

**UPPER ARKANSAS WATER
CONSERVANCY DISTRICT**

Water Activity Enterprise Committee

**October 14, 2021
1:00 P.M.**

The Upper Arkansas Water Conservancy District Water Activity Enterprise committee held its regular meeting Thursday, October 14, 2021 at the District offices, 339 East Hwy 50, Salida, Colorado, commencing at 1:00 pm, notice having been given by posting of Notice and Agenda on October 13, 2021, at the offices of the Upper Arkansas Water Conservancy District, 339 East Hwy 50, Salida, Colorado.

COMMITTEE MEMBERS PRESENT (IN PERSON)

Ralph L. (Terry) Scanga	Timothy C. Canterbury	Thomas Goodwin
Tom French	Brett Mc Murry	Warren Diesslin
Tony Telck	Richard Hilderbrand	Robert B. (Bill) Donley
Gregory W. Felt	Mike Shields	Albert Eggleston (joined at 1:35pm)

COMMITTEE MEMBERS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Tim Payne
Mannie Colon

COMMITTEE MEMBERS ABSENT

Tony Telck
Ken Baker

DISTRICT OFFICIALS/STAFF MEMBERS PRESENT (IN PERSON)

Jord Gertson, Hydrologist	Kendall Burgemeister, Attorney
Gracy Goodwin, Projects Manager	Jennifer A. Scanga, Administrative Assistant

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

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

DISTRICT OFFICIALS/STAFF MEMBERS ABSENT

Chris Manera, Engineer

STATE OFFICIALS PRESENT

None

STATE OFFICIALS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

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

STATE OFFICIALS ABSENT

Brian Sutton, Augmentation Coordinator
Bill Tyner, Division Engineer

GUESTS PRESENT

Bob Hartzman, Canon City Water Superintendent
Tom Flower, Custer County Commissioner

GUESTS PRESENT (BY REMOTE VIDEO AND AUDIO CONFERENCING)

Joe Stone, Heart of the Rockies Radio
Jim Blasing, Director of Pueblo West Utilities
Bobby Banham, Pueblo West Utilities
Sarah Mudge, Lake County Commissioner

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Cathy Garcia, Southern Colorado Regional Director for Congresswoman, Lauren Boebert

CHAIRMAN'S INTRODUCTION

Introduction of guests will be held over to the Board meeting.

MINUTES OF THE MEETING OF September 9, 2021

The minutes of the meeting of September 9, 2021, were approved upon motion by committee member French with second by committee member Felt.

TREASURER'S REPORT

Upon motion by committee member Goodwin with second by committee member Shields, the committee approved the financial reports dated September 30, 2021.

Manager Scanga reviewed the Quarterly Balance Sheet for July-September.

Committee member Donley asked about the large deposit in the DeWeese project account. PM Goodwin explained that it is a reimbursement for the grant. She said that after project expenses were paid, she requested a reimbursement from the Colorado Water Conservation Board "CWCB".

MANAGER'S REPORT – Terry Scanga

Manager Scanga reported on the final 9 Augmentation Certificates on the forfeiture list due to delinquent meter readings and/or storage and maintenance fees. He read aloud the 9 delinquent certificate numbers including: #173, #484, #526, #647, #696, #730, #877, #984, and #1161. Manager Scanga stated that the list of outstanding accounts decreased from 30 to 9 after last month's meeting. He recommended referral of the vote for forfeiture to the General Board Meeting for action.

Manager Scanga explained that the District does ownership and encumbrances on outstanding accounts and will be sending out notices to any lienholders, so they have an opportunity if desired to remedy the delinquency of the respective certificates. He added that one delinquent account has been given the opportunity to provide an accurate meter reading after replacement of the meter. Forfeiture for that augmentation certificate is contingent upon a meter reading and photograph within a two-week period.

Upon motion by committee member Donley, seconded by committee member Goodwin, the Board approved moving the vote for forfeiture to the District Board Meeting.

Long-Term Lease Agreement Proposal

Manager Scanga discussed a proposed long-term water lease agreement with Desert Reef Hot Springs in Florence, CO. Manager Scanga stated that he received correspondence from an engineer that is doing either an augmentation plan or substitute water supply plan to be followed up with an augmentation plan. He said it is a geothermal well that requires water augmentation for use of a swimming pool, baths, and RV sites. He explained that the District's term policy on long-term leases is anywhere from 6 to 30 years and Desert Reef is requesting a 30-year lease with a 4.5-acre feet annual maximum replacement amount and a 30-year lease extension option. Manager Scanga said that the District's current rate for long-term leases is \$660 per acre-foot with a 3.5% per year escalator. He said that he needs authorization from the Enterprise Committee for the District to enter into a more than 30-year lease agreement. Manager Scanga added that the reason Desert Reef is asking for a longer term option is due to a long depletion lag time and not wanting to have to find another water supply after 30 years.

