

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Regular Meeting of the Board of Directors

**December 13, 2018
1:30 PM**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, December 13, 2018, 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 December 12, 2018, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

DIRECTORS PRESENT

Robert M. Senderhauf	Tim Payne	Brett A. McMurry
Franklin J. (Jay) Moore	Tom E. French	Gregory W. Felt
Mannie Colon	John H. Sandefur	Jeff Ollinger

DIRECTORS ABSENT

Robert B. (Bill) Donley	Timothy C. Canterbury	Richard Hilderbrand
Thomas Goodwin		

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

Ralph L. (Terry) Scanga, General Manager	Ken Baker, Consultant
Chelsey Nutter, Projects Manager	Kendall K. Burgemeister, Attorney
Jord Gertson, Hydrologist	Leila Behnampour, Attorney
Chris Manera, Engineer	Kimberly Kerschke, Secretary

DISTRICT OFFICIALS ABSENT

None

STATE OFFICIALS PRESENT

Brian Sutton, Water Commissioner

EX-OFFICIO REPRESENTATIVES PRESENT

Harald Kasper, Salida City Council
Tom Flower, Custer County Commissioner

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
George Medaris, Round Mountain WSD
Philip Puckett, Buena Vista Town Administrator
Bob Hartzman, Canon City Water Superintendent

GUESTS PRESENT

Dick Shea, Penrose
Phyllis Shea
Judy Sandefur
Kristie Nackord, Fremont County

PLEDGE OF ALLEGIANCE

Chairman Senderhauf led attendees in the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Guests were asked to introduce themselves.

RECORD OF PROCEEDING

MINUTES OF THE MEETING OF November 8, 2018

The minutes of the meeting of November 8, 2018, were unanimously approved upon motion by Director Colon with second by Director Felt.

FINANCIAL REPORTS

Upon motion by Director Colon with second by Director Sandefur, the Board unanimously approved the monthly financial report dated November 30, 2018.

PROGRAM PRESENTATIONS

None

EX-OFFICIO REPORTS

There were no ex-officio reports.

CONSULTANT REPORT – Ken Baker

Consultant Baker included a draft of the Democratic committee assignments in the Board's binders. The November election resulted in a "Blue" year for the Democrats and this is reflected in the assignments. This will also reflect voting in each committee as certain Bills are presented.

Consultant Baker highlighted policy statements on demand management and Compact administration from the Colorado River District. Consultant Baker said the statement of support referenced was made with the express understanding that the intent of the CWCB staff and Board that the "roughly proportionate contributions of water" referenced in paragraph six of the Demand Management Policy Statement is intended to be geographically equitable.

Also included in the Memorandum is a statement of use called "conserved consumptive use", a term discussed during November's meeting. Consultant Baker said he asked a couple of representatives of the River District to define the meaning of the expression and he did not receive an answer. Like "Deficit Irrigation", the concept may appear in proposed legislation this year.

Consultant Baker also received a Legislative Update from a representative of the Pike's Peak Regional Water Authority, which was included in the Board's binders.

Discussion followed on drought management and proposed resolutions for voluntary water reductions. Manager Scanga remarked that, under the prior appropriation system, the number of diversions would already be reduced in a drought year. The question then remains, "How do you administer by state policy a situation that is already managed by the prior appropriation system?" Consultant Baker noted that a drought management resolution would require an amendment to the Colorado Constitution.

Consultant Baker passed around articles from the Arizona Daily Star and the Pueblo Chieftain related to drought planning. Director Colon asked if the newspaper articles could be made available on the new website. Kimberly said that she would add them to the Board member information page.

PROJECTS MANAGER REPORTS - Chelsey Nutter

Projects and Education

Projects Manager Nutter noted that the two most recent "Water Talks" articles are included in the Board's binders. The first article relates to the District's education efforts and the second relates to fire and flood recovery efforts in Coaldale in response to the Hayden fire.

Projects Manager Nutter has been managing various grants and recently submitted six progress reports to the Colorado Water Conservation Board. Reimbursements were also put in for the Lake Ranch and the Water Balance Study.

