

**Southwestern Water Conservation District
Board of Directors Meeting
October 13, 2015**

Present: John Porter, President Steve Fearn, Vice-President Bob Wolff, Secretary-Treasurer
J.R. Ford Rusty Hinger Monte Naslund
Jenny Russell (by phone) Doug Stowe

Absent: David Guilliams John Taylor, Emeritus

Staff: Bruce Whitehead, Southwestern Water Conservation District (SWCD) Executive Director
Laura Spann, SWCD Office Manager
Adam Reeves, Maynes, Bradford, Shipps & Sheftel
Steve Harris, Harris Water Engineering
Peggy Montano, Trout, Raley, Montano, Witwer & Freeman

Guests Susan Behery, U.S. Bureau of Reclamation (BOR)
J. Paul Brown, State Representative
Jimbo Buickerood, San Juan Citizens Alliance
Jeff Derry, Center for Snow and Avalanche Studies
Art Goodtimes, San Miguel County Commissioner
Bill Frownfelter, Russell Planning & Engineering
Anita Hinger, Pagosa Springs Middle School, participated by phone
Jim Horn, Russell Planning & Engineering
Chris Landry, Center for Snow and Avalanche Studies
Carrie Lile, Harris Water Engineering
Darlene Marcus, U.S. Representative Scott Tipton
Jim Martin, Pine River Watershed Group
April Montgomery, Colorado Water Conservation Board (CWCB), participated by phone
Kevin Murphy, U.S. Geological Survey
Mike Preston, Dolores Water Conservancy District
Bennett Raley, Trout, Raley, Montano, Witwer & Freeman
Denise Rue-Pastin, Water Information Program (WIP)
Robin Schmittle, Town of Mancos
Tami Sheldon, Southern Ute Indian Tribe
Sally Shuffield, Durango Nature Studies
Kathleen Lyon, La Plata County Attorney's Office
Adam Smith, La Plata County Attorney's Office
Ron Smith, Cottonwoods Homeowners Association
Scott Wilson, Cove Homeowners Association, participated by phone
Mark Zempel, Cove Homeowners Association

President John Porter called the meeting to order at 9:05 a.m. Roll was taken and a quorum was present.

Executive Session

(time: 00:00:55)

Peggy Montano recommended that the board go into executive session for the purpose of receiving legal advice regarding the Animas-La Plata Project water rights due diligence case (13CW3011), Animas River depletion due diligence case (13CW3034), Basin Creek due diligence application (08CW81), and Cove and Cottonwoods HOA application (15CW07). The statute covering this session is § 24-6-402(4)(b), C.R.S., "conferences with an attorney for the district for the purposes of receiving legal advice on specific legal questions." Bob Wolff moved that the

board go into executive session. JR Ford seconded. The motion passed unanimously. Monte Naslund arrived during executive session.

Peggy Montano announced that the board was out of executive session, during which no action was taken. The board discussed the Animas-La Plata Project water rights due diligence case (13CW3011), Animas River depletion due diligence case (13CW3034), Basin Creek due diligence application (08CW81), and Cove and Cottonwoods HOA application (15CW07). The board provided direction to negotiators.

Approval of Minutes (August 11, September 9, September 9)

(time: 00:03:40)

Bob Wolff moved to approve the August 11 minutes as corrected. JR Ford seconded. The motion passed unanimously. Steve Fearn moved to approve the September 9 (budget workshop) and September 9 (teleconference) minutes. Bob Wolff seconded. The motion passed unanimously.

Approval of Treasurer's Report (September 2015)

(time: 00:06:25)

Bruce summarized the September 2015 budget comparison, bank account summary, and check detail. SWCD has earned much more interest with the December 2014 investment in two certificates of deposit. Special counsel expenses include expert witness costs. No 2015 funds have been spent on water quality studies, so Bruce reinitiated a conversation with Colorado Parks & Wildlife and Colorado Department of Public Health and Environment to continue mercury testing on local reservoirs. Steve Fearn moved to accept the September 2015 Treasurer's Report. Bob Wolff seconded. The motion passed unanimously.

