

**UPPER ARKANSAS WATER  
CONSERVANCY DISTRICT**

**Regular Meeting of the Board of Directors**

**August 12, 2021  
11:20 A.M.**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, August 12, 2021, commencing at 11:20am 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 11, 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	Brett McMurry
Tom French	Warren Diesslin	Richard Hilderbrand
Gregory W. Felt	Thomas Goodwin	Mannie Colon
Tim Payne		

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

Mike Shields  
Robert B. (Bill) Donley

**DIRECTORS ABSENT**

None

**DISTRICT OFFICIALS/STAFF MEMBERS PRESENT**

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

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

Richard Brown, Legislative Consultant  
Denise Sanchez, Office Manager

**DISTRICT OFFICIALS ABSENT**

None

**STATE OFFICIALS PRESENT**

None

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

Will Scott, Water Commissioner, District 12  
Dan Henrichs, Water Commissioner, District 11

**STATE OFFICIALS ABSENT**

Brian Sutton, Augmentation Coordinator  
Bill Tyner, Division Engineer

**EX-OFFICIO REPRESENTATIVE PRESENT**

Tom Flower, Custer Count Commissioner

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

Bob Hartzman, Canon City Water Superintendent

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

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

### **GUESTS PRESENT**

Dave Schneider, District Manager, Round Mountain WSD

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

Joe Stone, Heart of the Rockies Radio  
Alan E. Curtis, Attorney at White & Jankowski LLC  
Cathy Garcia, Southern Colorado Regional Director for Congresswoman, Lauren Boebert  
Jim Blasing, Director of Pueblo West Utilities

### **PLEDGE OF ALLEGIANCE**

Vice-Chairman Felt led attendees in the Pledge of Allegiance.

### **INTRODUCTION OF GUESTS**

Guests were asked to introduce themselves.

Chairman Canterbury notified the Board of Director Franklin (Jay) Moore's resignation due to health difficulties and he asked the Board to recognize his years of commitment by making him an official Honorary Board Member.

Upon motion by Colon, seconded by Director French, the board unanimously approved to make Mr. Moore an Honorary Board Member by a vote of "Aye".

Manager Scanga explained that according to state statute, the District posted and published notice of vacancy for Division 2, R-32-J School District boundaries. An appointment to fill the vacancy will occur by our September board meeting.

Manager Scanga further expressed that Mr. Moore dedicated a lot of time and effort in learning and understanding water in our basin and in Colorado. He said that he served as an ex-officio member of the District Board representing the city of Salida prior to being appointed as a Director in June of 2011. He added that Mr. Moore served for many years as the Chaffee County Municipal representative on the Arkansas Basin Roundtable. Mr. Moore will continue to attend board meetings and stay engaged in water with the UAWCD. Manager Scanga extended a huge thank you to Jay for all his work and contributions to the District and the Arkansas River Basin and water community.

### **MINUTES OF THE MEETING OF July 08, 2021**

The minutes of the meeting of July 8, 2021  
were approved upon motion by Director Colon 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, 2021.

### **PROGRAM PRESENTATIONS**

None

### **EX-OFFICIO REPORTS**

There were no ex-officio reports

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

PM Goodwin gave an update on the progress of current projects.

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### **Poncha Springs Well Infrastructure: Well # 6 & #7**

- PM Goodwin displayed photos of the Poncha Springs Treatment Facility and the finished wells.
- The final reimbursement request has been submitted
- Finalized \$64,500 grant

### **Ice Lake Outlet and Spillway**

- Lakeside Estate HOA approved the Engineering Design
- Our contractor has started to mobilize equipment for coffer dam and materials
- Waiting on concrete availability

### **DeWeese Enlargement Feasibility Study**

- GEI Engineering is finalizing Structural Stability Analysis for the raise
- Developing proposed design configurations
- Existing conditions drawings almost complete.

### **Enlargement Feasibility Study**

- Work in progress for CAD design and pond grading alternatives
- Inundation and hazard class analysis in the works
- Hazard mapping, embankment and earthwork estimates have been provided.
- Preliminary hydrology data gathered by Lamp Rynearson is in the review stage.

Guest David Schneider, District Manager for Round Mountain WSD gave a brief update of the Round Mountain Project. He stated that the Engineering Company presented 4 different conceptual designs for the reservoir. Mr. Schneider said option one was chosen which provides 150-acre feet of storage, however the challenge is putting it onto the small piece of property. He said another option was investigated of possibly purchasing other property and construct two reservoirs and discovered that it would make more sense to expand the one instead. Mr. Schneider also stated that they are waiting on lab results for the soil and said that a binding substance will need to be added.

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

Legislative Consultant Brown and Consultant Baker reported on current legislative updates. A copy of the Legislative Update was provided to Board members prior to the meeting.

