

**Southwestern Water Conservation District
Board of Directors Meeting
April 2, 2015**

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

Absent: Monte Naslund

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

Guests Christine Arbogast, Kogovsek & Associates
Jimbo Buickerood, San Juan Citizens Alliance
Ryan Christianson, U.S. Bureau of Reclamation
Matt Clark, Trout Unlimited
Art Goodtimes, San Miguel County Commissioner
April Montgomery, Colorado Water Conservation Board (CWCB), participated by phone
Kevin Murphy, U.S. Geological Survey (USGS)
Denise Rue-Pastin, Water Information Program (WIP)
John Simpson, Division of Water Resources

President John Porter called the meeting to order at 10:00 a.m. Roll was taken and a quorum was present.

Executive Session

(time: 00:00:40)

Peggy Montano recommended that the board go into executive session for the purpose of discussing the Animas-La Plata Project water rights due diligence case (13CW3011) and Animas River depletion due diligence case (13CW3034). 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." Steve Fearn moved that the board go into executive session. Doug Stowe seconded. The motion passed unanimously.

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) and Animas River depletion due diligence case (13CW3034). The board provided direction to negotiators.

Approval of Minutes (February 10; February 25; March 11; March 25)

(time: 00:03:05)

Steve Fearn moved to approve the February 10, February 25, March 11, and March 25 minutes as corrected. Bob Wolff seconded. The motion passed unanimously.

Approval of Treasurer's Report (February 2015)

(time: 00:04:45)

Bruce Whitehead reported that Trudy O'Brien will be retiring in June, so the board will need to discuss the accounting transition at a future meeting. Laura described current accounting duties that Trudy is already passing off to her. Bruce summarized the February 2015 budget comparison, bank account summary, and check detail. At the December meeting, the board took action to invest in two certificates of deposit totaling one million dollars, which affected cash flow during the month of February. Steve Fearn moved to accept the February 2015 Treasurer's Report. Preston Goetzke seconded. The motion passed unanimously.

Board Member Reports

Bob Wolff (La Plata County)

(time: 00:14:15)

Bob reported that the Durango City Council decided to revisit a proposed water rate increase for access to the City system for La Plata County residents outside city limits. The Colorado Legislature has approved a bill that would allow private, not-for-profit water companies to seek funding from the Colorado Water Resources & Power Development Authority.

Doug Stowe (Dolores County)

(time: 00:15:35)

Doug reported on ongoing discussions in Dolores County regarding the Dolores River instream flow (ISF). He recently traveled to north central Texas where, in one town, water is being rationed at 500 gallons per household per month. Dolores County Commissioners met with a Montezuma County irrigator to discuss their vote not to support the proposed National Conservation Area (NCA) legislation being developed by the Dolores River Dialogue. Some stakeholders may be interested in an unbiased legal review of the proposed legislation.

JR Ford (Archuleta County)

(time: 00:18:00)

JR reported that a grant was awarded to build the geothermal demo project in Pagosa Springs. Work will begin over the summer. Colorado Water Conservation Board (CWCB) and Pagosa Area Water and Sanitation District have signed on to the debt reduction agreement, and are awaiting final approval from the San Juan Water Conservancy District. The Upper San Juan Mixed Conifer Working Group, which got started with a \$10,000 SWCD grant, has recently been awarded more than \$800,000 for work on the watershed health plan above Stevens Reservoir.

Rusty Hinger (Mineral County)

(time: 00:19:00)

Rusty reported that he and Bruce had a productive meeting with the Mineral County Commissioners in mid-March, updating them on recent SWCD activities. Snowpack is diminishing faster than normal.

John Taylor (Director Emeritus)

(time: 00:19:40)

John reported that after taking training in New Mexico on funding applications regarding Crowley Reservoir, and applying for a grant, the request was denied. The Upper San Juan Conservation District in New Mexico has agreed to consider being the fiscal agent as part of a second request to the New Mexico Water Trust board. It is hoped that one year from now construction could start.