Board Member Reports

Rusty Hinger (Mineral County)

(time: 00:13:20)

Rusty reported that creeks are low in southern Mineral County. The last storm brought a light dusting of snow.

Doug Stowe (Dolores County)

(time: 00:14:00)

Doug reported on a tour with the U.S. Bureau of Land Management and U.S. Forest Service (USFS) on the powerline upgrade between Montrose and Dolores Counties.

JR Ford (Archuleta County)

(time: 00:16:50)

JR reported that the water districts are finishing the loop pipeline, and a recent test revealed very few leaks. The sewer system has also been tied in.

Bob Wolff (La Plata County)

(time: 00:17:15)

Bob reported that the City of Durango decided to leave the wastewater treatment plant in its present location, which may generate some public opposition. With the Colorado Water Resources & Power Development Authority (CWR&PDA), Bob toured the impressive new Southern Delivery Project in Colorado Springs, including the state-of-the-art water treatment plant.

Steve Fearn (San Juan County)

(time: 00:19:50)

Steve reported a recent dusting of snow in San Juan County. The EPA is continuing to work on reopening the Gold King Mine portal and identify the source of the water. Originally it was flowing at 250 gpm, and has increased to 500 gpm. The Red and Bonita Mine bulkhead has been poured and cured. The EPA will wait until the spring to close the valve and observe the flow and related impacts. San Juan County passed a joint resolution requesting funding from Congress to address many issues related to the Gold King Mine release. The Animas River Stakeholders Group held an informational meeting in Silverton on August 25, then in Durango on September 22. The \$400,000 remediation of the Bullion King dump is nearly complete. Work continues to seek water treatment process alternatives. Core samples are being taken from the Mayflower Mill tailings to review their potential impact on water quality. The EPA did their water quality sampling on the Animas on September 28. Discussions regarding Good Samaritan legislation continue.

Monte Naslund (Montrose County)

Monte reported that Montrose County had a good year. Nobody put a call on the river.

John Porter (Montezuma County)

(time: 00:27:00)

John deferred his board report to several related items on the agenda. The U.S. Bureau of Reclamation (BOR) formally initiated the process to transfer title of Jackson Reservoir to Mancos Water Conservancy District.

Art Goodtimes (San Miguel County)

(time: 00:27:35)

Art expressed San Miguel County's continued support for the proposed Dolores River National Conservation Area. The fall has been relatively dry after a wet summer. There is hope that collaboration between the Town of Mountain Village, the Town of Telluride, and San Miguel County will improve with new elected officials.

Agency Reports

U.S. Geological Survey

(time: 00:30:20)

Kevin Murphy reported that current flows are right on average. Forecasters are predicting a big snow year due to El Nino. USGS just hired a new hydrologist to replace Jen Dansie. Funding for the historical Animas River at Durango gage has been secured for one more water year, after BOR said it would no longer contribute. In 2017, BOR will be seeking funding partners. BOR has paid for the Animas River at Durango gage, but it is not technically necessary for BOR operations, explained Susan Behery.

U.S. Bureau of Reclamation

(time: 00:38:20)

Susan Behery reported on area reservoir levels. Navajo Reservoir releases have changed to manage shortage. Lake Powell is 50% full and 68% of average. Susan provided a reservoir forecast report, and quelled the hype that El Nino will certainly bring a big snow year.

Colorado Water Resources & Power Development Authority

(time: 00:42:00)

Bob Wolff reported that at the most recent meeting was in Colorado Springs, the Authority continued discussions of proposed rules regarding loans to not-for-profit private water systems.

Colorado Foundation for Water Education (CFWE)

(time: 00:43:00)

Steve Fearn reported that his term is actually up in January 2017. The September board meeting was held in Alamosa. The board has adopted updated bylaws to match current operations. Gregg Ten Eyck plans to step down as president. The 2015 Water Fluency program to educate elected leaders and others was a success. The *Headwaters* issue covering water and land use was well-received, and the fall issue will focus on Colorado River issues. The next *Citizens Guide* to be updated will be on Water Conservation. The January tour will focus on industrial water use in Pueblo.

