

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Regular Meeting of the Board of Directors

**September 10, 2020
1:30 P.M.**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, September 10, 2020, commencing at 1:30pm 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 September 9, 2020 at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

DIRECTORS PRESENT (IN PERSON)

Tim C. Canterbury
Franklin J. (Jay) Moore
Tom E. French

DIRECTORS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Tim Payne	Gregory W. Felt	Brett A. McMurry
Robert B. (Bill) Donley	Thomas Goodwin	Warren Diesslin
Richard Hilderbrand	Mannie Colon	Tony Telck

DIRECTORS ABSENT

None

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

Ralph L. (Terry) Scanga, General Manager	Ken Baker, Consultant
Jord Gertson, Hydrologist	Jennifer Scanga, Secretary
Gracy Goodwin, Projects Manager	

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

Kendall K. Burgemeister, Attorney	Wendy Ryan, Engineer
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DISTRICT OFFICIALS ABSENT

None

STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Bill Tyner, Division Engineer

STATE OFFICIALS ABSENT

Brian Sutton, Augmentation Coordinator/Water Commissioner

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

Tom Flower, Custer County Commissioner
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
Dave Schneider, District Manager, Round Mountain WSD
Philip Puckett, Buena Vista Town Administrator

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GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERNING)

Joe Stone, Heart of Rockies Radio News
Cathy Garcia, Office of the U.S. Senate
Joel Benson, Town of Buena Vista

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 AUGUST 13, 2020

The minutes of the meeting of August 13, 2020, were approved upon motion by Director Felt with second by Director Colon.

FINANCIAL REPORTS

Upon motion by Director Goodwin with second by Director Payne, the Board approved the monthly financial report dated August 31, 2020.

PROGRAM PRESENTATIONS

None

EX-OFFICIO REPORTS

There were no ex-officio reports

PROJECTS MANAGER REPORT-Gracy Goodwin

Project Manager Goodwin presented the projects update pertaining to grants in progress and several current projects.

DeWeese Enlargement Feasibility study:

Inflow Design Flood (IDF) has been sent to Mark Perry for review.

St. Charles Mesa:

Upcoming On-site visit scheduled for September 15th. Construction will begin on the first of October.

Round Mountain Reservoir Feasibility Study:

Grant has been submitted to the CWCB Board.

Trout Creek Alluvial Storage:

A meeting is scheduled for September 24th at the Colorado Springs headquarters with the Department of Corrections/Colorado Correctional Industries (CCI).

CONSULTANT REPORT – Ken Baker

Consultant Baker reported on the amended brief of the Colorado Water Congress, (CWC) as Amicus Curiae, urging the reversal of District Court decision. The Amicus Brief filed by the CWC states that the District Court decision will cause increased harm to the State of Colorado in the enforcement activity that would “need” to take place if federal enforcement were reduced due to the 2020 Navigable Waters Protection Rule. A summary of this Argument was attached to Consultant Baker’s report.

Consultant Baker also reported on the Colorado Water Conservation Board proposed In-stream Flow (ISF) Rules Revisions. Baker stated that The Colorado Doctrine of Prior Appropriation, under the Colorado Constitution and laws passed by the Colorado General Assembly provide a historic system of appropriation rights that permit waters of the State to be diverted from rivers and underground sources and used for beneficial use. Those water diversions are defined rights and uses, approved by a Colorado court of law as defined in a water decree. He added that ISF decrees are, in theory, non-consumptive uses approved by the CWCB. A copy of the proposed rule changes was attached to Consultant Baker’s report.

Another topic discussed by Consultant Baker concerned the Colorado Water Congress Virtual Summer Conference, which was revised to comply with the national pandemic. An article with statements from

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Senator Cory Gardner, and former Governor John Hickenlooper was attached to Consultant Baker's report as well as additional candidate interviews and discussion from the CWC internet conference.

The final topic covered by Consultant Baker was the Poudre River Reservoir. He summarized the article attached to his report on how the Northern District petitioned the County of Larimer for 1041 permits for their Northern Integrated Supply Project to use the Poudre River water to fill enlargements of the Glade and Galetton reservoirs. Consultant Baker explained that the Poudre and South Platte rivers customarily have ample supplies of water to satisfy all decreed appropriations for diversion. He said there are members of the public who remain in opposition to the changes of these traditional water uses. In contrast to these ample water supplies, the administrators, and managers of water use in over-appropriated rivers, welcome the opportunity to store water for multiple uses. Consultant Baker clarified for Vice-Chairman Felt that the permits have been approved.

