

**UPPER ARKANSAS WATER  
CONSERVANCY DISTRICT**

**Regular Meeting of the Board of Directors**

**August 10, 2023  
1:30 PM**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, August 10, 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 August 9, 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	Mike Shields
Gregory W. Felt	Tim Payne	Warren Diesslin
Tom French	Brett McMurry	Mannie Colon (joined at 2:15pm)
Thomas Goodwin	Tony Telck	

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

None

**DIRECTORS ABSENT**

Robert B. (Bill) Donley                      Albert Eggleston

**DISTRICT OFFICIALS/STAFF MEMBERS PRESENT**

Ralph L. (Terry) Scanga, General Manager	Ken Baker, Consultant
Kendall Burgemeister, Attorney	Jennifer A. Scanga, Administrative Assistant

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

Richard Brown, Legislative Consultant	Denise Sanchez, Office Manager
Gracy Goodwin, Projects Manager	Wendy Ryan, Engineer

**DISTRICT OFFICIALS ABSENT**

Chris Manera, Engineer

**STATE OFFICIALS PRESENT**

Dan Henrichs, Water Commissioner, District 12  
Rachel Zancanella, Division Engineer

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

None

**STATE OFFICIALS ABSENT**

Brian Sutton, Augmentation Coordinator  
Will Scott, Water Commissioner District 11  
Talon Canterbury, Deputy Water Commissioner, District 12  
Ashleigh Cogan, Deputy Water Commissioner, District 11

**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)**

None

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

Brian Berger, Poncha Springs Town Administrative Officer  
Shawn Williams, Buena Vista Public Works Director  
Drew Nelson, City of Salida Administrator  
Dave Schneider, Round Mountain Water and Sanitation District Manager  
Dwayne McFall, Fremont County Commissioner

### **GUESTS PRESENT**

Justin Kurth, US Representative for Congresswoman Petterson

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

Joe Stone, Heart of the Rockies Radio  
Emily Tracy, City Councilmember, Canon City  
Lauren Duncan, CWCB Arkansas Basin Water Plan Grant Coordinator

### **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 July 13, 2023**

The minutes of the meeting of July 13, 2023, were approved upon motion by Director Felt with second by Director Telck.

### **FINANCIAL REPORTS**

Upon motion by Director Goodwin with second by Director Hilderbrand, the Board approved the monthly financial reports dated July 31, 2023.

### **PROGRAM PRESENTATIONS**

The 2022 Financial Audit Report was presented by Andrew Froese CPA of Hancock Froese & Company LLC via WebEx audio/video conferencing. It was the auditor's opinion that the financial statements presented fairly, in all material respects, the respective financial position of the governmental and business-type activities, and each major fund of the UAWCD as of December 31, 2022, and the respective changes in financial position and where applicable the cash flows for the year.

Mr. Froese referenced the balance sheet for the Enterprise and General Fund totals for assets, liabilities, revenues, and expenditures

Upon motion by Director Goodwin, with a second by Director French, the Board accepted the 2022 Audit Report.

### **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 August 2023 projects which included Round Mountain Reservoir Feasibility Study, DeWeese Enlargement Feasibility Study, USGS Study Phase 3, Trout Creek Park Alluvial Storage, and DCP Upgrade and Expansion.

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

Legislative Consultant Brown gave an oral update on current legislative subjects.

Consultant Baker mentioned a recent newspaper article regarding a movement in the State Capital to change Colorado Water Law to give the water to the State as it is in other surrounding states. Mr. Baker pointed out that the United States Constitution has a very specific provision that states if the adjudicated

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water rights and property rights are taken by a State, the State must be provide just compensation to the owners of the property. He asked Mr. Brown if he knew whether Colorado has the funding to carry out the intent of this law?

Legislative Consultant Brown said no one he has spoken to has any information regarding the intent of the law. He expressed that he feels Mr. Baker's assessment of the standards that would be applied are accurate.

Mr. Brown stated that after a quiet couple of months, various meetings are scheduled for the near future, including the Colorado Water Congress Summer Conference at the end of the month. He said the conference is sold out but will be videoed for those who cannot attend in person.

Mr. Brown explained that the dredge and fill issue is gradually moving along and Water Congress has a broad based working group. He said there were approximately 75 interested people at the first meeting. He further stated that the Governor is sponsoring a stakeholder group which he is invited to and will update the Board when he has more information to share.

Legislative Consultant Brown brought to the Board's attention that the legislature of the State of Colorado are defendants in 4 or 5 bills. He said they are very controversial topics that have come up in the last year and the first one in the legislative leadership involved meets of executive sessions. He stated that two democrat members of the House have filed a lawsuit against the House Democrat Caucus and House Republican Caucus for participation in their own caucus which they claim violates the open meeting laws and open record laws. Mr. Brown said this has always been the case and is unsure why it has now become an issue.

Mr. Brown further stated that the second lawsuit came from an outside group and it is against the legislation that was passed in 2021 that remand the highway decree, Five Enterprises. The litigation states that it violates the single subject rule. He said the Federal District Court denied the request for the Attorney General's dismissal from the case.

Chairman Canterbury asked if he has an update regarding Colorado River Crisis Taskforce?  
Mr. Brown stated that the 17 member taskforce have met a couple of times. He said the river district is hosting a website taskforce and no agenda has been posted.

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

#### **Amended Purchase Policy:**

Atty Burgemeister went over changes to the Purchase Policy presented at the July meeting. He provided a "red line" copy for Board members to review. Manager Scanga also provided an amended version of the policy. After much discussion regarding the policy, a motion was made by Director Payne, seconded by Director French to approve the Amended Purchase Policy, Resolution 2023-2. It was unanimously accepted by the Board.