Colorado Water Congress (CWC)

(time: 00:48:45)

Steve Fearn reported that the summer conference was held August 19-21, at which Bruce and Steve presented on the Gold King Mine release. According to a membership survey recently conducted, the CWC is meeting member expectations. Regarding the membership dues restructuring, discussion will continue at the December meeting. Steve and Bruce updated the board on ballot initiatives being monitored as part of the Water Stewardship Project. CWC will request funding from SWCD in 2016 to support the Stewardship Project. The Winter Conference will be held January 27-29.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 00:56:50)

Steve Harris reported on the following:

- The IBCC met in August to discuss the conceptual agreement regarding transmountain diversions and its inclusion in the water plan. No other IBCC meetings are scheduled.
- At the October 14 meeting, the Southwest Basin Roundtable will hold elections for eight at-large seats, for which 15 applications were submitted. Four Water Supply Reserve Account applications will be considered to:
 - 1) support regional water plan implementation,
 - 2) partially fund the Telluride Valley Floor Restoration,
 - 3)

gather data for non-consumptive needs in the San Miguel basin, and 4) upgrade the Town of Mancos' raw water system.

Water Information Program (WIP)

(time: 01:05:00)

Denise Rue-Pastin reported that the Great Divide film documentary was screened in Dolores, Durango, and Pagosa Springs. SWCD participated in panel discussions after the screenings in Cortez (John) and Durango (Bruce). The 9th Annual Water 101 Seminar in Bayfield had at least 75 people in attendance. The fall WIP newsletter was distributed last week. The pilot Water and Land Use Planning Session is scheduled for Friday, October 23 from 1-5 at the La Plata County Administration Building.

U.S. Representative Scott Tipton

(time: 01:13:00)

Darlene Marcus, U.S. Representative Scott Tipton, reported that the Court of Appeals upheld the District Court's judgment on the proposed Waters of the US definition.

River Protection Workgroup

(time: 01:14:30)

Steve Fearn reported that the drafting committee is developing legislation based on the regional conceptual agreement. The next meeting is October 27. SWCD has asked legal counsel to provide language regarding the hard release of Wild and Scenic river segments and proposed release of Wilderness areas in the region.

Division of Water Resources

No representative was present; no report was provided.

Questions/Comments from the Audience

(time: 01:15:45)

There were none.

Colorado Water Conservation Board (CWCB)

(time: 01:22:50)

April Montgomery (participating via phone) reported on the following:

- Southwest Colorado has received significant Water Supply Reserve Account funding. The Florida Consolidated Ditch Company project received \$700,000, La Plata West Water Authority was granted \$500,000, and Montrose County was approved for \$250,000. CWCB staff indicated that the State is moving into a more fiscally austere environment due to declining severance tax revenues and an increasing number of WSRA requests. As a result, CWCB is encouraging WSRA applicants to seek more funding from the Basin Accounts.
- During the final comment period on the Colorado Water Plan, the CWCB received 26,000 public comments. Among the predominant themes, comments addressed the need for specific action items, additional storage, funding for additional storage and other infrastructure, restrictions for exporting basins, water quality threats related to abandoned mines, efficiency, and public/private partnerships.
- The State of Colorado recently published a state climate plan, done in collaboration with all the state agencies. Aspects of the report will be incorporated in the water plan.
- The next CWCB meeting will take place in November, at which the Colorado Water Plan will be finalized for delivery to the Governor by December 10.

Office Report

(time: 01:34:00)

Bruce Whitehead directed board members to the written Executive Director report, which he summarized:

- SWCD testified at the appropriation hearing for the Dolores instream flow. The CWCB board voted unanimously to move forward with appropriation.
- On October 5, SWCD and the River District met with the CWCB to discuss the possibility of a future use allocation to be considered in instream flow appropriations statewide. Another meeting is scheduled for October 26 in Glenwood Springs.
- The Interim Water Resources Review Committee will meet on October 29 to consider six draft bills for 2016, which Bruce summarized.
- The USFS is initiating discussions on the reserved water rights that have been pending for 40 years.

