

**Southwestern Water Conservation District
Board of Directors Meeting
March 31, 2016**

Present: John Porter, President Steve Fearn, Vice-President Bob Wolff, Secretary-Treasurer
J.R. Ford David Guilliams Rusty Hinger
Monte Naslund Jenny Russell Doug Stowe
John Taylor, Director Emeritus

Staff: Bruce Whitehead, Southwestern Water Conservation District (SWCD) Executive Director
Laura Spann, SWCD Office Manager

Guests Scott Brinton, Colorado Division of Water Resources (Retired)
Carly Delong, Animas-La Plata Operation, Maintenance, and Replacement Association
Bill Frownfelter, Russell Planning & Engineering
Robert Hanning, Town of Mountain Village
Steve Harris, Harris Water Engineering
Carrie Lile, Harris Water Engineering
Darlene Marcus, U.S. Representative Scott Tipton
Ann McCoy-Harold, U.S. Senator Cory Gardner
Marc Miller, US Bureau of Reclamation
Mike Preston, Dolores Water Conservancy District
Adam Reeves, Maynes, Bradford, Shipps & Sheftel

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

Executive Session

(time: 00:00:25)

Bruce Whitehead recommended that the board go into executive session for the purpose of discussing responses to SWCD's Request for Qualifications for general counsel. The statute covering this session is §24-6-402(4)(f), C.R.S., "personnel matters." Doug Stowe moved that the board go into executive session. Jenny Russell seconded. The motion passed unanimously.

Bruce Whitehead announced that the board was out of executive session, during which no action was taken. The board discussed responses to SWCD's Request for Qualifications for General Counsel.

General Session

Approval of Minutes (Feb 5, 9, 24 and March 4, 9, 10)

(time: 00:01:45)

Steve Fearn moved to approve the February 5, 9, 24 and March 4, 9, 10 minutes. Doug Stowe seconded. The motion passed unanimously.

Approval of Treasurer's Report (Year End 2015; February 2016)

(time: 00:02:30)

Laura Spann summarized the financial report. The only update to the Year End 2015 budget comparison was the final general counsel expenses; Year End 2015 will be final only after the audit is complete this summer. The USGS secured additional 2016 funding for the La Boca at Los Pinos gage. SWCD was invoiced for 2016 water quality sampling, and a report on the results was provided in the board packet. Bob Wolff moved to accept the Treasurer's Report. Rusty Hinger seconded. The motion passed unanimously.

Board Member Reports

Rusty Hinger (Mineral County)

(time: 00:09:10)

Rusty reported that Mineral County provided him with business cards as representative to the SWCD board. They have requested a report on District activities at the next County Commissioner meeting.

JR Ford (Archuleta County)

(time: 00:10:45)

JR reported that he is working to schedule a meeting with the Archuleta County Commissioners to provide an update on SWCD's recent activities. Bruce may also attend.

Doug Stowe (Dolores County)

(time: 00:11:05)

Doug reported that he, Steve Fearn, and Bruce Whitehead participated in a Central Arizona Project tour hosted by the Central Arizona Water Conservancy District on March 23-24. Doug was particularly interested in the process of storing Colorado River water underground.

Bob Wolff (La Plata County)

(time: 00:14:35)

Bob reported that the El Nino weather pattern overpromised and under-delivered. Former La Plata County representative to the SWCD Board Jim Isgar passed away in February. Bob and Bruce attended the Family Farm Alliance Annual Conference in Las Vegas in February, and recommended it to other board members.

John Porter (Montezuma County)

(time: 00:15:45)

John reported to the Montezuma County Commissioners regarding the 2016 budget and current programs. In the past 30 years, SWCD has funded \$9 million in grants to local water-related projects received by 122 separate entities across the basin. He reviewed board minutes from 1941 to 1981 in preparation for his seminar presentation tomorrow, and noted the District's involvement in the San Juan-Chama project.

Bruce noted that, by statute, SWCD is not involved in District appointments. SWCD notifies each county when their representative's term has ended, and each county establishes their own process for appointments.

Steve Fearn (San Juan County)

(time: 00:21:05)

Steve reported that San Juan County is waiting on further developments on the Bonita Peak Superfund designation. Steve will discuss the San Juan County depletion water right held by SWCD with the Commissioners in the next few months. He will present at the "Law of the Rio Grande: Colorado Texas and New Mexico Issues" conference in Santa Fe on April 14-15 regarding mining reclamation related risks to water quality on the Rio Grande. Steve provides a monthly written report to the San Juan County Commissioners.

