

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Regular Meeting of the Board of Directors

**July 13, 2023
1:30 PM**

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

DIRECTORS PRESENT (IN PERSON)

Tim C. Canterbury	Richard Hilderbrand	Warren Diesslin
Gregory W. Felt	Tim Payne	Albert Eggleston
Tom French	Brett McMurry	
Thomas Goodwin		

DIRECTORS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Mannie Colon	Tony Telck
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DIRECTORS ABSENT

Robert B. (Bill) Donley	Mike Shields
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DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

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

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

Richard Brown, Legislative Consultant

DISTRICT OFFICIALS ABSENT

Denise Sanchez, Office Manager

STATE OFFICIALS PRESENT

Dan Henrichs, Water Commissioner, District 12
Rachel Zancanella, Division Engineer
Will Scott, Water Commissioner District 11

STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

None

STATE OFFICIALS ABSENT

Brian Sutton, Augmentation Coordinator

EX-OFFICIO REPRESENTATIVE PRESENT

Bill Canda, Custer County Commissioner
Travis Payne, Canon City Water Superintendent

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

Dwayne McFall, Fremont County Commissioner

EX-OFFICIO REPRESENTATIVES ABSENT

Brian Berger, Poncha Springs Town Administrative Officer
Shawn Williams, Buena Vista Public Works Director

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Drew Nelson, City of Salida Administrator
Dave Schneider, Round Mountain Water and Sanitation District Manager

GUESTS PRESENT

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

GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERNING)

Joe Stone, Heart of the Rockies Radio
Bobby Banham, Pueblo West Metropolitan District Utilities Dept., Operations Manager

PLEDGE OF ALLEGIANCE

Chairman Canterbury led attendees in the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Guests were asked to introduce themselves.

MINUTES OF THE MEETING OF June 9, 2023

The minutes of the meeting of June 9, 2023, were approved upon motion by Director Hilderbrand with second by Director Felt.

FINANCIAL REPORTS

Upon motion by Director Goodwin with second by Director Hilderbrand, the Board approved the monthly financial reports dated June 30, 2023.

Manager Scanga reviewed the July Quarterly Financial Report.

PROGRAM PRESENTATIONS

Division Engineer Rachel Zancanella gave a presentation on the Division of Water Resources Duties and Responsibilities. She broke down the Division 2 main areas of focus into 3 parts: Water Rights Administration, Enforcement, and Compact Compliance.

Engineer Zancanella stated that the appropriation of water rights uses the Prior Appropriation Doctrine of "first in right, first in line". She further stated that the water right priority is based on the appropriation date and the adjudication date. She explained that the adjudication began at the time the water court judge signed the decree and made it legal, and the previous adjudication date which says whether or not the decree is original adjudication or supplemental. Supplemental adjudication came after the original adjudication. She explained that the appropriation date is the date water was first put to beneficial use.

Engineer Zancanella continued her presentation explaining the Postponement Doctrine. She stated that originally decrees were in each district court when water rights were initially being established prior to statehood. An original adjudication was offered to all owners of water rights put to beneficial use, and those that appeared in water court. For each county water rights were listed in order and the water judge assigned one decree for all water rights in each area assorted by the appropriation date the water was put to beneficial use. This process was done one more time and a second adjudication was created. Engineer Zancanella further explained that this second adjudication offered those who did not appear in court during the first opportunity who put their water to beneficial use, another opportunity to be placed in the second adjudication and although those water rights would be junior to everyone in the first adjudication even though the appropriation date is senior to the most junior of the first decree. They would be considered junior water rights. This decree is considered the Supplemental Adjudication.

Engineer Zancanella stated that this was how water rights administration was handled until the 1969 Water Right Determination and Administration Act. Up to this point each county court administered

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water rights district by district. Due to it being a tributary system with all water rights flowing into the Arkansas River, it was decided that the water court would be moved to Pueblo and anyone with a water right would report to Pueblo where water rights would be administered together. Engineer Zancanella further stated that the 1969 Water Right Determination and Administration Act changed the legal right of water and triggered the integrated tabulation of surface and groundwater.

Engineer Zancanella explained the admin number/Holts number, stating that the admin number was created by Ken Holt of the Division of Water Resources and it is a simple ranking system of water rights priorities. She said it is a numerical method that combines the appropriation date, adjudication date, and previous adjudication date and assigns a number to a water right. The number system references the number of days since December 31, 1849. It is a date prior to the most senior Colorado water right.