#### **Cottonwood Lake Special Use Permit (SUP) Update:**

Manager Scanga informed the Board that he signed the 5 year, short term agreement which allows the District to operate as is with an offset of a fee. He said the USFS will charge the District a permit fee and the District is charging them for augmentation of evaporation related to the USFS original space. He stated the USFS is continuing an environmental analysis for a new long term permit which would authorize rehabilitation of the outlet.

#### **Colorado Water Conservation Board (CWCB) meeting:**

Manager Scanga reported that CWCB will be having their Board meeting in Salida at the Steam Plant in September. He said it is an opportunity to meet with the Board in an informal social setting and would like to plan a time to meet with them. Director Felt said he spoke with the Director of CWCB and suggested they meet for a social reception for an hour or so during the time they will be here.

Upon motion by Director French, seconded by Director Goodwin, the Board approved arranging an informal social reception with CWCB.

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### COMMITTEE REPORTS

None

### RESUME REVIEW COMMITTEE

Nothing of significance pertaining to Board action in the June Resume. Manager Scanga pointed out two cases that may be of interest to the UAWCD. He said they are the Colorado Parks and Wildlife; Case No. 2023CW3032, and Penrose Pueblo Reservoir Project Water Exchange.

### HR COMMITTEE UPDATE:

Chairman Canterbury gave an update from the recent Human Resources Committee meeting. He stated that a draft will be formulated with a schedule from Manager Scanga and an application process for hiring of a new General Manager after Manager Scanga's retirement.

### ENGINEER'S REPORT – Wendy Ryan, Colorado River Engineering (CRE)

Wendy Ryan gave a brief engineering update. She stated that Colorado River Engineering has been working on well drilling quotes for the Moltz well and have received expert engineering reports and disclosures on the TriView Exchange Case. She added that several site visits have been conducted on current projects.

### 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.

Upon motion by Director Hilderbrand, with a second by Director Telck, the Board approved the stipulation with Southeastern Colorado Water Conservancy District (SECWCD), Case No. 22CW3093, Application to Add Wenke Pond to 18CW3076. Director Goodwin and Director Felt recused themselves from voting since they are also board members of the SECWCD.

Atty Burgemeister clarified for Director Felt that there was discussion about 1041 permit issues with the county and TriView announced that they are engaging the town on an annexation plan and have scheduled a meeting to talk about their revegetation plan along with a comprehensive settlement meeting among attorneys.

Director Felt stated that the county is looking at land use issues with recharge ponds and the District is concentrating on hydrologic gradient and location of delayed return flows. He added that the county is seeking whether both parties' interests are aligned enough that each entity can focus on those issues.

Manager Scanga stated that an important aspect to keep in mind is that recharge is great but TriView is trying to claim consumptive use credits in Cottonwood Creek. He added that if this were to happen and these credits were sold or traded to another entity, such as BV, when they aren't really there, that would cause real injury.

Director Felt expressed that the county is supportive in making sure it is handled correctly but they feel the District is in a better position to correct it.

### CHAIRMAN AND DIRECTOR REPORTS

Director Felt announced that a finalist has been selected and publicly noticed for a new Executive Director for CWCB. He said there will be a meeting before the official appointment.

### NOTICES & MEETINGS

- UAWCD Budget Committee Meeting-10:00 a.m., August 15

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- **CWC Summer Conference August 22-24 Steamboat Springs (Registration Closed)**
- **Arkansas Basin Roundtable, September 13, Pueblo Community College**
- **CWCB Board Meeting, September 20 & 21, Salida Steam Plant**
- **C9 Summit November 14, 2023**

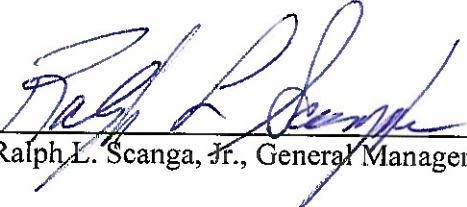
### **ADJOURN**

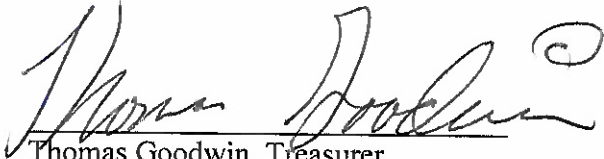
There being no further business to come before the Board or Enterprise and upon motion by Director Colon seconded by Director Telck and approval of the Board, the meeting adjourned at 2:41 pm.

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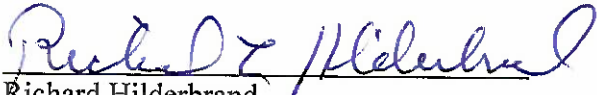
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Respectfully submitted,

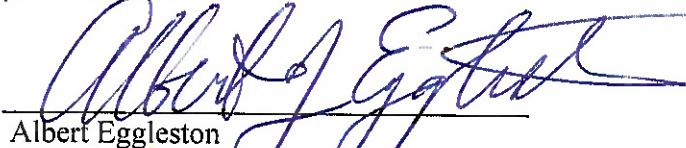
  
Ralph L. Scanga, Jr., General Manager

  
Thomas Goodwin, Treasurer


absent - no signature  
Timothy C. Canterbury

  
Richard Hilderbrand

approved remotely - no signature  
Mannie Colon

  
Albert Eggleston

abstain  
Robert B. Donley

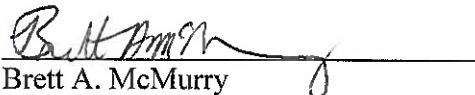
  
Warren Diesslin

approved - no signature  
Gregory W. Felt

approved remotely - no signature  
Tim Payne

  
Tom E. French

  
Tony Telck

  
Brett A. McMurry

approved remotely - no signature  
Mike Shields