

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Regular Meeting of the Board of Directors

**August 8, 2019
1:30 P.M.**

A regular meeting of the Board of Directors of the Upper Arkansas Water Conservancy District was held Thursday, August 8, 2019, 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 7, 2019, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

DIRECTORS PRESENT

Mike Shields	Tim Payne	Brett A. McMurry
Franklin J. (Jay) Moore	Robert B. (Bill) Donley	Mannie Colon (phone)
Tom E. French	Gregory W. Felt	Richard Hilderbrand
Tony Telck	Timothy C. Canterbury (Arrived at 2:30 p.m.)	

DIRECTORS ABSENT

Warren Diesslin	Thomas Goodwin
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DISTRICT OFFICIALS/STAFF MEMBERS PRESENT

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

DISTRICT OFFICIALS ABSENT

None

STATE OFFICIALS PRESENT

None

STATE OFFICIALS PRESENT

Brian Sutton, Water Commissioner

EX-OFFICIO REPRESENTATIVES PRESENT

Tom Flower, Custer County Commissioner
George Medaris, District Manager, Round Mountain WSD

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
Philip Puckett, Buena Vista Town Administrator
Bob Hartzman, Canon City Water Superintendent
Council Representative, Salida City Council

GUESTS PRESENT

David Mau, USGS
Andy Klakulak, USGS
Valda Terauds, San Isabel Land Protection Trust
Hank Held, Chaffee County Planning Commission & SALA
Randy Rusk, Westcliffe

PLEDGE OF ALLEGIANCE

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

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INTRODUCTION OF GUESTS

Guests were asked to introduce themselves.

MINUTES OF THE MEETING OF July 11, 2019

The minutes of the meeting of July 11, 2019, were unanimously approved upon motion by Director Donley with second by Director French.

Discussion followed with comments from Vice-Chairman Felt. Vice-Chairman Felt noted that the description of the Compact found on page 3, paragraph 4 in the July 11, 2019 minutes was incorrect and incomplete. The minutes, referring to the Colorado Compact, state, "The treaty between the State of Colorado and the States of California and Arizona was created during a period of high-water flow in the Colorado River and did not make allowances for future low-water flows or drought conditions." Vice-Chairman Felt and Manager Scanga agreed that this should state "The Colorado Compact was created during a period of high-water flow in the Colorado River and did not make allowances for future low-water flows or drought conditions." The minutes were amended and approved with this change.

FINANCIAL REPORTS

Upon motion by Director Payne with second by Director Donley, the Board unanimously approved the monthly financial report dated July 31, 2019.

PROGRAM PRESENTATIONS

Chelsey Nutter, Executive Director for the Arkansas River Watershed Collaborative (ARWC), provided an update on projects that are taking place in partnership with the District, along with a summary of projects that are being managed by ARWC.

Some of these projects include fuels mitigation in Lake County, the Monarch Pass Forest and Watershed Health Project in Chaffee County, the DeWeese Reservoir Feasibility Study and Stream Management Plan and the Hayden Pass Fire and Flood Recovery Project in Fremont and Custer Counties, and the Spring Creek Fire and Flood Recovery Project in Huerfano County. Other projects in the works include the Canon City River Corridor Project, Cucharas fuels mitigation, and water education through Public Education Public Outreach (PEPO).

Ms. Nutter then provided a detailed update on the Monarch Pass Forest and Watershed Health Project, reporting that \$1.3 million has been secured and that the Forest Service has signed a 5-year stewardship agreement. Ms. Nutter said that watershed health projects are underway, including reclamation of the old Monarch gravel pit. A tour has taken place with a cut-to-length expert from Oregon, meetings and tours are being scheduled with local contractors, and cut-to-length equipment has been purchased by a gentleman from Alma. A request for proposals and scoring matrix is now being developed and Ms. Nutter said they hope to have that out this fall. Responding to questions about the cut-to-length process, Ms. Nutter said that use of this technology on steep slopes is more efficient, less expensive, and causes less soil disturbance than traditional logging methods.

Manager Scanga inquired if there is anything in the study that attempts to measure the benefit to the watershed. Ms. Nutter responded that, while there is nothing in this project that is measuring the benefits, experience from the Spring Creek fire shows that getting out ahead of post fire flooding impacts the watershed.

Ms. Nutter went on to highlight work that has taken place through the Hayden Pass Fire and Flood Recovery Project. The Hayden Fire took place in 2016 and burned 16,520 acres, primarily in mountainous terrain designated as Wilderness. Ms. Nutter said the area was not designated as a disaster area after the 2016 fire and then showed a video of flooding that took place in July 2018. Ms. Nutter said that Emergency Watershed Protection (EWP) funding was secured but only 4 out of 17 landowners signed the agreement for funding. Work through the EWP was completed this summer and provided significant benefits to the properties belonging to those that signed the agreement.

