about the plastic piping used and stated that the HDPE plastic piping is somewhat less expensive, but he expressed concern about whether it was the best material for the project and strong enough for crossing over. PM Goodwin said that they are set under driveways and across highways. Engineer Manera explained that typically the use of CMP for driveway crossing is sufficient, however it isn't the best for long term use since the joints do not hold water. He added that HDPE is much better for long term use.

#### **Trout Creek Park Alluvial Storage:**

- An onsite visit was scheduled with the Department of Corrections (DOC) to look for areas for recharge pits.
- Colorado River Engineering revised map of potential locations and open channel ditch for delivery.
- Work in progress on Executive Summary of the project.

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Engineer Manera explained that the District was originally looking into using the Helena Ditch to deliver water to the return sites since it has a junior water right and is called out during most of the year. However, sharing where the Helena joins the Trout Creek Ditch it was discovered that there are 5 different splitter boxes downstream on the Trout Creek Ditch with the various owners, and all those splitters would have to be modified to carry recharge waters back. He added that it would most likely cause some operational problems and concerns for existing water users. The new plan is to use a separate, lateral ditch that takes water out of the Helena without becoming intermixed with the Trout Creek Ditch water supply. Mr. Manera added that it does not need to be piped and is relatively inexpensive to construct.

### **Poncha Springs Infrastructure -Wells:**

PM Goodwin explained that Poncha Springs is reconstructing their entire water system. She said they reached out to the UAWCD for a small grant for two new wells.

- #6 & #7 wells have been completed.
- PM Goodwin will be submitting final reimbursement request.
- The final report is being prepared to close out grant.
- Total project equals \$120,000 and the Water Supply Reserve Fund (WSRF) grant total is \$64,500.

Manager Scanga asked PM Goodwin who receives the grant funds? PM Goodwin answered that the grant money goes directly to Poncha Springs. Manager Scanga clarified that UAWCD is acting as the contractor for project management. PM Goodwin stated that grant management was the District's in-kind contribution.

### **Deweese Enlargement Feasibility Study:**

- GEI Consulting is working on the Structural Stability Analysis
- Probable Maximum Flood (PMF) routing- Taking the hydrograph data and running it through flood analysis models.
- Tailwater (the water below the structure) analysis
- Preparing drawings of different alternatives and levels.

Engineer Manera explained that the preliminary yield analysis for exchange potential and storing water has been completed and is still in draft form. He added that on average there could be 30,000-acre feet a year that is exchangeable, however the average is skewed because a lot of years the exchangeable amount is zero. Mr. Manera said that if the reservoir is enlarged and entities were to store water in it, it would require a carryover type of vessel that could be used for drier times.

### **St. Charles Mesa Augmentation Station:**

- Hydrologist Gertson is working on installation of the telemetry station.
- PM Goodwin will submit final grant reimbursement. She stated the CWCB fiscal year ends June 30th, therefore all grants must be submitted before the end of the month.

### **CONSULTANT REPORT – Ken Baker & Richard Brown**

Legislative Consultant Brown and Consultant Baker reported on current legislative updates.

Consultant Baker commended Mr. Brown on an excellent Legislative update. The report was made available to Board members before the time of the meeting.

Consultant Baker discussed a proposed bill regarding technology. Mr. Baker said the bill proposes that technology be developed by academia of the University of Colorado (CU) and Colorado State University (CSU). He explained that water began its time of diversion in 1852 out of the Conejos River and began on the Arkansas River in 1860 and at that time there was an ability to create a head gate as an instrument to measure water in cubic feet per second in time. Mr. Baker continued explaining that in 1887 legislature created a method whereby the diverters of water established a process to go to court and prove to the court that there was a head gate and the water was being measured accurately and for beneficial use. He stated that sometime during the last century technology developed a submersible pump and in 1969 through the Water Adjudication Administration Act, legislation provided a method so that water could be pumped from underground and be appropriated. Mr. Baker said that during all the

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years since 1969, there has been the technology necessary to measure, divert and use water. He added that allowing technology to be developed by academia would be bypassing the state engineer and technology was developed in 1936 when the State Engineer's office was given the authority as professional engineers to make sure the water in each of the rivers in Colorado was properly measured by the use of appropriate head gates. He expressed that he thinks legislation is designed not to develop better technology but to better administration.