Committee member Donley asked if the hot springs is north or south of the river? Manager Scanga answered that it is south of the river on Hardscrabble Creek and the return flows from the well go to Hardscrabble Creek.

Committee member Colon asked if the need for the lease is due to an increase of water usage? Manager Scanga stated that they are adding RV sites and have come under administration and must make replacements.

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Committee member Colon asked if Desert Reef is using a different well for the RV park? Manager Scanga said that he is unsure if they are using a treatment plant, but the lease is for the artesian geothermal well and the District would be leasing them the replacement water supply.

State Engineer Henrichs explained that the well was decreed for use at Colorado Fuel & Iron (CF&I) and the current uses do not fall under the decreed uses and therefore need a substitute water supply plan and eventually an augmentation decree. He added that because it is a Dakota aquifer the actual depletions according to geotechnical guides and groundwater, come out of the Dakota aquifer on the other side of the Arkansas River and not into Hardscrabble Creek.

Committee member French asked why they need a lease longer than 30 years? Manager Scanga answered that they have a 59-year lag depletion which means that starting from the first year, it takes 59 years for the last part of the impact to hit the river.

Committee member Colon asked if the 3.5% annual escalator would remain the same throughout the term of the lease or would it increase after 30 years? Manager Scanga answered that it would remain the same within the 30-year term and he cannot speculate what kind of increase would be needed after that time. He added that in the past 20 years, 3-3.5% has been the normal rate from year to year on the cost of water. Manager Scanga suggested possibly adding a clause in the contract that states after 30 years the lease is subject to an escalator increase.

Committee member Felt asked if there is a 59-year commitment beyond the 30 years? Manager Scanga explained that the District's commitment would only be whatever the lease agreement states and after that Desert Reef would have to get another water supply.

Committee member Felt commented that Desert Reef will have a debt to the river for 59 years after the lease. Manager Scanga stated that the 59 years will continue extending out indefinitely. He explained that Desert Reef is interested in securing a supply for 60 years. Manager Scanga said that this gives them time to find another water supply if the District decides not to renew the lease for an additional 30 years.

Committee member Felt asked if the debt goes with the land and if the well were capped and some other activity was going on there, would the owner of the land be responsible for covering the 59 years? Manager Scanga answered that the debt goes with the structure and the use and a reason why Desert Reef may want to secure 60 years is if it were sold there would be a water supply to go with it.

Committee member Hilderbrand asked if it would be wise to consider an escalator review in the middle of the contract or at the end of the first 30 years? Manager Scanga said that raises two questions. Number one, do you want to change what the 30-year standard long-term lease is? The second question is, do we do it on this one lease? He added that committee member Hilderbrand raises a good point and that the District reviews water rates by utilizing the Pueblo Board of Water Works as a benchmark for rate increases. Manager Scanga said that benchmark has been at 3-3.5% for at least 15 years. He added that a clause could be added to the standard 30-year lease but feels it would cause problems for an applicant. Committee member Hilderbrand stated that his concern is how rapidly water scarcity is changing and the sources could change and that is why he thinks that the 15-year mark is a good time to review rates. Manager Scanga commented that a 3.5% annual escalator is considerable.

Committee member Colon made a motion to keep the District's standard 30-year term lease and the 3.5% annual escalator and not make any changes to the lease agreement. The motion was seconded by committee member French.

Committee member McMurry suggested adding a clause that states upon sale of a lease, the escalator is reviewed. Atty Burgemeister said that does not solve the problem. He explained that the problem is the risk to the District of having a fixed price over 30 years without knowing if and when the property will be sold and the clause would not solve the expressed concerns, which is what will happen with the

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price of water over the next 30 years. Atty Burgemeister added that he feels if the District is inclined to add a clause, his advice is to add a clause that specifies a review of the price of water at the end of the 30-year period. He suggested that the clause be added to all 30-year leases not just specifically for Desert Reef Hot Springs. Atty Burgemeister further added that if the escalator raises questions then he suggests changing it to reflect the local market for water rates which offers the most protection.

Manager Scanga explained that the District has had leases in the past where an external index was used for setting an escalator and he expressed that it is an “administrative nightmare”. He explained that a flat percentage per year is easy to account for and to better administer the lease. Manager Scanga said he recommends not tying the price of the lease to what the Board of Water Works does. He stated that he refers to their leased water escalators on long-term leases. Manager Scanga further explained that referring to residential cost escalators inside the municipal boundaries and outside the municipal boundaries makes it difficult to nail down the correct index. Manager Scanga stated that it could become argumentative in the future because things could change. He reiterated that keeping with a flat rate escalator is easy to administrate and easy to defend.

By a majority vote and 2 opposed votes a Standard 30-year Term Lease Agreement with Desert Reef Hot Springs, including a 3.5% annual escalator and 4.5-acre feet annual maximum replacement amount without a 30-year lease extension was approved by the Board.