Moving forward, the project will focus its efforts on Big Cottonwood Creek, which has the highest priority needs. Efforts to communicate with locals will continue, including one on one visits and

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informational updates on the website haydenpassrecovery.com. Hand work is being done with help from the Canon City Work Force and efforts continue to secure additional funding for more work. Challenges include the steep and rocky nature of the terrain, along with the fact that much of the burn scar is in Wilderness area. Ms. Nutter said that debris removal and chipping would continue, that they intend to move upstream to identify possible hillslope treatments, and they will continue to work with partners to develop long term recovery strategies.

Director Payne said that he toured the area about a month ago and that the guys from Canon City Work Force have done a good job. He said that the primary challenges with the EWP process were landowner liability and general mistrust of the government. Ms. Nutter added that the time restrictions through the EWP process were an additional hurdle.

Ms. Nutter concluded her presentation with information on the Spring Creek Fire and Flood Recovery Project. The Spring Creek fire burned 108,000 acres in 2018 and was the third largest fire in Colorado's history. Work has been focused primarily in the burn scar with clearing and snagging, along with hillslope treatments. Hillslope treatments have included the installation of log erosion barriers (LEB's), crib walls, and seeding and mulching. Ms. Nutter showed pictures of these various treatment techniques and said that materials were sourced on-site. Prison crews have been used for much of the work and treatments are proving successful.

Following Ms. Nutter's presentation Director Colon asked if anyone knew about the sedimentation in the river below these flooded areas, specifically Hayden, and if it will affect the gold medal fishing designation on the Arkansas. Vice-Chairman Felt said that shocking below Cottonwood creek showed a real decrease in the fishing population last year but that conditions seem okay. He said that Parks and Wildlife does not make flip flop decisions about gold medal waters and that the river was hitting the standards for gold medal waters 11 or 12 years before it was designated. He said that temporary effects from fire and flood shouldn't change the long term gold medal designation.

EX-OFFICIO REPORTS

There were no ex-officio reports.

CONSULTANT REPORT – Ken Baker

Consultant Baker offered a summary of his report to the Board and referenced materials included in the Board's files. Among those materials were comments from Manager Scanga regarding two proposed bills that were postponed indefinitely in the 2018 General Assembly. One proposal was an amendment to an existing statute that authorizes the Colorado Water Conservation Board to accept loans of existing historical consumptive uses and to transfer such HCU to another location and another use. This process would then create an increase in the volume of the river at a desired location and effectively create a greater stream flow and accomplish the same goal as the Minimum Stream Flow statute. The new proposal was to increase the loaned HCU from three years to five years. The second proposal was to allow the CWCB to acquire HCU for the same purposes of the loaned water rights and authorized the CWCB to apply to the water court for a decree augmenting the change of use. Consultant Baker highlighted Manager Scanga's comments regarding these proposals and specific concerns about the exclusion of the water court process.

Also included in the Board's files was an article from the Aspen Daily News regarding alternative transfer methods. The article highlights a grant received from the Colorado Water Conservation Board for the city of Aspen to establish alternative transfer methods with area farmers for the purpose of water conservation. The consumptive uses of water would be voluntarily and temporarily leased to overcome drought challenges and projected population increases. Consultant Baker said that there are many issues involved, but the bypassing of the constitutional doctrine of prior appropriation along with courtroom review and authority are primary concerns.

COMMITTEE REPORTS

None

RESUME REVIEW COMMITTEE

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Nothing of significance for the District in the Resume.

MANAGER'S REPORT – Terry Scanga

Manager Scanga reported that he had a bank signatory resolution for Board review and approval. The resolution is needed to add newly appointed Chairman Canterbury as an authorized signatory. Additionally, the bank only wants one signature on checks versus the two signatures that have been provided in the past. Manager Scanga, Consultant Baker, and Chairman Canterbury will all be authorized signatories for checks. Manager Scanga added that, to satisfy auditing controls, an approval process must remain in place that ensures disbursements are approved by two authorized individuals. Manager Scanga reviewed the process and said that he authorizes payment of a bill, staff cuts a check, and there will be one signature on the check. With this resolution the Board Treasurer will look at all disbursements for the month, check on the legitimacy of payments, and provide approval. Though this review will take place after checks have been cut, Manager Scanga said that auditing standards are still being met. He then recommended passing this resolution.

Director Payne inquired if Vice-Chairman Felt would review disbursements if Treasurer Goodwin was not available. Attorney Burgemeister responded that review only takes place once a month and it is not likely that the Treasurer will be gone for more than a month.