Legislative Consultant Brown discussed several legislative updates.

He stated that Colorado is at the transition point in legislature during *sine die* which took place on Tuesday night at about 7:30pm. He said legislation is still in the process of trying to figure out what happened in the last 3 to 4 days of the session because there were approximately 100 bills being considered per day and each bill was being pushed through so fast that staff could not keep up with drafting amendments. He added that some things were done verbally. Mr. Brown stated that he will have to wait until some of the bills are in printed form to know what is in them. Mr. Brown expressed that what seems to be somewhat concerning is how several bills have component parts that affect one another to the extent that the drafting office was able to coordinate them. He stated that it is now a matter of waiting to see if there are any discrepancies that need to be dealt with. Mr. Brown said that on the last day of the session, there were 4 technical amendments on 4 different bills changing the effective dates because of drafting obligations of trying to keep up with what was going on. The legislative leadership has released a letter reopening the Capital with respect to restrictions that were there because of Co-vid. He stated that leadership has not indicated what interim committees will be in operation this summer. They have acknowledged that there will be a Water Resources Review Committee (WRRC) operational this summer but probably not starting any meetings until August which will be a good opportunity for them to attend and sit in on the water congress summer meeting in Steamboat Springs on August 24-26<sup>th</sup> and he expects them to attend. He added that it will be an in-person meeting as well as the ability to participate remotely.

Mr. Brown added that he believes the special working group that the Division of Natural Resources (DNR) has been shepherding under the Division of Water Resources (DWR), is looking at statutes on anti-speculation and has a preliminary report for the WRRC due in August, but he has not been able to confirm that yet.

Mr. Brown explained one of the things observed closely at the end of the session was the gambit by the Colorado Department of Public Health and Environment (CDPHE) to push legislation on the Dredge and Fill permitting. He said it ran into all kinds of difficulties. Water Congress put together a special task force made up mostly of their water quality committee to try to work with CDPHE on it. Mr. Brown stated that it was a moving target and every time there was a report from the CDPHE they had a new concept or a new way of doing things or an excuse for why they hadn't accomplished what they said they would. They continued to try and get a late bill and there was more and more resistance from groups and organizations on the premise that it was so late in the session and it is a bill that carries such magnitude. He added that with no idea what the Biden Administration will do and with EPA rulings under President Trump's Administration there was effort to try and discourage the bill from going forward. They finally ran out of time on the calendar and Mr. Brown stated that he expects to see Dredge and Fill permitting to be before the WRRC this summer.

Mr. Brown added that he will be doing summaries of legislation and he will group them by topical area so he can capture all the new laws in effect and how they relate to one another. He also said he would be keeping a much closer eye on the environmental community and their focus on air quality which has evolved into more of a concern about environmental justice and the impact historically on certain communities or population of subgroups that may have been in proximity to things that might detrimentally affect health. An example that is used quite often is if air quality is associated with the development of natural gas and oil extraction, and what happens in the vicinity of the wells and their operations. Mr. Brown said he is expecting to see within the next that philosophical concept to start looking more into the water world and water quality downstream.

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Mr. Brown was asked if there is any truth to the rumor that President Biden is going to reverse Trump's decision on Dredge and Fill and go back to what we were previously? Mr. Brown stated that he thinks it is probably where things are going to go, and he thinks that is what the Attorney General Wisner would like to see. He added that it is confusing right now and there seems to be a lack of consensus on what the definitions are as to what is water of the US and what is water of the State of Colorado and where do those boundaries lie. Mr. Brown stated that he wouldn't be surprised to see that happen and it would seem to be consistent with the other things that President Biden has done on other actions that the former President and his administration had taken. He added that it is one that is being watched very carefully. Director Colon asked if it would have a negative impact on Colorado and will it create other issues? Mr. Brown answered that it does create other issues and one of the things he was particularly concerned about, and without sounding derogatory toward the CDPHE, but it looked as if they were building quite a permanent presence of staff funded by extremely large fees for the permits. He added that he didn't see much of a justification or rationale for doing it. He said is beginning to see that all those things are going to fall under the Joint Budget Committee (JBC) to look at because they may be tied up with the next round of federal stimulus money to come in the middle of this summer.