Jenny Russell (San Miguel County)

(time: 00:25:45)

Jenny reported that recent snow has been good for the tail end of ski season. She met with San Miguel County Commissioners regarding the U.S. Bureau of Land Management's (BLM) proposed Areas of Critical Environmental Concern (ACECs) in the Dolores River basin.

David Guilliams (Hinsdale County)

(time: 00:26:20)

David reported that Hinsdale County received one foot of snow.

Monte Naslund (Montrose County)

(time: 00:27:30)

Monte reported that the Colorado Cooperative Ditch Company addressed a recent rock slide. The river has been flowing well, and snowpack has been good so far.

Agency Reports

U.S. Bureau of Reclamation (BOR)

(time: 00:29:00)

Marc Miller reported that the BOR technician position has been filled. BOR conducts water quality sampling along the Animas and San Juan Rivers, which is shared with the U.S. Environmental Protection Agency (EPA). BOR will also begin taking sediment samples at Lake Nighthorse to set a baseline to answer questions regarding pumping impacts after the Gold King Mine. BOR said there is a possibility for rafting below McPhee Dam this year. Marc summarized area reservoir and snowpack levels.

U.S. Geological Survey

No representative was present; a report was not available.

Questions/Comments from the Audience*(time: 00:33:30)*

Ann McCoy Harold reported that Senator Cory Gardner has been traveling in Colorado recently. Retired Division of Water Resources staff Scott Brinton asked questions of those board members who participated in the Central Arizona Project tour. John Taylor reported that the New Mexico Water Trust Fund will not be a possible source of funding for the Crowley Reservoir rehabilitation. The San Juan Conservation District is currently conducting habitat rehabilitation below the Oso Diversion. Darlene Marcus, Representative Scott Tipton's Office, reported on the proposed ACECs in southwestern Colorado and proposed BLM planning rule 2.0. For both proposed policies, Tipton's office has requested an extension of the public comment periods.

Colorado Water Conservation Board (CWCB)*(time: 00:39:30)*

April Montgomery was not present, but did provide an emailed report on the following topics:

- At the most recent meeting, the CWCB paid tribute to board member Diane Hoppe, who recently passed away.
- Russ George is now CWCB Board Chair and Ty Wattenberg is Vice Chair.
- John Stulp made a nice acknowledgement of Senator Isgar's contribution to Colorado.
- CWCB approved a restructuring of the Pagosa Springs Water & Sanitation District (PAWSD) loan, mainly to address the issue that the state couldn't require the reservoir site property as collateral.
- CWCB approved several WSRA grants, granting over four million dollars in funding, with five from the southwestern Colorado, including the Animas River Community Forum, Mancos River Habitat & Diversion Project, Southwestern Colorado Weather Modification Strategic Plan, Southwest Basin Roundtable's Implementation & Outreach efforts, and Valley Floor Restoration/Town of Telluride.
- CWCB's annual spring climate outlook reported a normal to wet spring. Colorado is experiencing the third largest El Nino in the last century, but will be transitioning to the La Nina effect later this year.

Colorado Water Congress (CWC)*(time: 00:44:30)*

Steve Fearn reported that Sam Susuras, City of Grand Junction, was elected board president and Erin Wilson, Wilson Water Group, was elected vice-president at the February meeting. The CWC board discussed activities of the State Affairs committee and proposed ballot initiatives, both of which Bruce will report on later in the meeting.

Interbasin Compact Committee (IBCC) & Roundtable*(time: 00:47:15)*

Carrie Lile reported that the Basin Implementation Plan (BIP) Phase III Implementation, Education and Outreach WSRA grant was approved by the CWCB at their March meeting. Under the scope of work for the multi-year grant, Carrie, Ann Oliver and Denise Rue-Pastin will organize 2-3 workshops per year on topics important to the Roundtable. Coordination is already underway with the Colorado Ag Water Alliance for a workshop for agricultural water users. Also, out of the Roundtable's data gaps subcommittee, the pilot watershed management plan was developed for the San Miguel, an IPP listed in the BIP.