Manager Scanga clarified for Board members that the reason Desert Reef asked for a 30-year extension to the standard 30 years is to secure water supply at the end of thirty years. He explained that with a standard 30-year term lease, an applicant must re-negotiate a new contract after the 30-year period. Manager Scanga expressed that he does not see a problem with allowing the option for an additional 30-years to the contract and a review of the escalator in the new term. He explained further that if you take the price at 3.5% per year and extend it out 30 years and keep the final price going into the new term, it is a benefit to the District.

Committee member Goodwin expressed that he believes there is an advantage to the District locking into a 60-year contract with an option to increase the escalator. He feels it gives the District the advantage to adjust if necessary and 60 years is better than 30 years.

Committee member French stated that 30 years is a long time and things can change in 30 years geologically with Colorado water and is reluctant to go beyond that and would like to stick with the policy already in place.

By a majority vote with 2 votes in opposition, the Board approved a Standard 30-year Term Lease Agreement with Desert Reef Hot Springs, including a 3.5% annual escalator and a 4.5-acre feet annual maximum replacement amount without a 30-year extension.

Augmentation Report

Manager Scanga displayed the augmentation report for September 30, 2021. As of the end of September, total State approvals for augmentation were 727.12 acre-feet. Replacements were 95.08 acre-feet including transit loss.

Committee member Shields asked what the catalyst is for the increase in numbers? Manager Scanga answered that pond augmentation is the main cause for the increase.

HYDROLOGIST REPORT

Reservoir Storage

Hydrologist Gertson reported that in our Twin Lakes account, we have 4.4 acre-feet of native water and 9.0 acre-feet of Twin Lakes, Transmountain water. Pueblo reservoir had 2668.9 acre-feet of project carryover and 599.0 acre-feet of project water. Total storage was at 4744.0 acre-feet.

Hydrologist Gertson clarified for committee member Felt that Buena Vista stores 1.3-acre feet of water in Cottonwood Lake. Committee Member Felt asked if Buena Vista is relying on that 1.3-acre feet for augmentation of their wells and if it is being handled through the District’s integrated management per year. Manager Scanga explained that they have several wells and well # 3 is covered under the

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District's augmentation decree using Frying Pan water. Cottonwood storage is used when they have a local call and no local water source for well #1 and #2. Hydrologist Gertson added that they also use water from McPhelmy Pond and when there is a surplus of water in Cottonwood Lake, they cover the evaporation in McPhelmy and cover the depletions for well #2.

Committee member Donley asked if the project carry-over water is subject to evaporation and when does it start and stop? Hydrologist Gertson stated that the original project allocation for this year was 599-acre feet and is not subject to evaporative loss until the next allocation at the end of May. He clarified for Mr. Donley that Pueblo Reservoir has evaporative loss all year.

ENGINEER'S REPORT – Wendy Ryan, Colorado River Engineering

Deferred to next meeting

LEGAL REPORT - Kendall Burgemeister, Law of the Rockies

Deferred to next meeting

OTHER BUSINESS

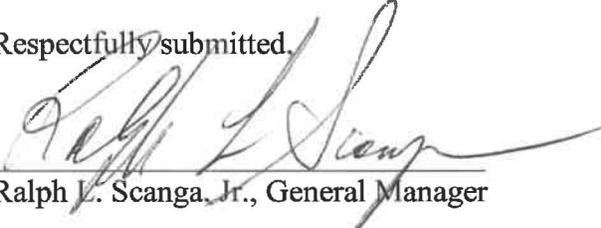
ADJOURN

No further business to come before the committee, the meeting adjourned at 1:47 pm

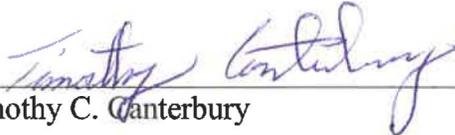
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Respectfully submitted,


Ralph L. Scanga, Jr., General Manager

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Ken Baker


Timothy C. Canterbury

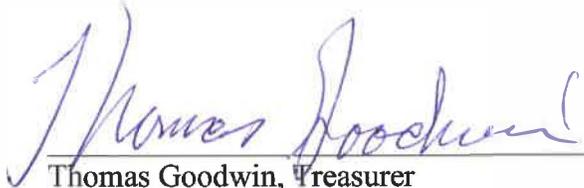
approved remotely - no signature
Mannie Colon

approved remotely - no signature
Robert B. Donley

absent - no signature
Gregory W. Felt


Tom E. French


Brett A. McMurry


Thomas Goodwin, Treasurer

approved remotely - no signature
Richard Hilderbrand


Albert Eggleston


Warren Diesslin

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Tim Payne

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Tony Telck

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Mike Shields