Two additional items attached to the report and briefly discussed by Consultant Baker, were articles that pertained to Sports Betting and a Colorado River District article featuring a proposal by Aurora and Colorado Springs to store water from a fens near Holy Cross Wilderness.

COMMITTEE REPORTS

None

RESUME REVIEW COMMITTEE

Nothing of significance for the District in the Resume.

MANAGER'S REPORT – Terry Scanga

Manager Scanga reported on the Preliminary Budget for 2021. A copy was given to each Board member for review. Manager Scanga said a more detailed report will be available for discussion after the Personnel and Finance Committee meet this month. He informed the board that if they had questions on this budget to contact him for clarification.

When asked Manager Scanga clarified for Board members that the blank lines in the budget were revenue and/or expenditures that occurred in prior years that are still being shown but no longer active for the current year.

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

Engineer Ryan reported on the ongoing work for the Blue Line Engineering report due next month. She also reported on preliminary work in progress pertaining to the evaluation of the potential water rights on the Arkansas Valley Ditch and the Bale Ditches.

Manager Scanga commented on the two water rights being offered for sale to the district; The Arkansas Valley Ditch, on Cottonwood Creek, and Bale 1 and 2 which come off lower end of the South Arkansas River. Manager Scanga said that after discussion and input from Engineers Ryan and Manera and Atty Burgemeister, it was concluded that it is not worthwhile for the District to pursue Arkansas Valley Ditch water rights due to their junior priority dates, the timing of available supply, the need for storage to make them available when demands on Cottonwood Creek are critical. He added that he would like to further pursue the Bale 1 and 2 ditches to determine their potential beneficial use for the District.

LEGAL REPORT – Law of the Rockies, Kendall Burgemeister

Attorney Burgemeister reported on several pending applications.

19CW3089 Change of Cottonwood Irrigation Ditch:

Atty Burgemeister stated that he has received and is reviewing opposer comments. All comments are due by December 18th and the Status Conference is scheduled for January 6, 2021.

18CW3076- Augmentation Blue Line Expansion:

Atty Burgemeister's Legal Report listed several parties who have filed statements of opposition and are stipulating and another whose statement for dismissal will be going before the Water Judge for determination. These are listed in his written legal report. The UAWCD expert report is due September 29, 2020.

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

No significant developments were reported. Atty Burgemeister said all stipulations have been entered.

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The final item of business reported by Atty Burgemeister was regarding the Canon City Urban Renewal Authority (URA). Atty Burgemeister said the proposal has been agreed upon and once a signed copy is received, the Board can grant formal approval to proceed.

Director Payne asked Atty Burgemeister if the Board could proceed with final approval without a signed agreement. Atty Burgemeister answered that since it was not listed on the final meeting agenda and the open meeting law requires prior public notice, the Board could not proceed with final authorization of the URA agreement. Atty Burgemeister also added that he would contact the Canon City URA administrator to be sure the formal approval could be attended to at next month's Board meeting.

CHAIRMAN AND DIRECTOR REPORTS

Chairman Canterbury briefly mentioned that the Employment Policy is currently in working progress. He suggested to Board members that as soon as Atty Burgemeister has a draft of the policy finalized, a possible work session could be scheduled to inspect the policy before final approval from the Board. Several Board members agreed with the work session.

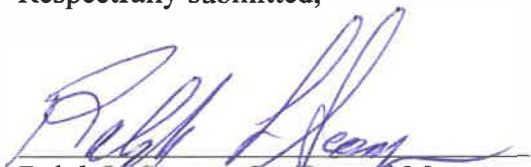
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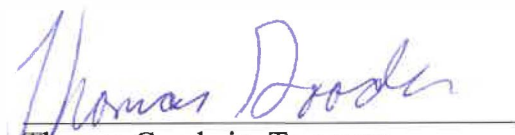
There being no further business to come before the Board or Enterprise and upon motion by Director Donley, seconded by Director Colon and approval of the Board, the meeting adjourned at 2:45 pm.

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Respectfully submitted,


Ralph L. Scanga, Jr., General Manager


Thomas Goodwin, Treasurer


Timothy C. Canterbury

approved remotely - no signature
Richard Hilderbrand

approved remotely - no signature
Mannie Colon


Franklin J. Moore

approved remotely - no signature
Robert B. Donley

approved remotely - no signature
Warren Diesslin

approved remotely - no signature
Gregory W. Felt

approved remotely - no signature
Tim Payne


Tom E. French

approved remotely - no signature
Tony Telck

approved remotely - no signature
Brett A. McMurry


Mike Shields