Preston Goetzke (Hinsdale County)

(time: 00:22:30)

Preston reported that with the warm temperatures, the runoff has started.

Steve Fearn (San Juan County)

(time: 00:22:40)

Steve reported on the Animas River Stakeholders Group's work with the U.S. Environmental Protection Agency (EPA), which is conducting due diligence sampling on the Upper Animas River. At the Town of Silverton meeting in late March, the EPA requested testing of streets, parks, and school property, which the community has broadly opposed, as much of the testing has already been done through various previous initiatives.

John Porter (Montezuma County)

(time: 00:27:30)

John provided background on the fish pool at McPhee Reservoir, and the ongoing work on proposed legislation establishing an NCA. He also reported that the Montezuma County Commissioners voted to oppose to the proposed NCA in a recent meeting.

Jenny Russell (San Miguel County)

(time: 00:40:15)

Jenny deferred to Commissioner Art Goodtimes, who reported on high fire risk in the region today and concerning water supplies. San Miguel County has participated in the Dolores River Dialogue, and believes the proposed NCA is the best possible solution to address all stakeholders' concerns. Montezuma County's opposition to the proposed NCA is disappointing. If a management committee for the NCA is not established, San Miguel County will be in support of another management process. Commissioner Goodtimes expressed Commissioner May's concern that at the meetings she had attended there was no decision on filing the Notice to Contest the Dolores

River ISF, and expressed her disappointment at hearing that SWCD had indeed filed the Notice to Contest. Staff and board members responded by explaining SWCD's decision to pursue the Notice to Contest, and that due to the timing, it had been noticed and discussed at a teleconference meeting.

Agency Reports

U.S. Geological Survey (USGS)

(time: 00:49:00)

Kevin Murphy reported that area snowpack is at 55% of average, but rivers are flowing at 1.5-3 times average, which is attributable to abnormally warm temperatures. Kevin has replaced Dave Grey as Lead Hydrologic Technician.

Colorado Water Congress (CWC)

(time: 00:51:00)

Steve Fearn reported the next CWC board meeting will be on April 28. CWC is revisiting the dues structure to make it as equitable as possible for its diverse membership.

Colorado Foundation for Water Education (CFWE)

(time: 00:55:00)

Steve Fearn reported that the President's Award Reception is on May 8 in Denver. The next board meeting is May 28 in Estes Park. The summer *Headwaters* issue will address land use, and the fall issue will review Colorado River issues.

Division of Water Resources (DWR)

(time: 00:56:25)

John Simpson reported that Kevin Olsonawski has been hired as water commissioner for the La Plata and Animas Rivers. The La Plata River is now under administration, due to New Mexico's call under the compact on March 17. DWR is working with the La Plata Water Conservancy District regarding administration of Long Hollow Reservoir storage. Manual snow course measurements show 20% average snowpack in the La Plata River Basin and 10% in the Florida River Basin.

Bureau of Reclamation (BOR)

(time: 00:59:15)

Ryan Christianson reported on area reservoir levels. Vallecito and Lake Nighthorse will be the only reservoirs to fill this year. An informational Navajo Operations meeting will take place in Farmington on April 28. Negotiations continue with the Southern Ute Indian Tribe regarding a water delivery contract, with the next meeting on May 7 in Durango. The Ute Mountain Ute Tribe continues to discuss the water delivery contract internally. BOR is working on a conversion contract with the Florida Water Conservancy District to allow them to sell water for municipal and industrial uses. The San Juan River Basin Recovery Implementation Program (SJRBRIP) will hold their annual meeting on May 13 at Fort Lewis College.

Water Information Program (WIP)

(time: 01:03:45)

Denise Rue-Pastin, WIP Coordinator, added that the Spring WIP newsletter is ready for distribution. The SWCD's 20th Annual Children's Water Festival will be at Fort Lewis College on May 6, and now includes several home schools. Also, WIP is partnering with Durango Nature Studies on a Children's Water Camp in late July. There will be a screening of the Great Divide documentary film on September 10 in Durango. The Annual Water 101 Seminar is set for September 25 in Bayfield. Justice Greg Hobbs will be presenting.