Consultant Baker commented on the issue of water theft and the concept of Demand Management. Mr. Baker said demand management is a philosophy being promoted by CWCB and water managers on the Western Slope. He referred back to the history of water administration in Colorado and stated that historically until the great drought period of the 1930's it was under the direction of the local Board of County Commissioners, BOCC. He added that during that period the BOCC chose to allow junior diverters in the upstream part of the river to divert to the lower part and senior diverters had no water. He further explained that the General Assembly changed the rules and created a State Engineer office with fresh ears and in Denver and other water basins, joining other water commissioners, have been managing the diversion of water onto the Colorado Doctrine for many years. Consultant Baker said that demand management concept fails to take into consideration the concept of historical consumptive use.

Legislative Consultant Brown gave a couple updates regarding the federal progress with respect to money available from the current stimulus package. He stated that he sent a note to Doug Kemper of Colorado Water Congress, CWC recommending trying to track how the allocations will be made once in the hands of the state of Colorado.

He added that he reached out Anna Moss, chief staff for the working group for the CWCB looking at financial alternative for the finalization of the demand management system. Mr. Brown stated that he asked her to reconvene the financial working group to discuss whether or not there are built in preferences from the State of Colorado to use some of the money that would be coming from the Federal stimulus to fund the demand management program. He stated he has not yet received a reply but will keep Consultant Baker and Manager Scanga updated.

Mr. Brown brought to the Board's attention the anti-speculation working group that was convened under the Department of Natural Resources approximately 18 months ago and is coming to the end of its work

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and getting ready to finalize its report and presentation to the Water Resources Review Committee. He said they met last week for edits of work and there was a lot of discussion, but they did not come to reconciliation on some issues and the report is still in its formation stage. Mr. Brown said he was able to get a copy of the 69-page report and expressed that it is a good report regarding discussion of what speculation is. He added that former Justice Gregg Hobbs is on the working group and his input is clear and fully articulated in the report on the discussion about what the Court decisions and statutory controls over speculation are. He stated that the report tends to break down a bit because members cannot quite seem to get their minds around the extent or scope of the problem or if anything needs to be done. Mr. Brown commented that there is some language in the report about the role of water conservancy districts with respect to the protection and monitoring of potential uses of water, but it is not very well formulated at this time. Manager Scanga requested a copy of the finalized report.

Legislative Consultant Brown stated that the ballot issues likely to come up in November have changed in the last 24 hours. He said that the one he cited as potentially problematic about custodial funds coming to Colorado on the proponents of that ballot issue are also participants in the second ballot issue that deals with property taxation. It was announced that three lawsuits will be filed across the State of Colorado because of the legislation that was enacted at the end of the session. Mr. Brown stated that one of the legislative enactments was Senate Bill 93 that gutted their ballot issue because they wanted to reduce property tax assessment ratio quite significantly for residential property and at the last minute, legislature changed all the definitions of property classes and wiped away almost the entire ballot issue. Legislative Consultant Brown stated that the plan is to get the Court to strike down the legislation and give the ballot issue more substance. He added that since the lawsuits have not been filed yet, there are no copies of the actual pleadings to review but he expressed that it will generate a lot of interest over the next 2-3 weeks. Mr. Brown said that all three ballot issues are undergoing review of whether they have sufficient signatures to be put on the November ballot.

### **COMMITTEE REPORTS**

None

### **RESUME REVIEW COMMITTEE**

Nothing of significance in the June and July resume.

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

Manager Scanga presented the agreement with Lake County regarding 98CW173 Administrative Study for finalization. The agreement was previously signed by Lake County Commissioner, Sarah Mudge.

Upon Motion by Director Payne, seconded by Director Telck, the Board unanimously agreed to approve the agreement with Lake County.

Manager Scanga submitted to the Board a Professional Services Agreement with River Science for a stream restoration project on the Van Norman property on Oak Creek above the town of Rockvale. Manager Scanga explained that the project is a steppingstone to acquiring potential water right impacts to all future stream restoration projects.

Director Payne made a motion to approve the agreement, seconded by Director Telck. The Board unanimously approved the agreement with a vote of "Aye".

Manager Scanga presented to the Board two Augmentation Certificates up for forfeiture. Certificates up for forfeiture are individuals that are either delinquent on submission of meter readings and/or payment of annual storage and maintenance fees.

Augmentation Certificate #429, Robert & Kimberly Frasher, owners of one-unit, non-submission of meter readings since 2018 and delinquent storage and maintenance payment for current year.

Upon motion by Director Goodwin, seconded by Director Hilderbrand the Board approved to void the augmentation.

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Augmentation Certificate #1547, James Pluff, owner of one unit of augmentation, non-payment of storage and maintenance fees since 2019, and non-submission of meter readings since 2018.

Upon motion by Director Goodwin, seconded by Director Hilderbrand the Board unanimously approved the forfeiture of Augmentation Certificate #429.

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

Engineer Manera gave updates on current engineering projects.

Engineer Manera stated that he is continuing to provide engineering assistance in court cases with Silver Creek Ronk and Trails West as well as working on additional engineering requirements with the Change in Cottonwood Irrigation Ditch.

Engineer Manera said his team has been busy working on applicant engineering needs with pond augmentation projects and assessing the surface area and volume, and whether they are ponds that can be operated like a reservoir structure with outlets, or actual pond wells.

