

**Southwestern Water Conservation District
Board of Directors Meeting
April 6, 2017**

Present: Bob Wolff J.R. Ford David Guilliams
Rusty Hinger Monte Naslund Jenny Russell
Don Schwindt Charlie Smith Doug Stowe

Staff: Bruce Whitehead, Southwestern Water Conservation District (SWCD) Executive Director

Consultants: Carrie Lile, Harris Water Engineering
Peggy Montaño, Trout Raley
Beth Van Vurst, Fairfield and Woods

Guests: Russ Anderson, Michael Baker International
Christine Arbogast, Kogovsek & Associates
Mike Brod, Colorado Water Resources & Power Development Authority
Steve Fearn, SWCD Director Emeritus
Steve Harris, Harris Water Engineering
Ian Lyle, National Water Resources Association
Darlene Marcus, U.S. Representative Scott Tipton
Marc Miller, U.S. Bureau of Reclamation
John Porter, SWCD Director Emeritus
Adam Reeves, Maynes, Bradford, Shipp & Sheftel
Bill Simon, Animas River Stakeholders Group
John Taylor, SWCD Director Emeritus

President Bob Wolff called the meeting to order at 10:00 a.m. Roll was taken and a quorum established.

General Session

Approval of Minutes (February 6, 7, 22; March 8) *(time: 00:02:00)*

Doug Stowe moved to approve the minutes of February 6, February 7, February 22, and March 8. Rusty Hinger seconded. The motion passed unanimously.

Approval of Treasurer's Report (February 2017) *(time: 00:04:50)*

Bruce summarized the budget comparison, bank account summary and check detail. Doug Stowe moved to accept the Treasurer's Report. David Guilliams seconded. The motion passed unanimously.

Board Member Reports

Charlie Smith (San Juan County) *(time: 00:07:40)*

There was nothing new to report since the last board meeting.

JR Ford (Archuleta County) *(time: 00:07:55)*

The Colorado Water Conservation Board will be meeting in Pagosa Springs in May.

Rusty Hinger (Mineral County) *(time: 00:08:15)*

Much of south Mineral County is still under snow. SWCD has been in conversations with landowners regarding River Protection Workgroup negotiations.

Don Schwindt (Montezuma County) *(time: 00:08:55)*

Recent storms have added to the total snowpack. Irrigation has begun on the Ute Mountain Farm & Ranch.

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(time: 00:10:20)

Monte Naslund (Montrose County)

Rafting has begun on the San Miguel.

David Guilliams (Hinsdale County)

(time: 00:11:14)

Recent storms have brought more snow and rain to the county.

Jenny Russell (San Miguel County)

(time: 00:11:30)

Ski area just closed after a big year.

Doug Stowe (Dolores County)

(time: 00:11:50)

Irrigation should begin soon, since hay is already growing.

Bob Wolff (La Plata County)

(time: 00:12:20)

Purgatory Resort has had a great year, and will stay open for a few weekends in April. Snowpack is at 126% of normal. Durango residents recently elected three new members of City Council, and approved the continued use of fluoride for water treatment.

Agency Reports

U.S. Geological Survey (USGS)

No representative was present; there was no report made.

Colorado Foundation for Water Education (CFWE)

(time: 00:15:40)

Board members were invited to attend the CFWE Presidents Reception on May 12, at which Eric Kuhn (River District) will be presented with the Diane Hoppe Leadership Award and Drew Beckwith (Western Resources Advocates) will receive the Emerging Leader Award.

Division of Water Resources

No representative was present; there was no report made.

Colorado Water Resources & Power Development Authority (CWR&PDA)

(time: 00:16:55)

Mike Brod, CWR&PDA Executive Director, reported that Colorado's water infrastructure needs as surveyed by the CWR&PDA are 330 wastewater projects for \$5.57 billion and 421 drinking water projects for \$7.1 billion. This is in addition to water needs identified in the Colorado Water Plan. CWR&PDA has recently approved a \$60 million loan for the City of Durango's wastewater treatment plant rehabilitation. While in the President's proposed budget, EPA's funding was significantly decreased, the state revolving fund was not. CWR&PDA continues to own water in the ALP Project, and plays a role in the Long Hollow Reservoir.

U.S. Bureau of Reclamation (BOR)

(time: 00:29:15)

Marc Miller reported that bulkhead removal will take place at Lemon Reservoir next week, with operations returning to normal after that. He provided regional reservoir levels and releases. The Lake Nighthorse boating inspection station is anticipated to be complete in May, consultation with the tribes regarding the cultural resources management plan continues, and the City of Durango is in the process of annexing the lake region. Pumping at Lake Nighthorse will begin in May.

River Protection Workgroup

(time: 00:33:45)

A Steering Committee meeting was held on April 5, and there was consensus by the Steering Committee to move forward with the process, as general conceptual agreement for most of the group is seen to be within reach.