Much discussion and feedback ensued after Engineer Zancanella's presentation.

Engineer Zancanella clarified for Board members that she thinks the statute about 18 years historic administration says that if a water right was historically administered for 18 years prior to 1969 it would be administered based upon its date of appropriation however, in 1978 you were given the right to object to the tabulation and be sorted correctly based on historic practice. She added that the deadline was set in the statute for an opportunity to object if your administration number did not comply with historic administration.

Manager Scanga expressed that the state would not admit the algorithm was flawed and didn't take into account historic practice. Engineer Zancanella stated that legally according to statute, the time to adjust the admin number to reflect historic practice was prior to 1980. Manager Scanga rebutted this by questioning if perhaps the state disregarded the mistake because it went unnoticed? Ms. Zancanella explained that she believes the state is saying that if a mistake was made and no one brought it the state's attention and a water right was administered wrong for 18 years, then when the law changed that was the opportunity to correct the state's mistake. She added that the statute gave a specific date to object. She further added that she isn't changing the water right, she is administering it the way the court said she should.

Engineer Zancanella summarized by stating that the legislature put the responsibility on the water rights owners to evaluate the list and find out whether it would impact them to be ordered in that way and then laid out a schedule to protest if desired.

Engineer Zancanella further clarified that the division is not changing anything, they are allowing water rights that would normally be administered by appropriation date to continue being administered the way they have historically been done, only they will annotate for a season or two as authorized diversions to see what the impact is.

Manager Scanga questioned what the benefit would be to changing the status quo? What is the benefit to the basin, the state, to agriculture, to the communities, and to the economy, and why change it after almost 170 years of administration?

Many Board members expressed thoughts on how water rights will be administered moving forward and questioned administration practices.

EX-OFFICIO REPORTS

None

PROJECT MANAGEMENT REPORT- Gracy Goodwin

PM Goodwin provided a summary of grants in progress via a power point presentation. She gave an update on July 2023 projects which included Round Mountain Reservoir Feasibility Study, DeWeese Enlargement Feasibility Study, USGS Study Phase 3, Trout Creek Park Alluvial Storage, Water Balance Phase 2, Trout Creek Intra-Ditch Exchange, and DCP Upgrade and Expansion.

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Director Hilderbrand asked what the plan is for getting water out of the proposed round mountain reservoir if it is filled with a well? Engineer Manera stated that an outlet is required using a more direct route avoiding the high spot along the original proposed route.

Director French asked if using a well to fill the reservoir is a step back and would be less productive? PM Goodwin answered that it may take a bit longer to initially fill but would not be less productive since mostly small releases will be made. She added the well would be augmented in order to use it. Engineer Manera further explained that Round Mountain indicated that the well pumps 500 gallons per minute and most of the water to fill the reservoir will come through exchanges from DeWeese Reservoir.

CONSULTANT REPORT – Richard Brown

Legislative Consultant Brown provided an oral report on Legislative Updates.

Mr. Brown stated that he was not familiar with the article in the Denver Post Consultant Baker spoke of. Mr. Baker explained that the article stated that the Governor was requested to promote an amendment to the Prior Appropriation constitutional provision for Colorado to impose the doctrine of right for the state. He said attorneys in a recent meeting with the University of Colorado, spoke of restructuring the allocation of water in the Colorado River. He added that he would find out more information to report to the Board.

Legislative Consultant Brown clarified for Mr. Baker that the six county agreement is trying to thwart the removal of water from the San Luis Valley and transport it to the Denver metropolitan area. He said they are attempting to put together an intergovernmental agreement for a common policy for developing water in the valley. Mr. Brown stated that it doesn't look as though it will happen but will keep an eye on it. Consultant Baker explained that it is his understanding that Douglas County promoters are planning on taking water from the upper end of the San Luis Valley, put it into a river near Poncha Springs, drain it into the Arkansas River, and carry it down to the eastern plains where water can be pumped up to Douglas County. He expressed that if this is the proposal, the District will most likely become involved and the 1969 Water Adjudication Administration Act will be a formal player.

Mr. Brown explained that another proposal stated that water will be pumped from the west side of the Denver Metropolitan area with Chatfield as the place to catch the water to distribute to other areas around Denver, particularly Douglas County.