- The System Conservation Program has awarded \$1.6 million to support pilot projects that might supplement flows to Lake Powell on the Colorado River. Applications are being accepted for 2016.
- Board members were directed to a summary from the Target/Control Evaluation conducted by North American Weather Consultants to review the weather modification program for WY 2014-15.
- SWCD will send a letter to the Colorado Parks and Wildlife (CPW) Commission in support of proposed changes in regulations regarding 1) an unlimited bag limit on smallmouth bass on the West Slope, and 2) smallmouth bass and northern pike limits for Elkhead, Harvey Gap, Rifle Gap, and Rio Blanco Reservoirs. These changes are necessary to ensure recovery of four endangered native fish species in the Upper Colorado River Basin.
- SWCD will send a letter of renewed support for the Crowley Reservoir dam rehabilitation funding application to the New Mexico Water Trust.
- As directed by the board, a letter to the editor from SWCD was published in the Durango Herald encouraging the community to take advantage of the Animas River Stakeholders Group's local leadership after the Gold King Mine discharge. A similar text was distributed in the form of a press release.
- Regarding the San Juan River Basin Recovery Implementation Program (SJRBRIP), a proposal has been made to conduct a Colorado Pikeminnow viability analysis to evaluate possible downlisting of the species. The study has an estimated cost of \$137,000.
- There are efforts to broaden federal drought legislation currently being debated to cover several western states including Colorado.

Questions/Comments from the Audience

(time: 01:44:50)

State Representative J. Paul Brown expressed support for additional storage development on the South Platte River and another review of the Narrows Reservoir project. He thanked the board and the Roundtable for participating in the water plan process.

Old Business

Case No. 15CW07 Cove and Cottonwood HOAs

(time: 01:49:55)

Bruce Whitehead provided background on Case No. 15CW07, which is an application for absolute depletion water rights filed by Cove and Cottonwood Homeowners Associations (HOAs). The application makes absolute conditional water rights jointly owned by SWCD and La Plata County (06CW127). The Southern Ute Indian Tribe, Ute Mountain Ute Tribe, and the ALPOM&R Association have filed Statements of Opposition. Neither SWCD nor La Plata County is currently party to the case. Scott Wilson, Mark Zempel, and Ron Smith were present, representing the Cove and Cottonwood HOAs. Scott (participating by phone) described the location and water needs of the HOAs. The status conference is set for December 4. The Division Engineer reaffirmed its approval of the filing. Both SWCD and La Plata County are concerned about the opposition, and what it may do to undercut the 06CW127 water rights.

Case No. 08CW81 Basin Creek Due Diligence

(time: 02:12:50)

Bruce Whitehead reported that this conditional water right for supplemental source for storage at Ridges Basin Reservoir was discussed in executive session. Letters were sent to the U.S. Bureau of Reclamation and the State of Colorado offering to transfer the ownership of the water right. Without a response from either entity, SWCD will not make a filing for diligence in November.

Case No. 13CW3011 Animas – La Plata Project Water Rights Application C-A & DD

(time: 02:13:35)

Peggy Montano provided a status report on case number 13CW3011, Animas-La Plata Project water rights due diligence case, which was discussed in executive session. No action was taken. Direction was provided to legal counsel.

Dolores Instream Flow

(time: 02:14:00)

John Porter summarized the CWCB instream flow hearing on September 15 in Montrose, at which the CWCB board unanimously approved the Dolores instream flow appropriation. The River District and SWCD testified in

support of the instream flow appropriation, but with a future use allocation (2.7 cfs) to be considered as part of the appropriation, which was denied.

Future Use Allocation Update

Bruce addressed this agenda item in the Office Report.

Dolores National Conservation Area Discussion

(time: 02:22:25)

Bruce Whitehead, Art Goodtimes, Doug Stowe and Mike Preston provided a summary of recent discussion of a proposed National Conservation Area (NCA) on the Dolores River. SWCD funded an independent legal review by David Robbins, along with area water districts, of the NCA's impact on water rights. A public meeting was held to answer questions regarding the legal review. Montezuma County asked John Porter, and SWCD, to reconvene the water districts and counties after their boards have had a chance to read the legal review. David proposed two alternatives: 1) do nothing and allow for possible federal designation of a conservation area or national monument or 2) participate in a collaborative local process that may better protect water rights. Darlene Marcus has agreed to also participate in the legislative drafting committee.

