

**Southwestern Water Conservation District
Board of Directors Meeting
February 13, 2013**

Present: John Porter Steve Fearn Bob Wolff
J. R. Ford Tim Kelly April Montgomery
Monte Naslund John Taylor Fred Kroeger (Emeritus)

Absent: Larry Deremo

Staff: Bruce Whitehead, Executive Director
Jane Maxson, Office Manager
Barry Spear, MBSS
Adam Reeves, MBSS
Steve Harris, Harris Water Engineering

Guests: Rege Leach Dave Grey Russ Howard
Ryan Christianson Jennifer Gimbel Ted Kowalski
Bob Becker Sarah Syverson Megan Tallmadee
Darlene Marcus Christine Arbogast Ken Beegles
John Burchmore Deb Kees Adam Reeves

President John Porter called the meeting to order at 9:00 a.m. Roll was taken and a quorum was present.

Barry Spear recommended the Board go into Executive Session in order to discuss ALP Water Rights, negotiations with ALP OM&R, retained jurisdiction, and Colorado River issues. The statutes that cover the session are: § 24-6-402(4)(a), C.R.S., "the executive session concerned the purchase, acquisition, lease, transfer or sale of any property interest."; § 24-6-402(4)b), C.R.S., "conferences with an attorney for the district for the purpose of receiving legal advice on specific legal questions"; and § 24-6-402(4)(e), C.R.S., "determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators". Steve Fearn moved and John Taylor seconded the motion that the board enter executive session. The motion passed unanimously.

Executive Session

Adam Reeves announced that the board was out of Executive Session during which ALP Water Rights, negotiations with ALP OM&R, retained jurisdiction, and Colorado River issues. No action was taken.

John Porter congratulated J. R. Ford on his receipt of the Denver Post's award, "Colorado's Top Thinkers of 2012: Energy" for his biomass project. J. R. explained the program to the audience.

Approval of Treasurer's Report

Steve Fearn moved to accept the Treasurer's Report. Tim Kelly seconded the motion and it passed unanimously.

Board Member Reports

(time:00:10:10)

J. R. Ford (Archuleta County)

Have gotten quite a bit of snow since last week. The Mixed Use Conifer Group is working with PAWSD to look at ways to mitigate fire damage done to water supplies.

Bob Wolff (La Plata County)

Recreation at Lake Nighthorse has taken a dramatic change. The ALP OM&R Association requested that the BOR stop the NEPA review to give them time to consider taking on recreation management. This could potentially stop the City of Durango from pursuing management and could delay opening the reservoir to recreation for some time.

Monte Naslund (Montrose County)

Received some moisture and there was an earthquake in Paradox.

April Montgomery (San Miguel County)

People are skiing and happy.

Tim Kelly (Mineral County)

Received about 12" in the last storm; totals seem very similar to last year, and it's been really cold.

Steve Fearn (San Juan County)

Received about 35-40" of snow in Silverton over the last few weeks. Senator Mark Udall and other Senators asked EPA to see what they could do to provide liability protection on mine cleanups – what was offered is not too much in reality. The Animas Stakeholders appreciate the efforts of Senator Udall and the EPA to figure out what they could extract from the law. Christine Arbogast set up a meeting with Udall's staff at the CWC Convention. The reality is that Good Samaritan legislation is going nowhere with the current congress in place. Udall's staff may investigate whether the EPA memo could be codified, which might help.

John Porter (Montezuma County)

Without verification from DWCD, it's thought that McPHee will probably not fill this year. It's been very cold – 16 or 17 nights below zero.

John Taylor (Hinsdale County)

It's been pretty cold in Hinsdale as well...registered a 32° below zero on the Piedra River. But it's still not cold enough for a long enough period to kill the pine beetles. The Piedra River Protection Group met last night. The conservation district is going to implement a low head hydro project. They may also do study to find if irrigation is a source of pollution in the river.