Steve Harris reported that the IBCC discussed the actual and projected reduction in severance tax revenue and the evaluation of alternative water sources and Front Range storage projects. The subcommittee on financing is brainstorming ideas for funding sources for water projects, including identified projects and processes outlined in the water plan. The next IBCC meeting is on May 24, and the Roundtable meeting is on April 13 in Durango.

Colorado Water Resources & Power Development Authority (CWR&PDA)*(time: 00:56:30)*

Bob Wolff reported that CWR&PDA had a recent loan default (one of two in the agency's history) which could have affected its credit rating. The loan recipient has caught up with their loan payments, and is working with CWR&PDA to find a payment schedule that can work for both parties.

Colorado Foundation for Water Education (CFWE)*(time: 00:58:30)*

Steve Fearn reported that Diane Hoppe and Jim Isgar, who recently passed away, were both integral in establishing CFWE. SWCD has three complimentary tickets to the President's Award Reception on Friday, May 20, and CFWE will recognize Governor John Hickenlooper and Heather Dutton with the San Luis Valley Water Conservancy District. Laura Spann now sits on CFWE's Program Development Committee and summarized her first meeting on March 25 in Denver.

River Protection Workgroup (Iron Fens)*(time: 01:02:00)*

Steve Fearn reported that the River Protection Workgroup (RPWG) continues to develop draft language for legislation based on the regional agreement reached by the RPWG Steering Committee balancing assurances for water storage and environmental protections. In this discussion, how to protect the unique Iron Fen plant communities has come up. In order to protect the Iron Fens, the factors contributing to their existence need to be better understood, so the River Protection Workgroup is pursuing a phased case study of the phenomenon, to be funded by a CWCB grant. SWCD can anticipate a grant request to support the study at the June meeting.

Water Information Program (WIP)*(time: 01:10:20)*

Denise Rue-Pastin reported that the spring newsletter is ready for distribution. Annual Children's Water Festival coordination is underway. More than 700 fifth grade students will participate in the Festival at Ft Lewis College on Wednesday, May 4. The Water 101/202 workshop is tentatively scheduled for September 22 or 23, and may extend through both days if the event is expanded. The water and land use planning session (BIP Phase III, Implementation, Education, and Outreach grant) will be in Pagosa Springs in the fall. WIP participated for the first time in the regional high school career fair. Several additions were made to the WIP library. Denise reported that she is applying for an EPA grant for WIP. The City of Durango is no longer a WIP participating entity.

Office Report*(time: 01:17:45)*

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

- CWCB Interstate Stream Commission Chief Ted Kowalski and CWCB Public Outreach Coordinator Kate McIntyre have left the agency.
- The Colorado House and/or Senate may make a formal tribute honoring SWCD's 75th anniversary.
- Forecasted precipitation has decreased a bit. Based on the August 2015 forecast, Lake Powell is in the Upper Elevation Balancing Tier for 2016, which dictates a release of 8.23 maf. Snowpack has dropped from a season peak of 130% to 77% in March. Most stream gages report above average flows in March.
- The settlement agreement and related actions are wrapping up for Case No. 13CW3011, ALP conditional to absolute and continued diligence for the remaining portions of the water right for the Project held by SWCD (SWCD Project Water Rights). An article summarizing the settlement was published by the *Durango Herald* on February 27, and a letter to the editor from Bruce on behalf of SWCD in response to the article was published on March 14. The letter clarified the intent of the District to work towards the continued development of the SWCD Project Water Rights for irrigation and agricultural purposes.
- The US Forest Service (USFS), CWCB and SWCD have met several times recently to discuss settlement of claims for federal reserved water rights filed in 1976 by the USFS in Water Division 7.
- Roundtable funding was approved for the Colorado River Development and Curtailment Risk Study. SWCD and the River District are each contributing \$10,000 to the study, which includes a hydrology "stress test" for the Upper and Lower Colorado River Basins and an evaluation of climate change impacts. The study should be completed by October.
- SWCD, the River District and other interested parties met most recently on March 2 to discuss strategy and process to address statewide concern about protection for future uses as part of the CWCB instream flow program, including the possible need to change state statutes. CWCB is no longer interested in participating in these ongoing discussions.
- The River District and SWCD filed formal opposition to the CWCB application in Water Division 4 for the instream flow filing on the lower Dolores River.
- Weeminuche will begin construction of the boat entrance station in spring 2016. The Bureau of Reclamation is pushing to have all the recreation documents finalized by mid-April 2016; this includes the lease agreement,

annexation agreement, and the planning MOU. With some issues yet to be resolved, it is unlikely that Lake Nighthorse will be open for recreation in 2016 or 2017.