Chairman Canterbury commented on the abandonment of water rights discussed in Mr. Brown's Legislative Report. Mr. Brown identified in his report that, "Abandonment is a precisely defined term in water law and means more than simply not being used. It involves establishing the intent of the owner of the water right to permanently discontinue the use of the water right (or portion of the right)". Mr. Canterbury asked State Engineer, Mr. Bill Tyner when the state would be notifying owners whether those water rights can still be used or if they are moving forward with the abandonment? Mr. Tyner said the deadline to file objections is the end of June and must be filed by the end of July. He stated that he has responded on some of the objections that have already been filed and is working on more that have been recently filed. He added that there is some time between the first of July and the end of the calendar year when the final abandonment list is provided by the state and water courts. Mr. Tyner said at that time they will respond to all objections and work with water right owners to see if they can remove water rights from the abandonment list. He added that some have already been removed based on actions that have taken place by the owners to demonstrate that they can fully take that water right the next time it is available and in priority and with sufficient availability of water quantity. Director Colon asked where the abandonment list can be found? Mr. Tyner said it can be found online.

### COMMITTEE REPORTS

None

### RESUME REVIEW COMMITTEE

May Resume unavailable at time of meeting.

### MANAGER'S REPORT – Terry Scanga

Manager Scanga summarized the Van Norman Project and the District's potential partnership with River Science of Canon City. He stated that after the presentation by Luke Javernick of River Science at last month's Board meeting, he recommended a scope of work analysis to be completed by Engineer Manera, Hydrologist Gertson and Mr. Javernick. A chart was displayed indicating the water rights impact analysis. Engineer Manera explained the scope of work completed for the project and types of impacts to water rights and improvements that would cause impacts. He discussed types of improvements that could have negative impacts. Mr. Manera said that if you increase the water surface area then there will be more evaporation, and this is one of the more straightforward impacts. Another impact would be groundwater levels elevated above historic conditions, which could result in additional sub irrigations, evapotranspiration (ET), or additional riparian zone depletions to the stream. He added that these are impacts that could reduce historic stream flow. Several items listed on the analysis were discussed by Mr. Manera. He said the water right review is the study of water rights within this project and identifying any negative impacts to diversion structures. He added that would be a minor component. The 4<sup>th</sup> item discussed by Mr Manera involved what the treatments would physically do to the stream and what their intent is regarding slopes of the streams, water elevation and help quantify whether there will be changes in water level and surface area. It focuses specifically on the Van Norman Project. Mr. Manera said there has been much discussion regarding item 5, Historical Research. He said that if there are changes, how much has changed those historical conditions and how do you quantify how much surface area

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might have been on a stream to begin with and what is truly historical conditions? He added that it is difficult to gage the changes unless there is an indication of where we are starting from. Mr. Manera stated that the 6<sup>th</sup> item is the groundwater impacts that can cause large depletions to the streams and understanding where the groundwater level is at compared to the surface elevations as well as understanding where the groundwater level is at compared to the stream. There are some streams where they are elevated above the stream water table, acting like a ditch or channel where the streams are feeding the groundwater table. Mr. Manera said the concern is during elevated conditions, which is the case with most streams in this valley where the groundwater is already elevated above the stream, increasing it will create more depletions. Mr. Manera explained that item 7 is to quantitatively come up with criteria that would establish that if you raise the ground water within so many feet of the surface it will have 0 impact and if it gets closer what type of additional depletion will that cause? Mr. Manera said that item 7 is putting numbers to things instead of talking about potentials. He added that except for item 2, all other items are site specific to the Van Norman Project. The scope of work presented includes Colorado River Engineering and staff time. Not included in the scope of work is the field work and working with River Science, collecting data and historical research. Engineer Manera stated that the end result is to have a joint written report summarizing the findings and quantifying what the project might have regarding increasing stream depletions and then let River Science decide if it is something they need to mitigate or change restoration plans to reduce the impacts.