Colorado Water Conservation Board (CWCB)

(time: 01:08:35)

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

- The next CWCB meeting in May will include presentations from the Basin Roundtables on the final draft Basin Implementation Plans (BIPs). The final draft will be available to the public in July, with final public comments due in September.
- CWCB may lease water out of Ruedi Reservoir from Ute Water Conservancy District to meet needs of endangered species along the Colorado River.
- As part of the CWCB "Projects Bill," there was a proposed increase in funding for weather modification to \$300,000, which was decreased to \$175,000 in response to concerns expressed by State Senator Sonnenberg. Funding requests may come before several Roundtables to upgrade cloud seeding equipment.

- Rockey Farms presented to the CWCB regarding developing agro-ecology for agricultural sustainability.

There was discussion regarding Colorado's weather modification program.

Natural Resources Conservation Service (NRCS)

No representative was in attendance; no report was available.

The board adjourned for lunch.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 01:24:00)

Steve Harris reported on the following:

- The Statewide Basin Roundtable Summit was held in Denver on March 12.
- The IBCC's conservation subcommittee will meet on April 20 to discuss a high conservation goal.
- The full IBCC will meet on April 30 in Denver.
- The West Slope Caucus continues to meet to discuss the seven-point conceptual framework for a transmountain diversion.

Questions/Comments from the Audience

(time: 01:33:15)

Commissioner Goodtimes added that a scientist based in San Miguel County will be submitting information updating current reservoir evaporation calculations for inclusion in the state water plan. Matt Clark provided an update on Trout Unlimited's recent work on the Dolores River.

Office Report

(time: 01:36:05)

Christine Arbogast reported on the following issues:

- The EPA and U.S. Army Corps of Engineers will release the final "Waters of the U.S." rule in summer 2015. Both the House and Senate have drafted bills regarding implementation of the "Waters of the U.S." rule.
- USFS withdrew the proposed groundwater directive. It is unclear what the alternative will be.
- There has been legislative activity around issues including long-term drought concerns, watershed management and forest health, and rural and Indian irrigation projects owned by the Bureau of Indian Affairs, including the Pine River irrigation project.

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

- Pursuant to the 2007 Interim Guidelines, the projected operations for WY 2015 anticipate an annual Lake Powell release of about 9 maf in the Upper Elevation Balancing Tier.
- Bruce presented at the Four Corners Ag Expo in Cortez in mid-March.
- The CWCB board will meet on July 15-16 in Ignacio.
- Bruce gave a photo presentation on the Lower Basin Water Banking Tour, which Doug Stowe, JR Ford, Bruce Whitehead and Laura Spann attended in early March. There was significant discussion regarding Colorado River issues and temporary ag fallowing programs.
- Staff has made electronic board packets available for board members to explore. Any feedback should be directed to Laura Spann.

Old Business

Legislative Update

(time: 02:19:20)

Bruce Whitehead summarized in brief water-related legislation introduced thus far in the 2015 Legislative Session. There was additional discussion of HB15 – 1222 (Water Efficiency Savings Instream Use Pilot), which was postponed indefinitely in committee on March 26, SB15 – 212 (Storm Water Facilities Not Injure Water Rights), which CWC State Affairs Committee supported as amended, and SB15-255 (Deposit Severance Tax Revenues in General Fund), which may have adverse impacts on water project funding.

BLM & USFS Joint Land & Resource Management Plan*(time: 02:26:45)*

Bruce Whitehead, Adam Reeves, and Christine Arbogast updated the board on the U.S. Forest Service (USFS) and Bureau of Land Management Joint (BLM) Land & Resource Management Plan (JL&RMP). The BLM has released the Record of Decision, and SWCD's appeal was denied. There was significant discussion. Steve Fearn moved to direct legal staff to write a letter to Co. Department of Natural Resources Director Mike King. Bob Wolff seconded. The motion passed.