Progress continues on the Monarch Pass Forest and Watershed Health Project and contracts are being drafted. Phase 1 of the Hayden Pass Fire and Flood Recovery Project is underway through the work of Kate Spinelli and Luke Javernick. Projects Manager Nutter said she is waiting to hear about funding for Phase 2 of the project and should know if the grant is awarded in January.

RECORD OF PROCEEDING

Projects Manager Nutter provided an update on the feasibility study for DeWeese Reservoir and said that a request for proposals has been sent out.

Regarding the Lake Ranch Project, education consultant Kristie Nackord is creating a vision plan for education and use of the area within the elk fence. Engineer Manera is also working to wrap up tasks for Lake Ranch, as the project is scheduled for completion in February. A presentation will be provided to the Board when the project is complete.

Projects Manager Nutter offered a schedule of upcoming programs that will take place at Board meetings in 2019. In January there will be a presentation by the USGS on the Water Balance Study. Kate Spinelli and Luke Javernick will present on the Hayden Pass Fire and Flood Recovery Project in February. March's presentation will focus on the Lake Ranch and will feature Colorado River Engineering and education consultant Kristie Nackord. In April a water infrastructure update will be presented by Brian Berger, Manager for the Town of Poncha Springs. In May the Board will hear more about alluvial storage at Trout Creek. The Monarch Pass Forest and Watershed Health Project will be presented in June.

Lastly, Projects Manager Nutter mentioned the Colorado Water Congress Annual Convention taking place after the first of the year. Information will be sent by Kimberly on Friday, December 14th and Board members who would like to attend should communicate with Kimberly by Thursday, December 20th. This will allow for early registration pricing.

COMMITTEE REPORTS

None

Resume Review Committee

Nothing of significance for the District in the Resume.

MANAGER'S REPORT – Terry Scanga

Manager Scanga reported that the deadline for diligence filing for the Trout Creek Ditch Exchange is approaching. A location for the well is needed, along with designs for the diversion structure. Per our agreement, Mr. Moltz needs to review and approve the design before moving forward.

Manager Scanga said that he needed the Board to approve the Investment Program Policy Resolution for the District included in the Board's binders. Upon motion by Director Payne and second by Director Sandefur, the Board approved Resolution 2018-1. The Resolution was opposed by Director Ollinger.

Also approved, upon motion by Director Sandefur, second by Director Payne and unanimous approval by the Board, was Resolution 2018-2, authorizing District participation in the Colorado Local Government Asset Trust.

Chairman Senderhauf shared thoughts regarding investments in local communities and the impact that local banking has had on Custer County. He expressed his belief that investing in local banks helps stabilize the economy and he would like the District to keep this in some small way as part of its operations.

Consultant Baker echoed the thoughts and comments of Chairman Senderhauf and said it is important to support those that support us.

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

Engineer Manera reported that the blue line expansion has been a top priority for Colorado River Engineering. In the past month Engineer Manera, Wendy Ryan, Manager Scanga, and Attorney Burgemeister met with Bill Tyner and the Assistant Division Engineer. They reviewed augmentation plans as a whole and looked at how engineering was being developed in other areas. Overall, Engineer Manera reported that Division 2 is pleased with the accounting and management of the UAWCD's blanket plan and the proposed incorporation of larger areas and different types of uses. From a process standpoint there was no negative feedback related to historic operations and only the wish that the

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District could cover more areas. Final engineering direction was provided and will be incorporated into the final expansion application.

Engineer Manera showed slides dealing with evapotranspiration rates across various zones within the expansion area, along with graphics highlighting alluvial bands that effect the timing of return flows. Director Colon asked how the data had been collected and Engineer Manera said that updated climate data was taken from CoAgMET stations.

MANAGER'S REPORT CONTINUED- Terry Scanga

Manager Scanga reported that an engagement letter was received from Hancock Froese and Company for the annual audit with costs estimated between \$13,000 and \$15,000. Manager Scanga said he needed Board approval to engage with the auditors and the authority to sign the engagement letter. Director Colon made a motion to grant Manager Scanga the authority to sign the engagement letter with the auditors. Director French offered a second and the motion was carried with unanimous approval from the Board.

