

**UPPER ARKANSAS WATER  
CONSERVANCY DISTRICT**

**Regular Meeting of the Board of Directors**

**June 13, 2024  
1:00 PM**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, June 13, 2024, commencing at 1:00 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 June 12, 2024, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

**DIRECTORS PRESENT (IN PERSON)**

Mannie Colon	Gregory W. Felt (acting Chair)	Mike Shields
Tom French	Tim Payne	Warren Diesslin
Richard Hilderbrand	Brett McMurry	Albert Eggleston
Robert B. (Bill) Donley	Tony Telck	
Thomas Goodwin		

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

Tim C. Canterbury

**DIRECTORS ABSENT**

None

**DISTRICT OFFICIALS/STAFF MEMBERS PRESENT**

Ralph L. (Terry) Scanga, General Manager	Chris Manera, Engineer
Jennifer A. Scanga, Administrative Assistant	Kendall Burgemeister, Attorney

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

Denise Sanchez, Office Manager	Jord Gertson, Hydrologist
Richard Brown, Legislative Consultant	Gracy Goodwin, Projects Manager

**DISTRICT OFFICIALS ABSENT**

None

**STATE OFFICIALS PRESENT**

Dan Henrichs, Water Commissioner, District 12  
Talon Canterbury, Deputy Water Commissioner, District 11

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

Will Scott, Water Commissioner, District 11

**STATE OFFICIALS ABSENT**

Rachel Zancanella, Division Engineer  
Joe Crabb, Augmentation Coordinator

**EX-OFFICIO REPRESENTATIVE PRESENT**

Bill Canda, Custer County Commissioner  
Dwayne McFall, Fremont County Commissioner

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

None

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### **EX-OFFICIO REPRESENTATIVES ABSENT**

Shawn Williams, Buena Vista Public Works Director  
Drew Nelson, City of Salida Administrator  
Travis Payne, Canon City Water Superintendent  
Sean Kelly, Poncha Springs Town Administrator  
Dave Schneider, Round Mountain Water and Sanitation District Manager

### **GUESTS PRESENT**

Jerry Livengood, Water Commissioner, Division 13  
Kristie Nackord, Palmer Land Conservancy  
Earl Wilkinson, City of Aurora  
Rich Vidmar, City of Aurora, Water Resources Manager  
Rick Kienitz, City of Aurora, Arkansas/Colorado Basin Manager  
Abba Ahmed, City of Aurora

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

Joe Stone, Heart of the Rockies Radio News  
Emily Tracy, Canon City Council  
Alexandra Davis, City of Aurora  
Steve Cann, Aurora City Attorney's Office  
Marshall Brown, General Manager of Aurora Water  
Ian Best, Aurora City Attorney's Office  
Israel Ortega, City of Aurora

### **PLEDGE OF ALLEGIANCE**

Vice Chairman Felt 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 newly appointed director, Tim Payne, Division 5, Seat A.

Director Colon asked why there is an Assistant Secretary and Assistant Treasurer in addition to the main officers of the Board. Manager Scanga explained that it is a matter of pragmatics for daily transactions and testing of decrees and contracts.

### **ELECTION OF OFFICERS**

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

Chairman -- Tim Canterbury

Vice Chairman -- Gregory W. Felt

Secretary -- Tom French

Treasurer -- Thomas Goodwin

Assistant Secretary-Treasurer -- Terry Scanga

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

Director Colon made a motion to leave officers and Committee as is and the motion was seconded by Director Donley. This motion was unanimously approved by the Board. Upon motion by Director Goodwin, with a second by Director Colon, the Board voted to cease nominations.

***THE BOARD OF DIRECTOR MEETING RECESSED AT 1:05PM***

***MEETING RECONVENED AT 1:16pm***

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### MINUTES OF THE MEETING OF May 9, 2024

The minutes of the meeting on May 9, 2024, were approved upon motion by Director Colon with second by Director Donley.