Request for Qualifications: General Counsel

(time: 02:41:35)

As directed by the board, the Request for Qualifications for General Counsel was distributed on October 2 to current SWCD general counsel, water attorneys in southwestern Colorado, and members of Colorado Water Congress (law firms and attorneys). In addition, a classified ad was published on the Colorado Bar Association website. Staff has responded to several inquiries thus far.

New Business

Educational Grant Request: Durango Nature Studies

(time: 02:42:20)

Sally Shuffield presented the request for \$3,000 in support of the Exploring Science in Nature Program for 6th and 8th graders, during which the students learn about the water cycle, watershed health, soil erosion, and land use management. The total program cost is estimated at \$28,350. Other funding partners include New Belgium Brewing, Natural Resources Conservation Service, Ed Zink and Sleeping Beauty Ranch, Animas Watershed Partnership, Southern Ute Indian Tribe, and the Water Information Program. The WIP Steering Committee recommended the grant request for approval by SWCD in the full amount. Sally responded to board questions.

Educational Grant Request: Pagosa Springs Middle School

(time: 02:54:30)

Anita Hinger (participating by phone) presented the request for \$843 in support of two class demonstrations: Snow Storm/Snowpack and Fire Intensity Impact on Runoff Water Quality. The WIP Steering Committee recommended the grant request for one-year approval to support supplies for an ongoing annual program. Anita responded to board member questions.

Grant Request: Center for Snow and Avalanche Studies

(time: 03:07:20)

Chris Landry and Jeff Derry (new Executive Director) presented the request for \$5,000 to support monitoring and sampling of dust-on-snow deposition in the San Juan Mountains. In addition, the Center will publish regular alerts and updates throughout the winter and spring describing current dust-on-snow conditions and forecasting how dust will impact snowmelt timing and rates. Chris summarized the unlikely precipitation and dust-on-snow conditions for the 2014-2015 winter season and responded to board questions.

Grant Request: Pine River Watershed Group

(time: 03:36:30)

Jim Martin updated the board on 2015 monthly water sampling results from Pine River, Vallecito Creek, Grimes Creek and Vallecito Reservoir. He made a request for \$1,000 to support ongoing water sampling in 2016. Other funding partners include the Pine River Irrigation District and the Vallecito Community Council. Jim responded to board member questions.

Grant Request: Town of Mancos

(time: 03:44:45)

Bill Frownfelter, Jim Horn, and Robin Schmittel presented the request for \$75,000 in support of three water system upgrades for the Town of Mancos: 1) raw water intake system improvements, 2) pressure reducing valve (PRV) and vault replacement, and 3) replacement of water lines south of the Mancos River. These improvements tie to water loss and conservation, fire flow demand, reliability, and economic growth. The total project cost is estimated at \$538,858. The Town is also seeking funding from the Southwest Basin Roundtable and the Colorado Department of Local Affairs. The remainder of the costs will be paid by the Town of Mancos Water Fund budget. Bill responded to board member questions.

Financial Assistance Requests Approval

(time: 04:04:50)

The board made the following motions:

- Durango Nature Studies, \$3,000 to supplies only, 2015, JR Ford moved, Steve Fearn seconded, passed;
- Pagosa Springs Middle School, \$843 for a one-time approval for start-up funds, 2015, Rusty Hinger recused himself, JR Ford moved, Bob Wolff seconded, passed;
- Center for Snow and Avalanche Studies, \$5,000, 2016, Steve Fearn moved, Monte Naslund seconded, passed;
- Pine River Watershed Group, \$1,000, 2016, Bob Wolff moved, Monte Naslund seconded, passed;
- Town of Mancos, \$75,000 to be applied toward the raw water system improvement project, 2016, Steve Fearn moved, Rusty Hinger seconded, passed.