- In late February, local officials from both impacted counties and Governor Hickenlooper endorsed the pursuit of a superfund listing for specific areas near Silverton. The next step in the process is for the EPA to propose the listing, which could occur this spring and would trigger a 30 to 60 day comment period. After the review of public comments, the EPA could decide to add the area to the superfund list, which could potentially occur this fall.
- SWCD is in the process of engaging Christi Bode, Moxiecran Productions, to create a 6-8 minute video about the district that can be shared at various meetings, WIP or Basin Plan Phase III educational events, speaking engagements, and with county commissioners. Staff will likely be reaching out to board members to schedule interviews for the production.
- A memorial service was held for Jim Isgar on March 13. Jim served on many water boards, including SWCD, was in the State Senate for eight years, and then headed up Rural Development in Colorado for the U.S. Department of Agriculture.

Old & New Business

Grant Report: Town of Mountain Village

(time: 01:35:00)

Bill Frownfelter and Robert Hanning reported on the Town of Mountain Village Waterline Extension Project, which was undertaken to increase reliability and redundancy of the Town's water system, particularly to meet emergency water demand for fire protection. SWCD supported the project with \$30,000 in grant funding. The project was successful in meeting the desired goal and came in slightly under budget. Bill and Robert thanked SWCD for the support, and invited the board to host an upcoming meeting in Mountain Village.

Request for Qualifications: General Counsel

(time: 01:37:10)

As directed by the board, a Request for Qualifications for General Counsel was widely distributed in October. SWCD received 32 general counsel responses and two responses with interest in special counsel. A full board meeting was held on Friday, February 5 to review the RFQ responses. Several firms were interviewed on March 4 and 10. The topic was discussed in executive session this morning, and staff was instructed to review candidate references further.

BLM Scoping – Areas of Critical Environmental Concern (ACECs)

(time: 01:37:30)

Adam Reeves provided background on the BLM's recent request for scoping comments on proposed designation of 18 ACECs in southwestern Colorado primarily in the Lower Dolores River Basin, with several above Silverton and around Cortez. Once adopted, ACECs allow for special management prescriptions. Doug Stowe added that Dolores County is concerned about the impact of the proposed ACECs on the collaborative process developing the proposed Dolores River National Conservation Area (NCA). Jenny Russell reported that San Miguel County was caught off guard by the BLM's proposed ACECs and the immediate comment deadline. San Miguel County will submit comments, not necessarily in disagreement with the proposed ACECs. Adam responded to specific board questions, and recommended the board authorize the submission of scoping comments focusing on the potential water resources impacts. The comment deadline is May 4. There was consensus to direct legal counsel to draft scoping comments on the proposed ACECs for consideration at the next teleconference.

Southwest Colorado Appointment to CWCB

(time: 01:54:00)

April Montgomery's term on the CWCB board will end in January 2017. Applications for the CWCB board are due in July 2015. Steve Harris asked for a letter of support from SWCD for his application to the CWCB board. There was consensus to table consideration of SWCD's support for any candidate seeking appointment to the CWCB board until the June 7 board meeting.

Legislative Update

(time: 01:57:00)

The CWC State Affairs Committee met on March 28 to discuss water legislation introduced thus far during the 2016 Legislative Session. Bruce Whitehead explained the bills and relayed CWC discussion of the bills to the board. He summarized the most recent Legislative Report (#2016-11) and CWC bill status sheet (3-28-16). Steve Fearn

moved to support SB-167 (Severance Tax Operational Fund Reserve Reduction). Bob Wolff seconded. The motion passed unanimously.

Out-of-State Entities in Water Court

(time: 02:21:55)

Bruce Whitehead provided background on possible legislation, not yet drafted or introduced, to address out-of-state entity participation in Colorado Water Court proceedings. SWCD, La Plata County and the River District testified on this topic before the Water Resources Review Committee at their Durango hearing in July 2015. Representatives from the ALPOM&R Association testified at the October 2015 Committee meeting opposing the proposed change, and in support of the right for out-of-state entities to file in Colorado water court. Peggy Montano recommended that this topic be addressed in executive session.