LEGAL REPORT – Law of the Rockies, Kendall Burgemeister

Opposition updates and transactional matters are included in the Law of the Rockies legal report in the Board's binders.

Attorney Burgemeister reported on the Super Ditch case saying that stipulations have been reached with all remaining opposers. The trial has been vacated and a proposed final decree can be expected in the next couple of days. Attorney Burgemeister will compare the proposed final decree with the version we agreed to in our stipulation.

On the application side, Attorney Burgemeister said that he needed approval for a stipulation with Dean Roberts in the Friend Ranch case. This is a matter requiring Enterprise approval and, therefore, the Enterprise Committee meeting was held open. Upon motion by Director Felt, second by Director Colon, and unanimous approval from the Board acting as the Enterprise, the stipulation with Dean Roberts was approved.

Attorney Burgemeister said that the Colorado Water Conservation Board is the one remaining opposer in the Friend Ranch case and a meeting is scheduled with them on Friday, December 21st.

Additionally, Attorney Burgemeister said that he is hoping to file the blue line augmentation expansion application for Eastern Fremont and Custer County by the end of the month. There is a little remaining work to be done and data to collect from Hydrologist Gertson and Engineer Manera, but the end of the month should be possible for filing. At this time there is no specific document for Board approval, but a motion was requested to proceed with filing for that application. Chairman Senderhauf said it is important to keep the ball rolling and that authorization should be given to Manager Scanga, Attorney Burgemeister, and Engineer Manera to finish the work necessary to get the application submitted by the end of the calendar year.

Manager Scanga reminded the Board that this has been approved in the past, but another board approval timed with the filing of the application is a good idea.

Director Ollinger asked where we are at in terms of support from the leaders of Fremont County and Custer County and noted the two Commissioners present. Director Payne, Fremont County Commissioner, said that he has no issues with the expansion.

Manager Scanga remarked that we are working with both Fremont County and Round Mountain and both support the expansion. Chairman Senderhauf, with regards to Custer County, said that Director Donley has been active in this decision and, speaking for himself, the Chairman said he hasn't heard anything negative from other Commissioners.

Director Ollinger suggested getting ahead of any opposition through water education, specifically the features and benefits of augmentation. Manager Scanga responded saying that there is a time and a place

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for education, but the first step is to file the application. Director Ollinger said he was more concerned with non-industry people and suggested being more pro-active. Custer County Commissioner Tom Flower agreed with Director Ollinger and said he would be concerned for the residents of Custer County if they didn't have the information they needed to support the expansion. Chairman Senderhauf interjected saying that he has had more than 20 meetings with the people of Custer County and, from his perspective as a Chairman and member of the community, this is the right way to go.

Manager Scanga followed up saying that he learned several things from past experience with Custer County. He learned that the former proposed augmentation plan was a little too aggressive. We also learned that some citizens of Custer County who needed augmentation had to file their own applications and go to court at great expense because UAWCD did not have an umbrella augmentation plan to serve them. Manager Scanga further expressed that this issue should not be politicized and that Commissioners are tasked with authority over land use, not water use.

Director Felt reminded the Board that Fremont County voted to join the District, saw their taxes increase, and opportunity and benefit for the people of Fremont is now close at hand. Manager Scanga added that the expansion ensures that replacements will be made by time, amount, and location at an affordable cost. Because of our portfolio, water is being brought into Custer County and ranches won't have to be dried up.

Projects Manager Nutter said that education about augmentation is continually being discussed and that work is being done to develop effective messaging. She is working on better ways to compile information about augmentation, including how it works and the benefits it offers. Also being considered is how to target that information to specific groups including planning commissions, County commissioners, and realtors.

Following this discussion Director Sandefur made a motion to file the application for expansion, which was seconded by Director Payne and unanimously approved by the Board.