WIP Program Budget and Coordinator

(time: 04:22:00)

Bruce Whitehead summarized restructuring discussions in 2015. The SWCD board adopted a policy guiding the WIP. Denise Rue-Pastin, WIP Coordinator, signed a letter of engagement as an independent contractor, with a limit of 30 hours per week in 2016. As part of the 2016 budget discussion at the WIP Steering Committee, an increase from \$27.85 per hour to \$35 per hour was proposed by the Coordinator. The WIP Committee recommended approval of the WIP budget by SWCD with an increase in the WIP Coordinator line item to \$50,000, (approximately \$32 per hour). Denise added that she had worked with WIP for almost 10 years, recruited participating entities, and grown the budget. There was significant discussion. Steve Fearn moved to adopt the WIP budget as recommended. Bob Wolff seconded. The motion passed unanimously. There was consensus to send a letter to the WIP Steering Committee indicating that without additional funding or contributions, the current trend of the budget is not sustainable over the long term.

Proposed Budget FY 2016

(time: 04:32:35)

Five board members attended the September workshop, at which the board and staff evaluated the draft FY 2016 budget line by line. Bruce Whitehead directed the board to expenses that have since been adjusted: 1) estimated year end expenses for special counsel legal fees and expenses are higher than anticipated, 2) 2016 grant program was reduced to \$300,000, and 3) the WIP contribution was adjusted after the Steering Committee meeting. Additional discussions will take place in Executive Session to discuss employee compensation. The budget notice will be published by October 15, with the draft budget available to the public after that date. The public budget hearing will be held during the board meeting scheduled for December 8, 2015. There was discussion of encouraging additional participation in the SJRBRIP, with a possible workshop to review program funding and recruit other partners.

Engineering Report

(time: 04:48:00)

Steve Harris referred board members to the written report, and highlighted the following:

- **Water Bank Working Group:** Grand Valley Water Users has expressed interest in moving forward with a pilot program to reduce depletions within their system. The Nature Conservancy contributed funds to the Grand Valley Water Users to begin designing the pilot this year.
- **SJRBRIP:** Carrie Lile will be traveling to DC in 2016 to advocate for continued federal funding for the Program. Half of the Program budget is dedicated to non-native removal, and valuable data is collected on the non-native removal trips. However, there is no evidence that non-native removal correlates with the recovery of the endangered species.

- The tri-annual water quality review of the San Juan Basin required under the Clean Water Act is underway. There was board consensus to monitor the process via Harris Water Engineering and general counsel. Adam also provided a memo regarding the process.

Legal Report

(time: 05:02:30)

Adam Reeves directed the board to the written report. For all the cases in which SWCD is involved, legal counsel is awaiting action by the applicant. He highlighted the following developments:

- San Luis Valley Water Conservancy District case, no. 14CW3011: MBSS is awaiting a revised decree from the applicant, which will include a longer period of historical record.
- USFS conditional to absolute case, no. 12CW34: The USFS is expected to distribute a proposed decree.
- City of Ouray Red Mountain Ditch case, no. 13CW3040 (Division 7), 13CW3072 (Division 4): A status conference was held on October 9. A new proposed decree will be distributed, which incorporates work with the Division Engineer regarding the period of diversion.
- USFS reserved water rights case, no. W-1605-76: SWCD continues to monitor this case as instructed by the SWCD board last fall. A meeting has been scheduled for December.

Executive Session (Personnel Matters)

(time: 05:05:33)

Adam Reeves recommended that the board go into executive session for the purpose of discussing personnel matters, specifically employee compensation. The statute covering this session is § 24-6-402(4)(f), C.R.S., "personnel matters." Personnel are entitled to an open meeting if they both request it. Bruce and Laura both elected to leave the session. JR Ford moved that the board go into executive session. Steve Fearn seconded. The motion passed unanimously.

John Porter announced that the board was out of executive session, during which no action was taken.

Next Meetings

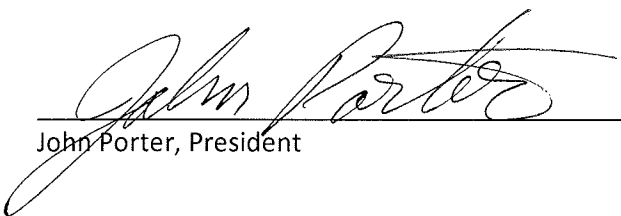
Tuesday, December 8

10:00 a.m.

Special Regular Board Meeting

Adjournment

President John Porter adjourned the meeting at 5:30 p.m.



John Porter, President