Director Donley asked for the names of the ditches included in the project and their appropriation dates. Engineer Manera answered that there are no ditches on the Van Norman property. He added that they have junior water rights not in priority very often. Mr. Manera said that looking at the aerial photos of the property there is not the typical irrigation as in most valleys. He said at the bottom of the ranch there are some infiltration valleys for the town of Rockvale and those could have been impacted if the creek has been downcutting, and if the creek is lowering and the groundwater is leveling it could have reduced the capacity in the past several years, however that is the only water right directly on the property. Mr. Manera said that the goal with this project and all future restoration projects is to keep the water available for appropriation and any depletions will come out whether it is an Oak Creek or main stem water right.

Manager Scanga explained that the idea of the project for the District is to come up with a type of framework that other projects could use to evaluate potential impacts. He asked Mr. Manera if the report will be transferable to a different project? Mr. Manera stated that yes, and item 2 covers potential impacts for projects. He explained that this is a learning process and all impacts may not be listed on this report but the goal is to establish some framework and guidelines displaying negative impacts that demonstrates what should be looked at and then more quantitatively examine them later when there is more specific information to the project. The expectation is that the quantitative steps taken for this project can be transferable to other projects and serve as a basis for future restoration projects.

Director McMurry asked Mr. Manera that if the project is a success, prompting willows and trees to grow, what is the greater depletion on the stream, the increase of evaporative loss due to water being slowed and creating pools, or the increase of willows and trees? Engineer Manera answered that he did not know but the challenge is trying to determine the historical baseline and if there is evidence of projects showing a riparian zone through time or a water surface area that is now gone because of changes to the stream quality or other changes, then the justification of putting it back to that is no more than a historical depletion. If the historical baseline shows that it did not exist and those types of impacts occurred, there will be additional depletion. He added that the treatments are different whether they use pooling or any of the endless combinations of treatments possible, and because it is so broad based item number 2 is very important since it identifies many of the impacts and specifically addresses the ones in this project.

Manager Scanga asked for approval from the Board to become partners with River Science on the Van Norman Project. He said that the scope of work shows an \$18,000-\$20,000 estimated cost for UAWCD. The District will provide \$10,000 of in-kind contribution and River Science will reimburse the District for \$10,000. He stated that he has asked Atty Burgemeister to put together a contract for the Board to sign.

Manager Scanga clarified for the Board exactly where the money is coming from for the Van Norman Project. He said \$99,999 of grant money is being awarded from the Colorado Water Conservation Board

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(CWCB) and that the \$10,000 to the District comes from that grant money. UAWCD is being asked to contribute \$10,000 for in-kind work. \$20,000 is the cost of the project for the District and River Science will reimburse the UAWCD \$10,000. He added that the advantage for the District to be involved in this project is in creating a framework for future projects due to the increase in stream restoration projects. The entities that promote these projects have little knowledge of the negative impacts to water rights and forge ahead creating injury to water rights. Manager Scanga commented that it is necessary for UAWCD to participate in these projects to avoid negative impacts and injury to water rights. He expressed that this is a proactive, positive approach and although there are some benefits derived from these projects there is always a cost and that cost needs to be addressed. If a project injures water rights, then it needs to be mitigated and this is a way of creating a framework, so people know how to move forward with these projects and still protect water rights.

Upon motion by Director Payne, seconded by Director Telck, the Board unanimously approved moving forward to become project partners with River Science on the Van Norman Project with an in-kind contribution not to exceed \$10,000. The Board approved the motion with a vote of "Aye".