Director Hilderbrand referenced paragraph 6, line 4 which states that “the Bank has no duty to inquire into any power before executing it, even if the power benefits the signer individually.” Director Hilderbrand asked if we would depend on the Treasurer’s review if the person signing the check was benefitting directly. Attorney Burgemeister responded that this provision is for the benefit of the bank and removes the bank’s responsibility. He said that it comes back to the internal controls within an organization to make sure everything is above board. The resolution provides authority to certain individuals to be signers, even if they are signing their own payroll check.

Following discussion and upon motion by Director Payne and second by Director Hilderbrand, the Board unanimously approved Resolution 2019-2 Designating Signatories. Chairman Canterbury abstained from voting due to his late arrival to the meeting.

Manager Scanga provided a draft of the 2020 budget for the District and the Enterprise. He said that Board members should review the draft and bring any questions to next month’s meeting. Additional information will be provided at the September meeting, including breakouts and subsidiary worksheets.

Manager Scanga then informed the Board that extra money has become available for Phase 2 of the Water Balance Study. The funds will be used to do age dating and are coming directly from the USGS with no additional funds required by the District. Manager Scanga said the project would be extended by six months and then asked Engineer Manera to explain the benefits of this type of research.

Engineer Manera said that the biggest value of additional analysis is that there is one less unknown in the groundwater modeling platform. He explained that the age dating process will help calibrate the model for more refined accuracy. He went on to say that the additional analysis would begin as soon as possible to avoid delays and that all the funds for the age dating component are coming from the USGS.

Director Colon asked if the additional study would be advantageous for the Blue Line discussion and if completion of the report was still expected within the time constraints of the Water Court process. Engineer Manera said that the additional time added to look at water quality falls within the court schedule. Attorney Burgemeister added that the intention was never to rely on the study, the final model, or final report for the augmentation case. He reminded those present that Phase 2 of the water balance study is focused on investigating the potential for alluvial storage. Engineer Manera added that the augmentation plan is more micro level and the water balance study is larger scale. He said that, while the model and results are not being used in our Blue Line case, the study can help out on a macro level.

Referencing Engineer Manera’s comment about water quality, Vice-Chairman Felt asked about the difference between age dating and water quality.

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David Mau from the USGS explained that young water would show that recharge is happening at a quicker rate and close to the surface. With very old water, recharge is coming at a great distance as opposed to at the surface. Because the water that recharges an aquifer carries the chemical signature of the atmosphere from which it came from, the source of recharge ties directly into water quality.

George Medaris from Round Mountain expressed that there is a lot of interest in the valley about non-tributary water. He said that any static water would be very old. Mr. Mau from the USGS said that monitoring wells used in the study are not deep enough to encounter ancient water, though it is possible that there are small pockets in the basin that could have non-tributary water at deeper levels.

Custer County Commissioner Flower asked how deep the measurements would be to determine the age of the water. Mr. Klakulak and Mr. Mau from the USGS said there are not a lot of really deep wells in the study but the presence of tritium would classify new water versus old water. Water with tritium will have seen the atmosphere since the 1950's.

At this time Director Payne gave direction to Manager Scanga to go forward with the USGS on the study.

Vice-Chairman Felt asked, with the extension for age dating, if some of the data that was expected sooner would be delayed until everything is completed and compiled. Manager Scanga responded that the regular report would be completed under the regular timeline and it would be followed with an addendum.

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

Engineer Manera reported that the replacement gate was ordered for Conquistador Reservoir. He said that it is more heavy duty, with a stainless steel frame that won't rust out. Engineer Manera said that they are waiting for drawings on the stem assembly that goes up the dam and he expects to have a project summary by the end of the month.

Engineer Manera said he has been working with Trails West on their water court application, primarily with engineering and accounting procedures. The District is participating in the exchange component of that case.

In the Bessemer exchange case Engineer Manera participated in a phone meeting with other engineers. He reported that several things have been removed from the exchange case, which has simplified the engineering. The majority of the meeting was dedicated to reports from various consulting groups that have been working to show the absence of speculation and justifiable demand. Detailed information on demographics, growth potential, and increases in demand related to climate were all presented. The question on the table was whether or not we can rely on what has been used in the past or if things need to be done differently for future planning. With a change in shoulder seasons, less precipitation, and a longer irrigation season, a 7% increase in typical demand for municipal planning was being recommended. Engineer Manera said that consultants also looked at Compact calls and the potential loss of Transmountain supplies. He said that a lot of work was done to show there is a greater demand and, therefore, a need for increased supply. Engineer Manera then added that the level of detail needed to project a slight change in demand schedules might affect future engineering work.

Manager Scanga commented that the Board of Water Works Pueblo Transmountain water is a major source of water in their portfolio but they believe that in the future there could be a reduction in that supply source. He said the Bessemer water would be another source that's in the Basin and not Transmountain. Engineer Manera said that there is value in adding native water to balance their water portfolio, especially if there are concerns with long term Transmountain yield.