Agency Reports

UGSG

(time:00:21:19)

Dave Grey distributed flow data to the board. UGSG has added improvements to its website – you can now plot three different parameters at once. They are changing the radar unit below the pumping plant. The compensator is not working correctly.

Division of Water Resources

(time:00:25:55)

Rege Leach reported that a new Water Commissioner was hired for the Pagosa office, Chester Crab, who will be starting in April. Our basin is at 91% snowpack and is the best in the state right now. The DWR office has received all comments on the draft protocol for ALP administration, and they are being inserted into the 2nd version which they hope to have done by the end of March. Rege is hopeful that the retained jurisdiction with the Ute tribes can be dropped after August if a stipulation can be entered in the cases. Construction is underway at Long Hollow. An injection well was the epicenter for the recent earthquake at Paradox. The Bureau of Reclamation is looking for alternatives for disposal and put out a request for cooperating agencies to participate in the EIS.

Colorado Water Conservation District

(time:00:30:46)

John Porter welcomed Jennifer Gimbal, Director of CWCB, and Ted Kowalski, Section Chief of Interstate Streams and Compact Administration to the meeting. Jennifer related several activities that CWCB is involved with. CWCB staff will be touring the state to talk to water districts and roundtables about the next phase in the Colorado River Water Availability Study. The Seven State Basin Study was released in December, 2012. There will be two informational workshops: in Salt Lake City and in Phoenix –dates to be determined. April Montgomery reported that the Animas Air Park grant request was approved at the last CWCB meeting. She distributed a report “Preliminary Results from Statewide Value and Awareness of Water Survey” for the board’s perusal. The CWCB September meeting is being held in Telluride. The Governor made three appointments for the CWCB board: Russell George (reappointment from Colorado River Basin), Jay Gallagher (Yampa-White), and Patty Wells (City & County of Denver) – the appointments need to go through Senate confirmation hearings.

IBCC & Roundtable

(time:00:36:22)

The next Southwest Basin Roundtable meeting is April 17 in Cortez. Ted Kowalski will attend to discuss the Colorado River Water Availability Study. Steve Harris wants the roundtable to discuss “compensatory storage”. The next IBCC meeting is March 5. A grant request for an Animas River Diversion Headgate Monitoring Study for \$14,500 from basin funds only was approved by the Basin Roundtable. A concept was presented by the Ute Mountain Ute Tribe regarding long-term planning on the reservation. An impromptu conceptual proposal was made regarding the Shahan irrigation issue (SWCD approved a grant earlier via San Juan Conservation District).

Colorado Foundation for Water Education

(time:00:41:52)

Steve Fearn reported that the Foundation is in good financial standing and they’re increasing their funding and budget, and feel that the support from CWCB is very important. They’ve recently hired a development officer to raise money. Greg Ten Eyck is the new president, and there are a number of new board members. The annual President’s Award is being given to Jim Isgar this year at a reception on May 3 in Denver. Discussion occurred. A sponsorship request will be considered at the next board meeting.

Colorado Water Congress

(time:00:45:21)

Steve Fearn distributed informational brochures on the Colorado Water Congress. Reagan Waskom is the new president, John McClow the new vice-president. The group is working with various organizations on a public education plan regarding public trust ballot initiatives – more of these are expected this year. Diane Hoppe received the Aspinall Water Leader Award at the CWC Convention in January.

Question/Comments from Audience

ALP OM&R Association

(time:00:50:00)

Russ Howard reported that the Association will refill the reservoir between April and June; it is down about 6700 af. A main focus is getting the Association entities funding the Association – the 638 contract between the Bureau of Reclamation and the Southern Ute Tribe will expire Mar. 31, 2013. It has been the funding mechanism to this point. A budget was prepared and invoices were sent to the Association entities. Frederick Zink & Associates are conducting a first-time audit. An electrician and a mechanic will be hired in October. On May 1, Tim Feehan (CWCB) will become the new chair. Russ said he was looking forward to the group meeting with SWCD.