Chairman Canterbury asked Bill Tyner how the state currently determines injury on stream rehab projects? Mr. Tyner stated that the process typically used in this type of situation is for the project to be evaluated at the state engineer's office in Denver. He said the analysis is very similar to the approach Mr. Manera described in the Van Norman Project and similar to the approach that Manager Scanga recommended to the round table for considering similar grant applications. He added that it was elevated up to CWCB to where the state engineer's office was aware that there might be a need to evaluate grant projects for that consideration. Mr. Tyner expressed that he agrees that it is a good framework and the legal advisers at the Attorney General's office have been looking at these types of projects quite closely and may be leaning toward an approach that would require these projects to follow a more traditional evaluation path like going through a substitute water supply plan where it is demonstrated what the impacts are to the stream restoration project and what the mitigation will be.

### **Review of Personnel Policy Manual**

Atty Burgemeister reviewed the changes to the Personnel Policy requested by Board members during previous workshop meeting on May 14, 2021. A redline copy of the Personnel Policy outlining changes from the original draft, along with a clean draft copy was made available to Board members to review prior to the date of the meeting.

Atty Burgemeister discussed all redline changes with the Board. These changes are as follows:

#### **Section 1.7. Equal Employment Opportunity**

Language was changed showing "disability, religion, age, national origin or ancestry, genetic information or any other status protected by federal or state law."

#### **Section 1.8.1. Full Time Employment**

Language was changed to include "at least" 30 hours per week.

#### **Section 1.8.5. Exempt/Non-Exempt Employees**

This section was added to define the difference between Exempt and Non-exempt employees and it reads: "Throughout these Policies, any reference to "exempt" or "non-exempt" employees mean employees who are exempt, or not, respectively, from the minimum wage and overtime pay requirement of the Fair Labor Standards Act, determined by the District in accordance with applicable laws and regulations."

#### **Section 1.9.2. Personnel Committee**

This section was added as a separate committee of the Board assigned with the responsibility for personnel matters. It was decided among Board members to add "Human Resources or Personnel Committee" to reflect the type of committee more accurately. The previous Personnel Committee was broadened to Human Resources.

#### **Section 21. Work Week**

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Language was removed to better define a work week consisting of 5 days beginning at 12:01 a.m. on Sunday and ending at 12:00 p.m. on Saturday.

### **Section 2.5.2. Tardiness**

As specifically requested by Director Goodwin language was added, cross referencing PTO as defined in Article 4.

### **Section 2.6. Safety**

“Compliance with public health orders” was added to safety practices and procedures.

### **Section 3.1. Pay Classification**

A paragraph was added stating: “ When establishing a new employee position, negotiating a new contract with any employee whose compensation is set by contract, and no less than once every three years for all other existing employee positions, the Personnel Committee shall review a reputable compensation survey for employers similar to the District. The Personnel Committee shall make a report and recommendation to the Board regarding compensation, taking the survey and other relevant criteria including local cost of living into account.”

Director Donley asked how does the Board request and who conducts the surveys?

Manager Scanga answered that it has been accomplished through the Southeast District. A salary survey is conducted every 2 to 3 years through an independent company. He explained that the Southeast District has positions similar to the UAWCD and he is currently in the process of working on a salary survey with GM Broderick of the Southeast District. Manager Scanga added that benefit and salary surveys are alternated every 2 to 3 years and the cost of those surveys are shared with the Upper District. Director Colon asked about the cost of those surveys. Manager Scanga said they cost around \$25,000 each. Manager Scanga stated that there have been benefit surveys conducted in the past and the District developed a separate policy on benefits which is listed in the annual budget. Director Colon suggested adding a benefit survey along with the salary survey to the policy.

Director Hilderbrand voiced his concern regarding the number of paid holidays allocated to employees. He stated that in his opinion, 13 holidays are “more than generous” and felt that 12 paid holidays seemed more appropriate. He asked if it could be included in the evaluation of the benefit packet? Manager Scanga explained that the District’s list of holidays is derived directly from Chaffee County and anything can be included in the benefit survey. Director Felt clarified for the Board the list of Chaffee County holidays that coincided with the District, except for Columbus Day.

After much discussion, the Board agreed to remove Columbus Day as a holiday off.

### **Section 4.1. Paid Time Off (PTO)**

Language was added to include: “Use of PTO in excess of 5 consecutive working days shall also be approved by the District Manager, and use of PTO by the District Manager in excess of 10 working days shall be approved by the Board”.