Additional discussion followed with Manager Scanga highlighting that there was a lot of education done the last time an application was filed. Chairman Senderhauf added that the expansion provides an opportunity for legal water use. Attorney Burgemeister commented that a lack of water will no longer be a hindrance and, though augmentation can cause growth that community members may not want to see, that growth still has to be permitted by County commissioners since they have authority over land use. Director Felt said that commissioners see land use applications every week. In Chaffee County there is a condition on every subdivision that you have to provide a legal water supply. The process is simplified for individuals that do not have the background or resources to get their own augmentation plan since they can get augmentation through the District. Augmentation simplifies the process for the land owner, land use planners, engineers, and at the same time, protects water rights.

In other matters, Attorney Burgemeister reported that a new application for a lease fallow pilot project has been filed by the Lower District. If the project is picked and continues to move forward, Attorney Burgemeister would like to have Engineer Manera take a close look at the application to ensure that the District's interests are protected.

Executive Session

Manager Scanga asked for consideration of an Executive session to discuss water rights associated with a proposed development. There is potential to negotiate with the developer who would like to preserve the value of water rights so they are not abandoned. Manager Scanga said he would like direction from the Board on possibly pursuing an agreement with the developer. Upon motion by Director Colon and second by Director French, the Board unanimously approved opening an Executive session. The Board meeting went into an executive session at 3:02 P.M.

Upon a motion by Director Colon with a second by Director Sandefur the Board voted to adjourn from the executive session at 3:15 P.M.

RECORD OF PROCEEDING

At 3:15 P.M. the regular meeting of the Board of Directors reconvened. At that time a motion was made by Director Colon to direct Manager Scanga to move forward with research and potential negotiations with the Mr. Ince on the direct flow water rights associated with the Broome Ranch development. With a second by Director French and unanimous approval by the Board, the motion was carried.

CHAIRMAN AND DIRECTOR REPORTS

In other business Director Ollinger expressed why he opposed the Investment Program Policy Resolution presented to the Board and the Enterprise Committee. Director Ollinger said that he believes process is more important than product and felt there was no open discussion prior to the submission of the investment policy document. He said he felt the discussion was controlled and suppressed in this particular process and that the document was presented in final form without Board discussion.

Attorney Burgemeister responded by clearly stating that the document was not drafted as a final document, nor was it presented as a take it or leave it policy. There was consideration and discussion regarding the document however the other Board members disagreed with the suggestions made by Director Ollinger. Attorney Burgemeister said that the process that has taken place for the District is similar to other organizations for which he has drafted similar policies. Open discussion took place and the Board chose to approve the Investment Program Policy Resolution as written.

NOTICES & MEETINGS

- Arkansas Basin Roundtable Meeting – January 9, 2019
- CWC Annual Convention – Jan 30 – Feb 1, 2019
- Family Farm Alliance – Feb 21 – Feb 23, 2019
- Arkansas River Basin Water Forum – VIP Dinner April 23, Forum-April 24 - 25, 2019, Pueblo Convention Center

Director Colon added that the DARCA Conference is scheduled to take place February 13th-15th at the Hilton in Fort Collins. This coincides with the District's regular Board meeting but reserving the venue necessitated these specific dates.


ADJOURN

There being no further business to come before the Board or the Enterprise Committee, upon motion by Director Colon, second by Director Sandefur and unanimous approval of the Board, the meetings adjourned at 3:20 pm.

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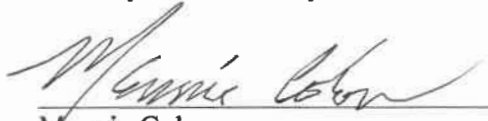
RECORD OF PROCEEDING

Respectfully submitted,


Ralph L. Scanga, Jr., General Manager

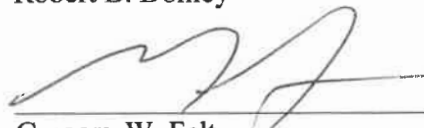
Absent from Meeting- No Signature

Timothy C. Canterbury


Mannie Colon

Absent from Meeting- No Signature

Robert B. Donley


Gregory W. Felt


Tom E. French


Absent for Approval- No signature
Brett A. McMurry

Absent from Meeting- No Signature

Thomas Goodwin, Treasurer

Absent from Meeting- No Signature

Richard Hilderbrand


Franklin J. Moore


Jeff Ollinger


Tim Payne


John H. Sandefur


Robert M. Senderhauf