Legislative Consultant Brown informed the Board that the wildfire interim committee begins soon and he will be attending to get an idea of what is being worked on. He said a lot of the issues deal with clean up and reconstruction and rebuilding with a particular focus on insurance coverage. He also informed the Board of upcoming events, including The Water Congress Summer Conference the 3rd week of August and the Water Resources Review Committee (WRRC) meeting in conjunction with Water Congress in Steamboat Springs. He said the Colorado Drought Taskforce will be meeting to discuss the Colorado River Compact negotiations.

COMMITTEE REPORTS

None

MANAGER'S REPORT – Terry Scanga

Resolution 2023-2- Purchase Policy

Due to the recent purchase of a new company vehicle, Manager Scanga was prompted to update and amend the original and outdated District purchase policy of November 10, 2005. He summarized the policy stating that the exempt expenditures were increased to reflect inflation.

The Board discussed the policy and made comments expressing the need for more time to review the policy and revising the language on # 12 under exempt expenditures.

Attorney Burgemeister explained that the policy is based on standard policies of local governments and the recent purchase of a District vehicle spurred this policy. He further explained that the policy was created in an attempt to allow spending flexibility and allow the General Manager to operate as needed

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in situations where scheduling a Board meeting is not feasible. He added that there is always an opportunity to discuss expenditures at the end of the month when financials are generated and made available to the Board for review.

Hydrologist Gertson used the example of any emergency situation as a time when the GM would need to make a financial decision without first consulting the Board. He added that when timing is crucial, spending decisions must be made immediately.

Upon motion by Director Payne, seconded by Director Colon, the Board approved to table the motion and revise the policy before voting.

Manager Scanga concluded his Manager's Report by informing the Board of the change at the September meeting date. The meeting will be scheduled for the 7th of September, a week earlier than the usual date.

RESUME REVIEW COMMITTEE

Nothing of Significance in the May Resume. The June Resume was unavailable at the time of meeting.

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

Engineer Manera gave a brief update on the progress on the Trout Creek Project. He said survey data was provided by Blue Triton.

Mr. Manera stated that fieldwork was completed in Custer County on the Wenke Pond and he met with objectors on the case and completed a site visit of Round Mountain Reservoir.

LEGAL REPORT – Law of the Rockies, Kendall Burgemeister

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

Atty Burgemeister informed the Board of the application to add Wenke Pond to 18CW3076 augmentation plan.

Upon motion by Director Hilderbrand, with a second by Director French, the Board approved the proposed stipulation in Case No. 22CW3093 between the Upper Arkansas Water Activity Enterprise and Stermer Family Investments LLLP.

CHAIRMAN AND DIRECTOR REPORTS

None

NOTICES & MEETINGS

CWC Summer Conference-August 22-24, Steamboat Springs Grand
Human Resources Committee Meeting – July 25th 10:00 AM, District Office
Budget & Finance Committee Meeting—August 15 10:00 AM, District Office

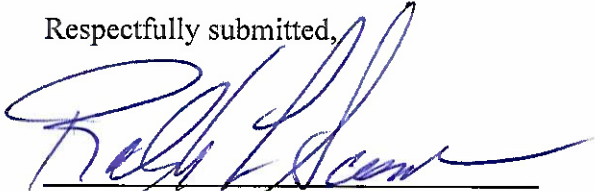
ADJOURN


There being no further business to come before the Board or Enterprise and upon motion by Director Telck seconded by Director Colon and approval of the Board, the meeting adjourned at 3:14 pm.

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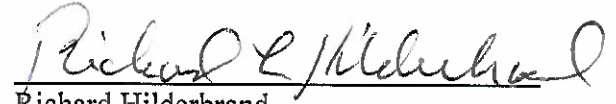
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Respectfully submitted,


Ralph L. Scanga, Jr., General Manager


Thomas Goodwin, Treasurer



Timothy C. Canterbury

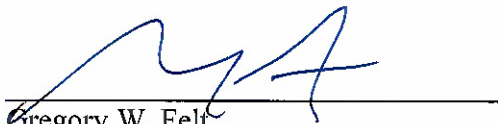

Richard Hilderbrand

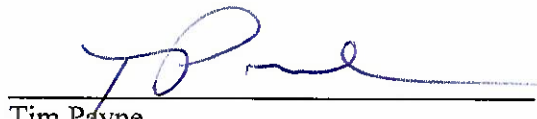
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Mannie Colon

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Albert Eggleston

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Robert B. Donley



Warren Diesslin


Gregory W. Felt


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Mike Shields