#### **4.1.2. Payment for Accrued PTO**

A paragraph was added stating: “The maximum accrued vacation and personal days for which monetary compensation will be provided shall be 30 days, provided, however, that any current employee who has accrued more than 30 vacation and personal days as of the date these Policies are adopted shall be entitled to monetary compensation without regard to this limitation at the employee’s option at the end of the 2021 calendar year, or at the time of termination of employment prior to end of the 2021 calendar year. Thereafter all employees shall be subject to the limitations of this paragraph”.

#### **4.1.6. Sick Leave**

A paragraph was added to include: “The Board supports a general policy of allowing employees to transfer unused sick leave to a co-worker that, due to extraordinary medical hardship, requires time away from work in excess of his or her available sick leave. However, such sharing of sick leave shall be subject to Board approval on a case-by-case basis”.

### **Section 5.6. Employee Reviews**

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A paragraph was added stating: “The District Manager’s review shall be completed by the Personnel Committee. All other reviews shall be completed by the employee’s supervisor”.

Director Payne expressed whether the Board agreed with having a specific committee conduct the employee reviews or if every Board member be included? Chairman Canterbury clarified that the review is completed by the Personnel Committee and then submitted to the Board. Chairman Canterbury added that committees do not make decisions, they make recommendations.

### **Section 6.2.1. Employment-Related Testing**

Atty Burgemeister said he added a substantial paragraph regarding this policy and requested by Board members which states that “all employees are subject to reasonable suspicion drug/alcohol testing...” Director Diesslin stated that he has extensive experience concerning on the job drug testing and he commended Atty Burgemeister on how well defined and outlined it was written.

### **Section 6.12. Photography/Cameras; Privacy**

Terminology was cleaned up stating that any photographs of District employees are to be “used for strictly” District purposes.

### **6.13. Violence, Threats, Intimidation Prohibited**

The paragraph regarding the carrying of “weapons” was changed to “firearm” and states that a concealed handgun without a “valid” permit “into the District’s office building” is prohibited and must remain concealed at all times while “in the District building”.

### **9.3. Resignation**

Language was added that includes participation in an exit interview if one is requested.

PM Goodwin expressed the need to add a section in the policy outlining maternity leave. The Board agreed and Atty Burgemeister stated he would investigate what the law states and add a section to the policy. Atty Burgemeister added that legislation that has been passed is reflected in this policy regarding mandatory sick leave for all employees that takes affect the beginning of next year. He said there was a similar push for statewide mandatory family medical leave for things such as maternity leave, but he was uncertain to whether it has become state law yet.

Chairman Canterbury clarified for Director Shields, Section 1.6. Authority of District Board Members, stating that the Board has the ultimate authority and can delegate authority to the General Manager as is stated in the second sentence in that section. Manager Scanga added that the purpose is for delegation of responsibilities. Atty Burgemeister further explained that certain authority is delegated to the General Manager for day to day responsibilities but in the unlikely event that the Board wants a particular course of action taken either hiring or firing someone and the GM is not willing or able to do so, the Board has the authority to act on behalf of the District.

Director Felt expressed that he feels the words authority and responsibility are the key. He stated that it is about the Board’s authority, and it is a “buck stops here” statement where the Board is ultimately responsible for everything that happens and without responsibility there is no authority. He added that he feels the responsibility is greater than the authority and even though this document pertains to employees, including the Manager, it is important for the Board to understand that those two terms are integrally related and that is what the public expects of the Board. Chairman Canterbury stated that he appreciated Director Felt’s comment and said his personal feeling is that if we are asking employees to follow these guidelines and live by these rules, then we should be held to the same standard as his position.

### **ENGINEER’S REPORT – Chris Manera, Colorado River Engineering (CRE)**

Engineer Manera presented updates on current projects. (Current project update was presented during the Manager’s Report above)

### **LEGAL REPORT – Law of the Rockies, Kendall Burgemeister**

## RECORD OF PROCEEDING

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Attorney Burgemeister reported on the status and developments of several UAWCD applications. A legal report was made available to all Board members prior to the meeting.