### FINANCIAL REPORTS

Upon motion by Director Goodwin with second by Director Telck, the Board approved the monthly financial reports dated May 31, 2024.

### PROGRAM PRESENTATIONS

Rick Kienitz, Arkansas/Colorado Basin Manager for the City of Aurora gave a presentation on the proposed Arkansas Basin Agricultural/Municipal Partnership Project.

Included in his presentation were Aurora-Arkansas basin IGA's, proposed residential 2024 water rates, conservation programs, 2022-2046 city ordinance, water demand and population growth from 2002-2023, Aurora South Platte acquisition map, IGA payments, 2024 Cooperative Farm Proposal, an overview of proposed project assets, land involved in the cooperative project, and project cost. He concluded his presentation with key points including IGA limitations and restrictions. He explained that the purchase will keep 100% of water in an agricultural right and use Interruptible Water Supply Agreement (IWSA) legislation to facilitate interruptible supply water in years that Aurora meets criteria to use Arkansas Basin water under the IGA limitations. Also that all existing Super Ditch leases and agreements will be honored by Aurora with no permanent dry up or change of water rights. He further stated that the new IGA or Agreement with Otero County will keep the tax base whole and continue Agricultural lands in productions, and will meet the needs or desires of conservancy districts.

After the presentation Mr. Kienitz answered questions from Board members and other meeting attendees.

Mr. Kienitz clarified for Emily Tracy that water rights are put into escrow and Aurora has not taken possession of the water certificates. He said they are looking into different mechanisms and ways to ensure that in perpetuity and moving forward, that water stays in AG and in production. He further stated that they are working with Southeast. Earl Wilkinson from the City of Aurora added that Southeast has set up a small group for negotiations with Aurora and he is part of that team. He stated that there will be future meetings scheduled on a regular basis to work on negotiations to move forward with an agreement that will work for both entities.

Mr. Kienitz explained to Director Payne that Aurora's water allocation is limited to what the land has historically used for Ag./ plant growth, and any water that runs off or infiltrates cannot be claimed by Aurora. He added that IWSA regulations determine the amount of water Aurora is entitled to based on the historical consumptive use of the land.

Director Shields commented that Aurora's plans of using 30% of its Arkansas Basin water for decades goes against the 2003 IGA.

Director Goodwin raised concerns regarding Aurora's water acquisition practices in the valley. The Intergovernmental Agreement (IGA) stipulates that Aurora may only lease water rights, not purchase them outright. However, Director Goodwin stated that Aurora has purchased water and placed it in an escrow account, effectively circumventing the intent of the IGA. This perceived lack of transparency undermines the spirit of cooperation established by the agreement.

Atty Burgemeister explained that Aurora's current interruptible water supply agreement (which grants them water access that can be suspended during times of shortage) might not be sustainable in the long term (in perpetuity) and Aurora will eventually have to go to water court unless they are banking on a legislative change.

Manager Scanga questioned that instead of a 40-year agreement, would it be possible to explore the feasibility of a perpetual agreement and water leasing allowance under the 3 & 10 provision? He expressed that a perpetual agreement could offer long-term stability and potentially simplify future

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administrative burdens.

Mr. Wilkinson answered that he didn't know since he never looked into it, however there is an option for perpetual agreements with possible restrictions.

Manager Scanga added that it aligns well with sustainable water management practices in the basin. A perpetual agreement would provide clarity on what to expect from Aurora regarding interruptible supplies, including the methodology used and water removal process.

Richard Vidmar, Water Resource Manager for the City of Aurora gave a presentation on the Wild Horse Reservoir. His presentation included a project overview, project needs and objectives, diversion areas, Aurora's water system, water purification facilities, potable reuse/prairie waters, Aurora leads in water conservation, project location, source water, dam information, reservoir renderings, permitting, project impacts, timeline, recreational considerations, and project benefits.

A question and answer period was given after the presentation.

Manager Scanga asked about the long-term availability of Homestake 2 as a water source and whether it will be a viable option in the future.

