

**Southwestern Water Conservation District  
Board of Directors Meeting – Teleconference  
February 25, 2015**

**Present:** John Porter, President                      Steve Fearn, Vice-President                      Bob Wolff, Secretary-Treasurer  
J.R. Ford†    Preston Goetzke                                      Rusty Hingert  
Monte Naslund†                                      Jenny Russell†                                      Doug Stowe†  
John Taylor, Director Emeritus†

**Staff:** Bruce Whitehead, SWCD Executive Director  
Laura Spann, SWCD Office Manager  
Barry Spear, Maynes, Bradford, Shipps & Sheftel (MBSS)  
Steve Harris, Harris Water Engineering

**Guests:** Mike Preston, Dolores Water Conservancy District†

*†Participated by phone.*

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

**Questions/Comments from Audience**

*(time: 00:01:05)*

There were no comments or questions.

**Old Business**

**Legislative Update & Position on Bills**

*(time: 00:01:55)*

The Colorado Water Congress (CWC) State Affairs Committee met on February 17 and 23 to discuss water legislation introduced thus far during the 2015 Legislative Session. Bruce Whitehead explained the bills and relayed CWC discussion of the bills to the board. He referenced the latest summary document he prepared (Legislative Report #2015-08). The following bills were discussed:

**HB 1222 – Water Efficiency Savings Instream Use Pilot**

CWC continues to discuss this bill. Bruce responded to board member questions. There was board consensus to support the bill as introduced.

**SB 183 – Quantify Water Rights Historical Consumptive Use**

CWC will monitor this bill. There was discussion. There was board consensus to take no position on the bill.

**SB 008 – Water Conservation in Land Use Planning**

CWC voted to support this bill, which has generated unexpected opposition due to the political climate.

**SB 064 – Application of State Water Law to Federal Agencies**

CWC voted to support this bill. There was discussion. There was board consensus to support the bill and authorize staff to testify in support of the bill.

**SB 075 – Exempt Well Irrigate up to 1 Acre Commercial Crop**

CWC opposed this bill, which has now been postponed indefinitely.

**SB 084 – Water Right Partial Historical Consumptive Use**

CWC supported this bill, which has now been postponed indefinitely.

**HB 1038 – Flexible Water Markets**

CWC supported the bill, which has passed the House and is scheduled for Senate Agriculture, Natural Resources & Energy Committee in early March.

**HB 1093 – Exceptions Efficient Plumbing Fixtures Requirements**

CWC opposed the bill, which has now been postponed indefinitely.

**HB 1178 – Emergency Well Pumping Damaging High Groundwater**

CWC opposed the bill, which will soon be voted on in the House Agriculture, Livestock, & Natural Resources.

**HB 1159 – Instream Flow Incentive Tax Credit**

CWC will not take a position on the bill. A two-thirds majority in support of the bill as introduced could not be achieved. A second motion to support with an amendment to strike “or improve” did not achieve a two-thirds majority either.

Other topics of possible legislation to be introduced this session include storm water retention, rain barrel collection, water quality permitting fees, and the Colorado Water Conservation Board (CWCB) Projects Bill.

**Dolores Instream Flow**

*(time: 00:31:00)*

Bruce Whitehead provided background on the Dolores River instream flow (ISF) appropriation proposed by the CWCB in 2014 based on a recommendation from the U.S. Bureau of Land Management. The proposed ISF applies to the 34-mile reach starting below the confluence of the San Miguel and Dolores Rivers and ending near Gateway. The flow recommendation is for 900 cfs between April 15 and June 14, 400 cfs from June 15 to July 15, 200 cfs from July 16 to August 14, 100 cfs from August 15 to March 15, and 200 cfs from March 16 to April 14. There have been concerns about this proposed ISF’s location in the downstream reach of the Dolores, and the relatively high flows recommended.

Last year, CWCB acted to move forward with the Dolores ISF appropriation, but delayed the process for January 2015. At the CWCB board’s January meeting, the deadline for contesting the ISF was pushed back until March 31. Once an ISF has been contested, other entities or groups can request party status by the end of April. Barry Spear summarized the eight proposed terms and conditions being negotiated by the Dolores Water Conservancy District (DWCD) and CWCB. CWCB is receptive to arriving at an agreement to preclude a formal contest by SWCD and/or DWCD. With previous ISF appropriations, if there is no entity contesting the ISF, CWCB has not modified negotiated conditions after the formal process begins. One suggested condition is to allow DWCD and/or SWCD to contest if a condition changes during the process. DWCD feels that any broader regional concerns regarding the Dolores ISF should be addressed by SWCD. Staff and legal counsel requested guidance from the board in executive session regarding SWCD’s role in negotiating terms and conditions for the ISF.

Board members from Montrose, Dolores, and Montezuma Counties expressed support for continuing negotiations with CWCB, and San Miguel County expressed concerns regarding conditions placed on the proposed ISF that might affect junior water users on the San Miguel River.

**Executive Session**

*(time: 00:57:00)*

Barry Spear recommended that the board go into executive session in order to discuss the board’s position on negotiating terms and conditions for the proposed Dolores ISF water right.

The statutes covering this session were § 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 to go into executive session. Monte Naslund seconded. The motion passed unanimously.

Barry Spear announced the board was out of executive session, during which no action was taken. The board discussed the proposed Dolores ISF water right and possible direction for negotiations with CWCB staff. Steve Fearn moved to direct staff and legal counsel to negotiate with CWCB a future use allocation as part of the Dolores ISF filing consistent with SWCD board resolution 2013-05, and report back at the teleconference on March 11 for further consideration. Doug Stowe seconded. The motion passed 8 to 1.

**Next Meetings**

Wednesday, March 11	9:00 a.m.	Teleconference
Wednesday, March 25	9:00 a.m.	Teleconference
Thursday, April 2	10:00 a.m.	Special Regular Board Meeting
Wednesday, April 15	9:00 a.m.	Teleconference

**Adjournment**

President John Porter adjourned the meeting at 10:45 a.m.



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John Porter, President