Atty Burgemeister requested authorization from the Board to file an application to make 04CW96 exchanges absolute in part and for finding of diligence. Upon motion by Director Donley and seconded by Director Colon the Board approved to file an application to make 04CW96 exchanges absolute in part and for a finding of reasonable diligence on any portion not made absolute.

**21CW3030:** Application to make 96CW17 Exchange absolute in its entirety.

- Developments: Application filed.
- Status: Opposition due at the end of July.

**19CW3089:** Change of Cottonwood Irrigating Ditch

- Developments: Statement of opposition filed by the Department of Corrections.
- Status: Before the Referee. Opposer comments due end of June.

**18CW3076:** Augmentation Expansion

- Developments: Decree entered.
- Status: Closed.

**18CW3048:** Joint application to change Silver Creek-Ronk Ditch water

- Developments: Continued settlement discussions with opposers.
- Action: Consideration of stipulation with Tri-View Metro District (same form of Stipulation and Decree as Buena Vista).

Upon motion by Director Felt and seconded by Director French, the Board approved the stipulation between the Upper Arkansas Water Conservancy District acting through the Upper Arkansas Water Activity Enterprise, and the Tri-View Metropolitan District, in Case No. 18CW3048.

- Status: Before the Water Judge. Trial scheduled to begin October 25, 2021. Opposer expert disclosures due June 16. UAWCD rebuttal disclosures due July 28.

Applications UAWCD is opposing:

**19CW3061:** Application of Tom Smith

- Developments: Trial scheduled for March 2022
- Status: Before the Water Court. UAWCD initial disclosures due August 10, and expert disclosure due November 1, 2021.

### **CHAIRMAN AND DIRECTOR REPORTS**

Consideration of executive Session pursuant to C.R.S. 24-6-402(4)(e) to discuss General Manager contractual negotiations.

Upon motion by Chairman Canterbury and seconded by Director Payne, the Board approved to go into Executive Session at 3:18 p.m. All staff members were excused from Executive Session.

The Regular District Board meeting reconvened at 4:39 p.m.

### **NOTICES & MEETINGS**

None

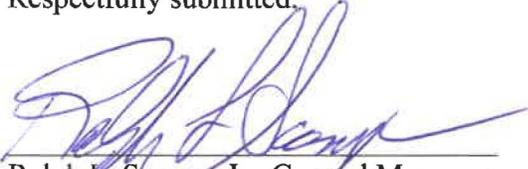
### **ADJOURN**

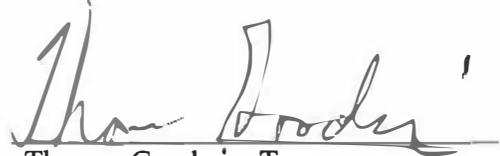
There being no further business to come before the Board or Enterprise and upon motion by Director Colon, seconded by Director Donley and approval of the Board, the meeting adjourned at 4:40 pm.

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RECORD OF PROCEEDING

Respectfully submitted,

  
Ralph L. Scanga, Jr., General Manager

  
Thomas Goodwin, Treasurer

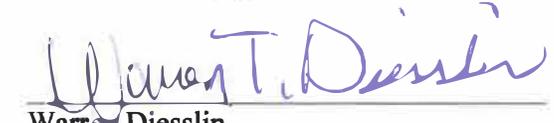
  
Timothy C. Canterbury

  
Richard Hilderbrand

approved remotely - no signature  
Marnie Colon

  
Franklin J. Moore

  
Robert B. Donley

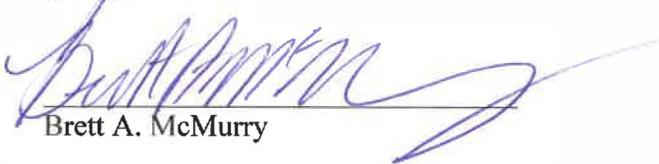
  
Warren Diesslin

approved Remotely - no signature  
Gregory W. Felt

absent - no signature  
Tim Payne

  
Tom E. French

  
Tony Telck

  
Brett A. McMurry

absent - no signature  
Mike Shields