Instream Flow-Future Use Allocation

(time: 02:22:40)

Bruce Whitehead reported that SWCD, the River District and other stakeholders continue to discuss a solution to the statewide concern about addressing future uses with instream flows low in a system, including the possibility of a need to change state statutes. The CWCB has said this change to the instream flow program cannot be made via existing program rules and regulations.

ALP Water Rights (Settlement Update, "SWCD Water Rights")

(time: 02:23:50)

Peggy Montano recommended this issue be addressed in executive session.

Engineering Report

(time: 02:24:45)

Carrie Lile referred board members to the written report, and highlighted the following:

- San Juan River Basin Recovery Implementation Program (SJRBRIP): Carrie reported on the recent trip to DC to update legislators and their staff on Recovery Program developments. Upcoming status assessments of the endangered fish populations may establish a basis to down-list three species. Because of the collaborative nature of SJRBRIP and no lawsuits to date, SJRBRIP is relatively "affordable" for endangered species recovery processes across the nation. At each meeting the groundwork was laid for next year's big ask of extending the annual funding currently authorized through 2019, while capital funding is through 2023.
- Animas Watershed Partnership (AWP): Results from AWP's recent study on the Florida River will be presented at the June board meeting.
- Water Bank Working Group (WBWG): Carrie attended the first of six webinars exploring issues and opportunities associated with agricultural water use and water banking; the first event presentation covered the three-year water bank field study, including methodology, results and implications for the WBWG.

General Counsel Legal Report

(time: 02:48:50)

Adam Reeves summarized recent work on the following:

- La Plata County RICD due diligence case, no. 13CW3029: This case has been resolved.
- San Juan County RICD due diligence case, no. 05CW88: Steve Fearn will meet with San Juan County soon regarding ownership of the water right as offered by SWCD.
- USFS conditional to absolute case, no. 12CW34: The USFS has not responded to SWCD's question regarding how the rights under the decree would be handled under the recently adopted USFS Land and Resource Management Plan concerning bypasses. Bruce responded that this may not be a critical issue for resolution of this case. The Court ordered the filing of the decree or status report by May 3.
- City of Ouray water rights cases, nos. 13CW3040, 13CW3072: Bruce has met several times with the engineer for the applicant. This case will be discussed further in executive session.
- USFS reserved water rights case, no. W-1605-76: The USFS and CWCB are proceeding under a proposal by the USFS to address the instream flow issues under this case by submitting them to the CWCB instream flow process. The proposal is to collect data on four "test cases" in southwestern Colorado. If the USFS is satisfied that the CWCB instream flow program meets its needs, it could use the CWCB instream flow program as an alternative to its' claim for reserved rights.
- Dolores River instream flow case, no. 15CW3111: SWCD filed a statement of opposition. CWCB recently submitted a proposed decree that MBSS will review.

Special Counsel Legal Report

(time: 02:54:00)

Peggy Montano reported in open session that all actions related to the settlement of the Animas La Plata Water Rights (Case No. 13CW3011) have been completed.

Executive Session

(time: 02:55:30)

Adam Reeves and Peggy Montano recommended that the board go into executive session for the purpose of discussing pending water rights cases, including Animas-La Plata Project water rights due diligence case (13CW3011) and City of Ouray water rights cases (13CW3040, 13CW3072). 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." Jenny Russell moved that the board go into executive session. Doug Stowe seconded. The motion passed unanimously.

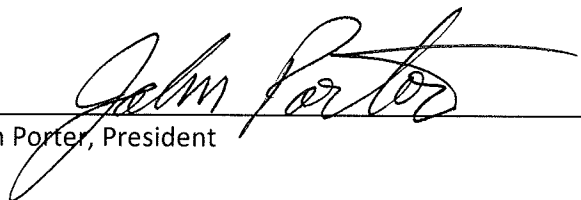
Peggy Montano and Adam Reeves announced that the board was out of executive session, during which no action was taken. The board discussed pending water rights cases, including Animas-La Plata Project water rights due diligence case (13CW3011) and City of Ouray water rights cases (13CW3040, 13CW3072).

Next Meetings

Friday, April 1	8:00am	Annual Water Seminar
Wednesday, April 13	9:00am	Teleconference
Wednesday, May 11	9:00am	Teleconference
Tuesday, June 7	10:00am	Special Regular Board Meeting

Adjournment

President John Porter adjourned the meeting at 3:45 p.m.



John Porter, President