Dolores Instream Flow*(time: 02:44:00)*

John Porter, Bruce Whitehead and Adam Reeves provided background on the Dolores River ISF appropriation proposed by the CWCB in 2014. There have been concerns about this proposed ISF's location in the downstream reach of the Dolores, and the relatively high flows recommended. SWCD had conversations with CWCB regarding proposed terms and conditions, including a depletion allowance for future development. At the March 11 teleconference, the board authorized legal counsel to file a Notice to Contest in the event that negotiations with CWCB do not reach resolution before the March 31 deadline. SWCD could not reach a resolution of negotiations by March 31, and so legal counsel filed a Notice of Contest to CWCB. Steve Fearn moved to request that the topic of future use allocation as part of the ISF program be on the May CWCB board agenda meeting, and solicit a meeting in advance with James Eklund. Doug Stowe seconded. The motion passed 7 to 1. San Miguel County may attend the CWCB meeting to express the minority opinion in opposition to this request.

Instream Flow Legislative Alternatives*(time: 03:01:20)*

Per discussion of the previous agenda item, legislative alternatives will not be pursued by the board at this time, pending the outcome of discussions with the CWCB.

Update: River Protection Workgroup*(time: 03:03:00)*

Steve Fearn reported that the River Protection Workgroup Steering Committee agreed to further negotiate a broader regional agreement through a smaller workgroup facilitated by Marsha Porter-Norton. Three productive small workgroup meetings have taken place, with one more scheduled for April 15. The small workgroup will report back to the steering committee on April 20.

New Business**Election of Officers***(time: 03:05:20)*

John Porter was nominated for Board President. JR Ford and Steve Fearn were nominated for Vice-President. JR Ford declined the nomination. Bob Wolff and Preston Goetzke were nominated for Secretary-Treasurer. By a secret ballot vote of 6-2, Bob Wolff was elected as Secretary-Treasurer. John Porter and Steve Fearn were elected by acclamation as Board President and Vice-President, respectively.

Old Business**33rd Annual Water Seminar***(time: 03:08:30)*

John Porter, Bruce Whitehead, and Laura Spann outlined seminar arrangements for the board.

Update: State Water Plan*(time: 03:15:35)*

This agenda item was covered as part of the Interbasin Compact Committee and Southwest Basin Roundtable.

Options for Restructuring WIP*(time: 03:15:50)*

Adam Reeves recommended this topic be discussed in executive session.

Case No. 13CW3011 Animas – La Plata Project Water Rights Application C-A & DD*(time: 03:16:10)*

Bruce Whitehead 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.

New Business (cont.)

Colorado Supreme Court Justice Selection, Water Background

(time: 03:16:25)

Bruce Whitehead directed board members to the draft letter in their packet encouraging the Nominating Commission and Governor Hickenlooper to consider water law background when selecting a Supreme Court Justice to replace Justice Greg Hobbs, who plans to retire in 2015. There was board consensus to submit the letter as drafted.

Co. Water Stewardship Project (CWC)

(time: 03:21:50)

Steve Fearn presented the funding request in the amount of \$15,000 to support ongoing work through CWC on the Colorado Water Stewardship Project, which is principally focused in providing public education on public trust doctrine ballot initiative efforts. Currently, Colorado Ballot Initiative No. 4 regarding the public trust doctrine has been approved by the title board, and advocates are now collecting signatures. CWC will host a Water Stewardship Project webinar on April 7. Board member suggested encouraging other regional water districts to contribute and participate as well. Bob Wolff moved to approve the Colorado Water Stewardship Project's funding request in the amount of \$15,000 for the 2015-2016 year, to be paid in 2015. J.R. Ford seconded. The motion passed unanimously.