Mr. Vidmar stated that the integrated water master plan places Homestake 2 water access in the very distant future. Mr. Vidmar also highlighted the importance of moving forward with the Wildhorse Reservoir project. He said the project offers significant benefits for the South Platte region by improving water reliability and reducing risk. He added that diversifying water sources away from the Colorado North Arkansas basin, which currently supplies half of our water, is a key advantage of Wildhorse Reservoir.

### **EX-OFFICIO REPORTS**

None

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

PM Goodwin provided a written summary of grants in progress. She gave an update on June 2024 projects which included Trout Creek Park Alluvial Storage, Trout Creek Intra-Ditch Exchange, Round Mountain Reservoir Feasibility Study, DCP Upgrade and Expansion, and USGS Study Phase 3.

Engineer Manera gave an update on the Trout Creek Intra-Ditch Exchange and the monitoring well. He stated due to the large drilling cost for production wells, the District was able to drill a residential size well under a monitoring permit. He stated that the initial drilling near the river produced 30 gallons per minute at 60 feet, which is below the minimum yield of 225 gallons per minute needed for the exchange. He added that further drilling to 120 feet increased the yield to 60 gallons per minute, still short of the requirement. After access to a high-horsepower pump, the test showed 93-100 gallons per minute. Moving forward, another well will be drilled to get to the 225 gallon requirement. He said that with the type of well casing and high powered pump, there is the potential to get closer to the requirement.

Manager Scanga updated the Board on the Trout Creek Park Alluvial Storage Project and the upcoming meeting with the potential for a long-awaited agreement with the Colorado Department of Corrections (CDOC).

### **CONSULTANT REPORT – Richard Brown**

Legislative Consultant Brown provided a written report of Legislative Updates for the Board to review. The report included a summary of bills in action and updates on the current water legislature.

### **COMMITTEE REPORTS**

None

### **RESUME REVIEW COMMITTEE**

Nothing of significance in the April Resume

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### **MANAGER'S REPORT – Terry Scanga**

Kristie Nackord, Vice President of External Affairs for Palmer Land Trust Conservancy presented to the Board a sponsorship proposal for the MiraSol Movie Production.

Upon motion by Director Payne, with a second by Director Colon, the Board approved a \$15,000 sponsorship with Palmer Land Trust MiraSol Movie Production.

### **McCarty Land South Ark Reservoirs Market Values discussion:**

Manager Scanga updated the Board on property values put together for the District. He stated that the average range is between \$3000-\$5000. He said he feels it is worth doing an appraisal on the three South Ark Reservoirs. He asked for a vote from the Board to move forward with the appraisal process. He added that if it is approved, he will contact the United States Forest Service (USFS) and get the appraisal started.

Upon motion by Director Hilderbrand, seconded by Director Goodwin, the Board approved moving forward with the appraisal.

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

Engineer Manera gave a brief update on the hydrology work for the Alluvial Storage Project and the trout creek Intra-Ditch project.

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

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

Atty Burgemeister reported on applications in the 22CW3093 Case. He reviewed the application to add Wenke Pond to 18CW3076 plan.

Copies of the Geroux Case No. 22CW3088 settlement agreement were provided to Board members. Atty Burgemeister explained that the District will augment Geroux's Spring for stock watering purposes. The agreement states that the UAWCD will obtain a conditional appropriative right of exchange to fill Wenke Pond as a source of augmentation water under UAWCD's decree entered in Case No. 18CW3076. Atty Burgemeister explained that the agreement allows UAWCD access to the Geroux Spring for construction improvements, inspection and maintenance.

Atty Burgemeister explained that the dispute between the Geroux's and Wenke pond prompted this agreement and the Geroux's agreed to allow access to UAWCD through their property to get to the Wenke pond. Atty Burgemeister stated that gates will need to be installed to allow access. He displayed a map showing the property and the location of the pond.