La Plata – Archuleta Water District

(time:00:54:08)

Steve Harris reported that about a half mile of pipe has been laid, including a section of pipe under the Pine River. That area became a critical habitat for the Southwestern Willow Flycatcher after the pipeline work was completed.

Office Report

(time:00:55:41)

Bruce reported on the following:

- There is a picture of Jim Isgar in the Headwaters Winter magazine, announcing he is to be the recipient of CFWE's President's Award.
- The Four States Irrigation Council (Wyoming, Kansas, Nebraska, and Colorado) will be touring in Southwestern Colorado on Aug. 15 -16. SWCD has a board meeting on Aug. 14, and will discuss hosting an event on the evening of the 14th.
- Speakers have been contacted and some have agreed to speak at the Water Seminar. If directors have ideas or suggested speakers, please let Bruce know.
- SWCD has been given an opportunity to be a cooperating agency on Paradox Valley from the Bureau of Reclamation. Bruce will respond that SWCD will be a cooperating agency.

Denise Rue-Pastin reported that she is working on the Children's Water Festival scheduled for May 1 and the quarterly newsletter.

Old Business

Animas – La Plata Project – Water Rights & Administrative Protocol discussions ALP OM&R Association

(time:01:15:29)

This was discussed in Executive Session earlier. Steve Fearn moved to provide the negotiation team with the following terms to include in a proposal to the Association: 1) SWCD to convey 450 cfs of ALP water rights along with storage volume and equivalent to fill and refill Ridges Basin Reservoir –(**after** the next diligence/conditional to absolute court decree is finalized) ; 2) SWCD will retain the balance of the ALP water rights; 3) ALP OM&R Association to work with SWCD to maintain diligence and to make absolute the full extent of the ALP water rights for all their uses, places of use, diversion rates, and volumetric limits, and will not oppose SWCD's position in the legal process necessary to obtain findings of reasonable diligence; 4) Association shall seek to deliver water to storage in Ridges Basin Reservoir, and shall not oppose efforts by SWCD to do the same in order to facilitate the use of the balance of the ALP water rights by obtaining a carriage contract from the Bureau of Reclamation; and 5) SWCD will subordinate the balance of the ALP water rights to 450 cfs conveyed to the Association. Monte seconded the motion. Discussion occurred. The motion passed with April Montgomery in opposition. A letter with the terms will be sent to the Association. John Porter will respond to Jason Johns.

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Board Appointments

(time:01:27:17)

Bob Wolff said that Larry Deremo expressed to him that he was not going to seek reappointment from Dolores Board of County Commissioners. The District has not received any formal from Larry or the BOCC. It was suggested that he be recognized at the Water Seminar. Monte Naslund was under the impression that he had already been reappointed. Staff will get notification from Montrose BOCC.

New Business

Election of Officers

(time:01:30:40)

Nominations were submitted by secret ballot and collected by Adam Reeves, MBSS, for President. John Porter was the only nomination. He accepted the nomination and was re-elected by acclamation.

Nominations were submitted by secret ballot and collected by Adam Reeves, MBSS, for Vice-President. Steve Fearn was the only nomination. He accepted the nomination and was re-elected by acclamation.

Nominations were taken submitted by secret ballot and collected by Adam Reeves, MBSS, for Secretary/Treasurer. Bob Wolff was the only nomination. He accepted the nomination and was re-elected by acclamation.

Resolution on Meeting Posting Location

(time:1:36:42)

Bob Wolff moved, and April Montgomery seconded that the resolution to post meeting notices on the District office doors be approved. The motion passed unanimously.

Request for Financial Assistance

Mancos Conservation District – Montezuma School to Farm Project

(time:01:38:45)

Sarah Syverson made the presentation requesting a \$20,000 grant. The Water Information Program steering committee reviewed the request; Denise Rue-Pastin reported that the committee thought this is a good program, but there were some concerns about funding salaries and how it had been funded in the past. The Board asked if MCD had been to the Southwest Basin Roundtable and how their relationships were with other water conservancy districts.