Engineering Report

(time: 03:31:20)

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

- Carrie and Ann Oliver have finalized the draft BIP for review by the Southwest Basin Roundtable at their April 8 meeting, and submission to CWCB by April 17. The list has grown to 166 Identified Projects and Processes in the Basin. Carrie and Ann will present at the seminar regarding what they have learned through the BIP process. There was discussion regarding the Statewide Water Supply Initiative 2016.
- Steve directed board members to the new flow recommendations decision tree developed by BOR for the SJRBRIP.
- Regarding the Paradox Salinity Program, an RFP has gone out requesting commercial uses for the salt.
- The Upper Colorado River Commission (UCRC) will manage use of the System Conservation Agreement funds in Colorado. UCRC will soon send out an RFP seeking a water consulting firm to manage the program.
- John McCloy withdrew as UCRC representative, and now CWCB Executive Director James Eklund has taken his place as alternate. John will continue to serve as the Alternate Commissioner for Colorado. There is currently no Western Slope representative (Commissioner) on the UCRC.
- Steve Harris was recognized by Club 20 with the Preston Walker Award for outstanding leadership.

Legal Report

(time: 03:44:45)

Adam Reeves summarized recent work on the following:

- Animas River depletion due diligence case, no. 13CW3034: The Southern Ute Indian Tribe filed a response to SWCD's motion to dismiss, which in support of the New Mexico opposers. This resulted in a conflict of interest for MBSS. MBSS has filed for a 30-day extension. MBSS will file a motion to withdraw as soon as SWCD has other legal counsel contracted. MBSS has reached a stipulation with the City of Durango.
- City of Durango recreation in-channel diversion due diligence case, no. 13CW3028: Legal counsel is waiting on the stipulation from the City of Durango.
- USFS reserved water rights case, no. W-1605-76: The USFS has expressed interested in settling. A meeting was scheduled for February 9, but USFS did not appear.
- USFS conditional to absolute case, no. 12CW34: Legal counsel agrees with the USFS's calculations, and expects to close this case shortly.
- City of Ouray Red Mountain Ditch case, no. 13CW3040 (Division 7), 13CW3072 (Division 4): MBSS has received a draft decree, which is being reviewed.
- San Luis Valley Water Conservancy District case, no. 14CW3011: MBSS has received a draft decree, with comments due in May.
- La Plata County due diligence case, no. 13CW3029: A status conference is scheduled for November 2015.

Options for Restructuring WIP

Adam Reeves recommended that the board go into executive session for the purpose of discussing the draft contract with Environmental Dimensions for coordination of the Water Information Program. The statute covering this session is § 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." Bob Wolff moved that the board go into executive session. Doug Stowe seconded. The motion passed unanimously.

Adam Reeves announced that the board was out of executive session, during which no action was taken. The board discussed the draft contract with Environmental Dimensions for coordination of the Water Information Program.

Steve Fearn moved to adopt SWCD Policy 8: Water Information Program with the suggested changes. Doug Stowe seconded. The motion passed unanimously.

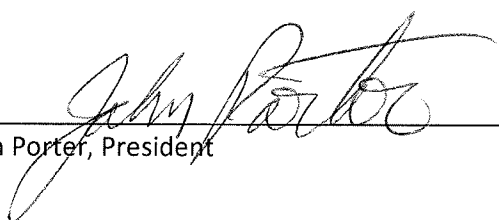
Steve Fearn moved to approve the draft Environmental Dimensions contract with the suggested changes for submission to Denise Rue-Pastin. Bob Wolff seconded. The motion passed unanimously.

Next Meetings

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| Wednesday, April 15 | 9:00 a.m. | Teleconference |
| Wednesday, April 29 | 9:00 a.m. | Teleconference (Cancelled) |
| Wednesday, May 13 | 9:00 a.m. | Teleconference |
| Tuesday, June 9 | 10:00 a.m. | Special Regular Board Meeting |

Adjournment

President John Porter adjourned the meeting at 4:46 p.m.



John Porter, President