Vice-Chairman Felt asked if speculation issues will change in the future if this kind of engineering gets adopted by more people in more cases. Engineer Manera said that it will certainly be easier for municipalities and districts to show demand with this level of engineering. He said that everyone expects growth over the next 50 years and that typical engineering will look at state demographics and census data and then project water demands off population data. Engineer Manera added that he was surprised

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to see the level of detail they went to in this case to show demand, but with their water portfolio it is probably justified.

Attorney Burgemeister added that BWWP already has a large amount of water in their portfolio and that this is a large amount to change. He said that they are trying to show demand from several angles and to plan for 50 years in the future. He said that we all have to assume some level of risk with dependency on Transmountain supply.

Director Hilderbrand asked about the 7% increase for municipal planning and Engineer Manera explained that you would look at your current demand and add 7% for future planning. He said the demand increase was primarily concentrated in the shoulder seasons.

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 that the major case on the opposition side is the Bessemer exchange case. He said that issues of concern have now been removed from the case and that language has been modified. He said that, now that concerns have been addressed, there is not much left to do in the case and a stipulation for Board consideration will likely be ready next month.

On the application side Attorney Burgemeister provided an update on the Blue Line case. He said that last Thursday the referee decided to re-refer the case to the water judge. Attorney Burgemeister expressed frustration with this decision since all parties involved had unanimously agreed that they wanted the case to stay in front of the referee for the next year. Attorney Burgemeister said that a trial date can now be expected, which will likely be two years from now. He added that expert disclosures are triggered by when the trial gets set and that the next significant deadline is for the applicant to do a formal expert report. While communications between applicants and opposers is expected to continue, the process is accelerated. Attorney Burgemeister said that there is still time for back and forth between parties, there is still time to modify the proposed decree, and that terms and conditions can be added.

Vice-Chairman Felt asked about the request for an extension to oppose comments that was sent to all Directors. Attorney Burgemeister said that he spoke with the attorney for San Isabel and had indicated that we would not oppose that request. At this time the extension has already been granted.

In other matters, Attorney Burgemeister said that he worked with Manager Scanga on the banking resolution and attended the presentation offered by the USGS in Westcliffe.

Director Payne then inquired about the stipulation with Florence and Canon City that was approved at the last meeting. He mentioned the boiler plate language found in the minutes and asked for an explanation. Attorney Burgemeister explained the typical framework and language for stipulations and said that in May we submitted a proposed decree and they agreed to that decree.

CHAIRMAN AND DIRECTOR REPORTS

Chairman Canterbury asked Board members to review the new Committee assignments included in their binders and to contact him if there are any issues.

Director Shields asked if there was a reason that email addresses for Board members were not included in contact information, either in their binders or on the District's website. Manager Scanga said that email addresses have not typically been made available to the public but that contact information could be built into the Board member information page on the District's website. He then directed Secretary Griffin to provide a list of email addresses to the Board and to update the Board member information page of the website.

NOTICES & MEETINGS

- ABRT Meeting– 12:00 pm, August 14, 2019– PCC, Pueblo

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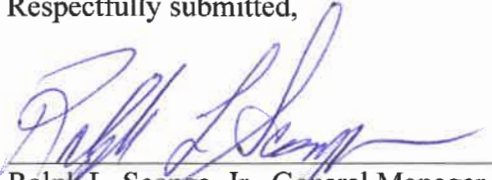
ADJOURN

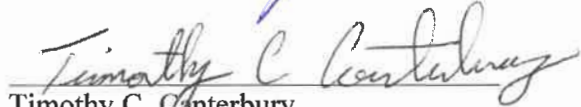
There being no further business to come before the Board, upon motion by Director Donley, second by Director Colon and unanimous approval of the Board, the meeting adjourned at 3:17 pm.

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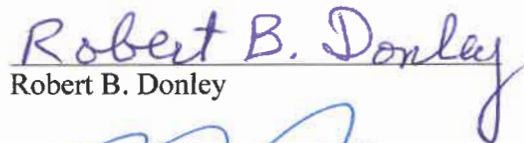
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Respectfully submitted,


Ralph L. Scanga, Jr., General Manager


Timothy C. Canterbury

Absent for Approval - No Signature
Mannie Colon


Robert B. Donley


Gregory W. Felt

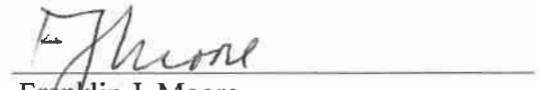
Absent for Approval - No Signature
Tom E. French


Brett A. McMurry

Absent from Meeting- No Signature

Thomas Goodwin, Treasurer

Absent for Approval - No Signature
Richard Hilderbrand


Franklin J. Moore

Absent from Meeting- No Signature


Warren Diesslin

Absent for Approval - No Signature
Tim Payne


Tony Telck


Mike Shields