Mancos Conservation District – River Habitat & Diversion Project Phase II

(time:02:01:10)

Bob Becker gave an update on last year’s work. This request will allow them to continue efforts initiated on the Mancos River Diversion Project.

Telluride Pines Homeowners Association

(time:02:03:45)

John Burchmore and Deb Dion presented a request for \$36,800 to design an infiltration gallery and pump station and evaluate existing treatment facility and infrastructure for the HOA’s water system. It was suggested that the HOA also investigate funding through the Roundtable and CWCB in the future.

San Miguel Watershed Coalition

(time:02:15:09)

Linda Luther-Broderick joined the meeting via telephone and presented the grant request of \$15,000 to continue the collection and evaluation of water quality that the Coalition has been doing for many years. Linda is one of the founding members of the Coalition that was formed in the mid-1990s as a collaborative process.

Action Taken on Requests

Mancos Conservation District – River Habitat

Monte Naslund moved, and April Montgomery seconded that the grant of \$15,000 be approved. The motion passed unanimously.

Mancos Conservation District – Montezuma School to Farm

Steve Fearn moved, and April Montgomery seconded that a grant of \$10,000 be approved. The motion passed unanimously.

Telluride Pines Homeowners Association

April Montgomery moved, and John Taylor seconded that the grant for \$36,800 be approved. The motion passed unanimously.

San Miguel Watershed Coalition

Steve Fearn moved, and Bob Wolff seconded that the grant for \$15,000 be approved. The motion passed unanimously.

Colorado Watershed Assembly – Sponsorship

Steve Fearn moved, and April Montgomery seconded that a sponsorship in the amount of \$250 be approved. The motion passed unanimously.

Legislative Update

Tim Kelly moved and Monte Naslund seconded that the Legislative Update be moved to the end of the agenda. The motion passed unanimously.

Congressional Update

(time:02:26:50)

Christine Arbogast, Kogovsek & Associates, reported that she's working closely with Steve Fearn and Bruce Whitehead regarding the Good Samaritan legislation. The Recovery Implementation Program funding was approved, that was a huge victory considering how few resource bills were approved. The USFS/Ski Area issue is still on the table. There were no changes in our congressional delegation as a result of the last election. New Mexico is no longer in control of the Senate Energy and Natural Resources Committee; Ron Widen (OR) is the new chair and Lisa Murkowski (AK) is the ranking Republican. Neither have strong interest in western water development. There is much talk about water infrastructure, but not storage. Secretary Ken Salazar is retiring in March. Sally Jewel is nominated to replace him. Christine doesn't expect a "domino" effect with the rest of the cabinet. There is still no EPA Administrator. Sequester goes into effect March 1 unless Congress acts. It is a 5% across the board cut for discretionary spending. Christine distributed a paper on the National Blueways System, a Department of Interior Secretarial Order that provides a blueprint for communities to plan and manage healthy rivers and watersheds. There could be potential conflict with Colorado state water law, and we should look at the order and give the delegation input. Colorado Water Congress and the National Water Resources Association will be holding a delegation reception in Washington, DC on April 15.

S.222 Amendment Surface Mining Control & Reclamation Act 1977

(time:02:51:16)

Steve Fearn explained that a tax on mined coal is returned to the state, originally intended for coal mining reclamation. Over the years, it has also been used for safety closures on other than coal mines. In 2006, it was decided that the money could not be used for non-coal mines. Since that time, ongoing mine closures have been funded from state severance dollars. Steve Fearn moved that SWCD write a

letter of support. John Taylor seconded the motion, and it passed unanimously. Steve Fearn and Bruce Whitehead will write a draft for Christine Arbogast.