Manager Scanga expressed that there needs to be access to the Wenke pond to get equipment through to repair the pond.

Upon motion by Director French, seconded by Director Eggleston, the Board approved the proposed stipulation in Case No. 22CW3093 and Case No. 22CW3093 between the Upper Arkansas Water Activity Enterprise and Darrell and Twila Geroux..

Upon Motion by Director Hilderbrand, seconded by Director Telck, the Board approved the proposed stipulation in Case No. 22CW3093 between the Upper Arkansas Water Activity Enterprise and Round Mountain Water & Sanitation District.

Upon motion by Director Donley, seconded by Director Hilderbrand, the Board approved to authorize legal counsel to enter into a stipulation with Wilbur C. Miller Family LLC in Case No. 22CW3093 on the same terms as the stipulation with the State and Division Engineers.

Atty Burgemeister explained the terms in an agreement for development and use of a pond with Christe Coleman. He displayed a map showing the location of the property and pond.

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Upon motion by Director Payne, with a second by Director Telck, the Board approved the agreement with Christe Coleman.

### **ENTER INTO EXECUTIVE SESSION: 4:08pm**

Upon motion by Director Colon, seconded by Director French, the Board approved entering into executive session pursuant to CRS § 24-6-402 (4)(b) & (e) to receive legal advice and instruct negotiators in formulating strategies for opposing a water rights purchase and transfer, and potential violations of existing agreement(s), & to C.R.S. § 24-6-402(4)(b) for a conference with an attorney for the District for the purposes of receiving legal advice on specific legal questions relating to the search for a new General Manager, and C.R.S. § 24-6-402(4)(e)(I) for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators regarding the selection of one or more finalists for the General Manager position and negotiating the terms of a contract with such finalist(s).

After the vote to enter Executive Session, Acting Chair Felt recused himself from the meeting and left the premises. Manager Scanga Served as Acting Chair during the Executive Session and the portion of the Open Session prior to Acting Chair Felt's return.

### **EXIT EXECUTIVE SESSION: 5:32pm**

Upon motion by Director Colon, with a second by Director Donley, the Board approved to exit executive session.

Upon motion by Director Hilderbrand, seconded by Director Eggleston, the Board approved to add Greg Felt as a second finalist for the General Manager Position.

Acting Chair Felt returned to the building and conducted the remainder of the meeting following this board action.

### **CHAIRMAN AND DIRECTOR REPORTS**

Some discussion pursued regarding Hydrothermal wells. Several Board members made comments on the issue.

### **NOTICES & MEETINGS**

- IBCC Meeting, June 18, 2024, Durango, CO.
- ABRT Meeting, July 10, 2024, Pueblo, CO

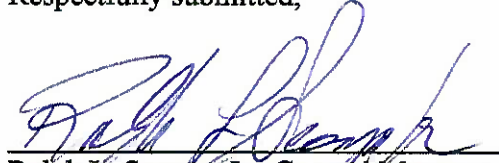
### **ADJOURN**

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 5:38pm.

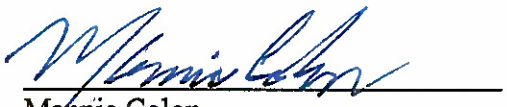
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Respectfully submitted,


  
Ralph L. Scanga, Jr., General Manager

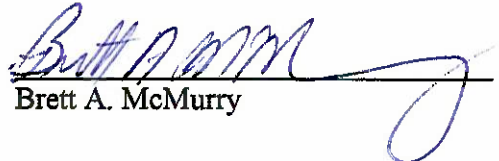
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Timothy C. Canterbury

  
Manie Colon


  
Robert B. Donley

  
Gregory W. Felt


  
Tom E. French

  
Brett A. McMurry

  
Thomas Goodwin, Treasurer

  
Richard Hilderbrand

  
Albert Eggleston

  
Warren Diesslin

  
Tim Payne

approved Remotely - no sign.  
Tony Telck

absent - no signature  
Mike Shields