Engineer Manera discussed that the reservoir inspection reports have been completed and one item that was suggested by the State Dam Inspector was to consider putting in a debris boom near the spillway of Boss Lake. Engineer Manera explained that a debris boom captures logs and floating debris in the lake rather than it getting into the spillway where they can cause clogging issues. He further explained that he feels there is a need for debris booms on certain reservoirs but does not think there is a need for one on Boss Lake since it does not fall under the criteria. He said that debris blockage is critical with shallow depths and can cause impact to the safety of the dam but since there is significant depth in the spillway at Boss Lake, there is less of a concern of any debris blockage. He also stated that a past feasibility study determined that the existing spillway was sufficient.

Engineer Manera explained that the new slide gate for North Fork will be installed next week. He stated that Hydrologist Gertson has been working on the details to facilitate it. He said installing the gate is one thing but getting the hydraulic lines from the old gate to the new gate requires purging the water from the lines and finding a way to accomplish that once the new gate is installed. He explained that North Fork is a hydraulically operated slide gate and takes a pump/motor to run the hydraulic fluid to run a cylinder up and down to open and close the gate. He further explained that when North Fork was rehabilitated it included a downstream valve and the plan is to shut the valve and then remove the slide gate so there is not water running through the outlet. Engineer Manera stated that a safety check will be done on the pipeline and the valve to make sure the pipe is functioning properly before the old gate is removed. The test requires shutting the gate and then observing the water levels in the dam for 24-48 hours.

Hydrologist Gertson said the gate should be installed within 2-4 days and the divers are scheduled to begin next week. Manager Scanga asked Hydrologist Gertson how he plans to get the 450-pound gate underwater? Hydrologist Gertson answered that the gate will be taken apart and brought down in pieces. He added that the hydraulic ram is separate from the gate and will be installed separately. Manager Scanga asked for clarification on what happens with the old gate once the new gate is installed? Will it be repaired and kept as a spare? Hydrologist Gertson said it will first be inspected to determine whether it is repairable. He explained that the difference between the new gate and the old gate is that there is cathodic protection in case of issues with corrosion, the metal can be replaced and is something to have installed on the old gate as well.

Manager Scanga asked if SCADA will be utilized once the gate is installed? Mr. Gertson stated that yes, once there is an operational gate in place the SCADA project can be completed.

Director Hilderbrand expressed his concern regarding the difficulty for the divers going from a very high elevation to a very low elevation. Engineer Manera stated that it is a concern, but the divers the District hired have experience in the high mountains. Hydrologist Gertson stated that the divers expressed less concern with the high elevation as opposed to other issues they may run into.

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Engineer Manera explained that his team has been working on the concepts for the measuring device for the DeWeese Dye Ditch diversion system. He said a field visit was completed in June and recommendations were provided on how to get the measuring device up to state standards.

Hydrologist Gertson stated that during the Boss Lake Reservoir inspection, the forest engineer showed up and the State gave the Forest Service a bad review of their dam safety program. He stated that the forest service showed interested in the road at Boss Lake and mentioned a total realignment of the road as well as looking into replacing the bridge at Cottonwood Lake.

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

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

### **UAWCD Applications:**

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

- No new developments, statements of opposition due at the end of August.

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

- No statements of opposition received by deadline.
- Waiting for Division Engineer's consultation report.

19CW3089: Change of Cottonwood Irrigating Ditch

- Working on responses to opposer comments, due at the end of August.
- Before the Referee until May 31, 2022

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

- UAWCD served rebuttal expert disclosure, continued settlement discussions with Colorado Water Conservation Board, CWCB and Rooks group.
- Consideration of stipulations with CWCB, and Bob Woolmington, Lee Rooks, and Kelly Ranch.

Upon motion by Director Goodwin, seconded by Director Payne, the Board unanimously approved the stipulations in Case No. 18CW3048 between UAWCD, acting through the Upper Arkansas Water Activity Enterprise, and the Colorado Water Conservation Board, and Bob Wilmington, Lee Rooks, and Kelly Ranch.

### **Applications UAWCD is Opposing:**

19CW3061: Application of Tom Smith

- Applicant's expert report received, and first expert meeting was held.
- Before the Water Court. Trial scheduled for March 2022.

### **CHAIRMAN AND DIRECTOR REPORTS**

None

### **NOTICES & MEETINGS**

Director Felt invited Board members to an open-to-the public CWCB virtual meeting involving demand management.


### **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 12:10 pm.

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Respectfully submitted,

  
Ralph E. Scanga, Jr., General Manager

  
Thomas Goodwin, Treasurer

  
Timothy C. Canterbury


  
Richard Hilderbrand

approved remotely - no signature  
Mannie Colon


approved remotely - no signature  
Robert B. Donley

  
Warren Diesslin

  
Gregory W. Felt

  
Tim Payne

  
Tom E. French

  
Tony Telck

  
Brett A. McMurry

approved remotely - no signature  
Mike Shields