Disposal Surplus SWCD Lap Top Computers

(time:02:56:45)

There are 2 computers (monitor, laptop and docking station) that have been replaced. Interest has been shown by Jane Maxson and Denise Rue-Pastin, and Animas Stakeholders. There might be a legal concern about giving public assets to public employees. The computers would have to be cleaned off. One suggestion would be to clear the computers and all data and, charge the "buyer" its current value. Another suggestion is to donate the equipment to non-profits. There was consensus that Jane's computer be cleaned, and donate it to Animas Stakeholders. If Bruce's old computer is usable, find out if there another NGO with need and put the names in the hat to determine who it goes to.

Engineering Report

(time:03:04:56)

Steve Harris announced that he's celebrating 30 years in water engineering. He gifted hats and flashlights to the board and staff.

Steve reported on the following:

- Water Availability Study
- Recovery Implementation Program – Navajo Lake releases
- Annual RIP meeting – May 8 in Durango

Legal Report

(time:03:11:02)

Adam Reeves, MBSS, reported the following:

- USFS/Ski Area case: In 2011, USFS required ski areas to agree to relinquish their water rights to the USFS when their permits expire. The ski areas sued – that case was overturned on procedural grounds. The Forest Service may come back with a proper rule-making.
- Case **05CW87 Silverton** – a stipulation was reached with Trout Unlimited, and signed by CWCB on Feb. 12. MBSS will enter the decree so it can be approved by the court.
- Case **06CW88 San Juan County** – negotiations with Trout Unlimited are ongoing. A settlement proposal was offered by Barry Spear and TU is reviewing it.
- **09CW51 La Plata River Exchange** – MBSS will send an exhibit to Cathy Condon for the final decree.
- **11CW06 Ouray** Transbasin case – case was dismissed; City of Ouray paid legal fees and costs incurred by the District. Check has been received.
- **12CW34** – SWCD filed a statement of opposition in the USFS 06CW127 application; the first status conference is scheduled for April 12.
- **02CW85**-to extend retained jurisdiction on the Tribal Decree associated with the ALP Project. Peggy Montañó reported that a partial proposed draft stipulation from the state was received today.
- Two diligence cases are due in 2013: ALP water rights, due Aug. 31, and Animas Surface water rights, due Nov. 30.

Legislative Update

(time:03:18:01)

Bruce reported on the following based on Report #6:

- **SB74** **Irrigation Water Right Historical Use Acreage**
CWC opposes
- **SB19** **Promote Water Conservation**
CWC subcommittee suggested a significantly reduced bill

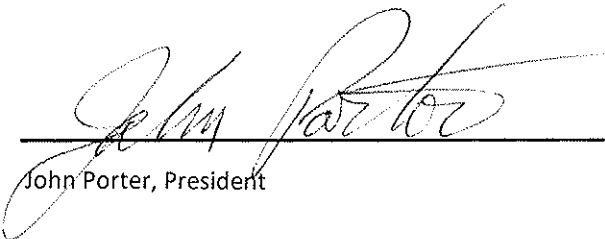
- **SB21** **Transport Petroleum Products – right of way**
CWC has not taken a position
- **SB75** **Promote Water Conservation of Designated Groundwater Basins**
CWC will support as amended
- **SB83** **Creation of a Prescribed Burning Program**
CWC will support if amended
- **SB110** **Wildland Fire Cost Recovery Fund**
- **SB150** **Sunset Water and Wastewater Operators Board**
- **HB1090** **Payment Due Under a Construction Contract**
CWC Opposes
- **HB1130** **Reapprove Interruptible Water Supply Agreements**
- **HB1168** **Recognize Unincorporated Acequia Ditches**
No position at this time
- **HB1186** **Special District Meetings Notice and Transparency**
- **HB1188** **Coordinated Response to Federal Land Decision**
- **HB1191** **Nutrient Grant Domestic Wastewater Treatment Plant**

Next Meetings

Feb. 20	9:00 am	Teleconference <i>(Cancelled 2/24/13)</i>
Mar. 6	9:00 am	Teleconference
Mar. 20	9:00 am	Teleconference

Adjournment

President John Porter adjourned the meeting at 5:03 p.m.



John Porter, President