Colorado Water Conservation Board

(time: 00:35:30)

Applications are now being accepted for the Executive Director position, as James Eklund has stepped down. Three board members are termed out, with those positions not yet filled. CWCB is soliciting ideas and participation to generate funds to fill the fiscal gap identified in the water plan.

Colorado Water Congress (CWC)

Steve Fearn reported that several proposed ballot initiatives are now being discussed at the state level, including two with proposed increases in state severance taxes on oil and gas production, with the revenue to fund a wide range of state programs. CWC meets regularly to discuss proposed ballot initiatives. Christine Arbogast added that CWC had a roundtable discussion with the Colorado Congressional delegation regarding various state water issues including infrastructure. The Congressional delegation and CWC have an excellent, nonpartisan working relationship. CWC has raised concerns with the lack of clarity for Colorado hemp irrigators regarding water delivered via federal facilities.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 00:51:20)

Steve Harris reported that the next IBCC meeting will be held on April 20 in Keystone. Board members were invited to the next Southwest Basin Roundtable meeting on April 12, preceded by a meeting regarding the San Miguel stream management pilot program. Funds have recently been disbursed for the Basin Implementation Plan grant, to be administered by Carrie Lile, Ann Oliver and Denise Rue-Pastin, to implement the goals of the plan and continue with public outreach.

Questions/Comments from the Audience

(time: 00:57:50)

Mike Brod added that the CWCB Projects Bill is not advancing through the legislature as it usually does. Ian Lyle, Executive Director of the National Water Resources Association, thanked SWCD and CWC for their collaboration on federal water policy. A current priority of NWRA is to ensure that water figures prominently in any infrastructure funding or improvement effort by the current administration. He and Christine Arbogast provided background on Secretary of Interior Ryan Zinke, the Congressional budget process, including the president's proposed budget, and the status of the EPA's proposed rule regarding Waters of the United States.

Office Report

(time: 01:24:00)

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

- Snowpack is at 128% of normal for the basin. Reservoir levels in the Upper Colorado River basin have increased. Due to warmer temperatures in March, runoff was significant early then tapered off with return of colder temperatures.
- Funding for Phase II of the Colorado River Basin Risk Study was approved by the CWCB, after a revised scope of work was negotiated among various stakeholders on the east and west slope. CWCB emphasized that any conclusions reached by the study would not be official state positions on Colorado River conditions as they may impact future development.
- No recent meetings have been held regarding the incorporation of a future use allocation in the CWCB's instream flow program.

Old Business

Legislative Update

(time: 01:29:55)

The Colorado Water Congress (CWC) State Affairs Committee met on March 27 and April 3. Bruce Whitehead explained the bills and relayed CWC discussion of the bills. He referenced the most recent summary document.

SB 282 – Dedicate Reservoir Release Environmental Purposes

There was significant discussion and explanation regarding this proposed legislation. There was SWCD board consensus to oppose SB17-282 as introduced, and pursue a geographically specific version that addresses NISP concerns as a separate CWCB mitigation program.

SB 040 – Public Access to Government Files

CWC acted to oppose this legislation, which has moved forward through the process. CWC has been successful in seeking amendments to the bill addressing security related concerns.

HB 1177 – Mediation For Disputes Arising Under CORA Colorado Open Records Act

CWC acted to oppose this legislation as well.

SB 252 – Utility Cost-Saving Contract For Local Governments

CWC is discussing this recently introduced bill.

HB 1291 – Alternate Storage Not Change If Already Quantified

CWC is discussing this recently introduced bill.

SB 259 – General Fund Transfers Protect Natural Resources

CWC acted to support this bill.

HB 1273 – Real Estate Development Demonstrate Water Conservation

CWC has no position on the bill.

HB 1289 – State Engineer Rules Historical Consumptive Use

CWC postponed action on this bill.

HB 1306 – Test Lead In Public Schools' Drinking Water

CWC is discussing this recently introduced bill.

Red Mountain Snotel Site and Property

(time: 02:22:40)

Bruce Whitehead provided an update on the potential acquisition of the property where the Red Mountain SNOTEL site has operated for 34 years. The landowner wants to remove the Red Mountain SNOTEL site from the property, and the NRCS does not have an existing easement. Several entities have expressed interest in maintaining the site at its current location, including the Colorado Water Conservation Board (CWCB), the River District, and the Upper Gunnison Water Conservancy District. As directed by the board at the February meeting, staff continues to participate in discussions on funding the purchase of the parcel to ensure continued operation of the Red Mountain SNOTEL site.

Update: SWCD Annual Seminar

(time: 02:24:50)

Board members were invited to introduce speakers at tomorrow's Annual Water Seminar.

Update: MVIC Grant (Public Process)

(time: 02:25:20)

Montezuma Valley Irrigation District has corresponded with SWCD regarding the grant approved to fund a legal review of the draft proposed legislation establishing a National Conservation Area along the Dolores River. MVIC will no longer be funding the legal review, and will not use the remaining \$6,827 of the grant funds as fiscal agent.

New Business

Resolution 17-04 Honoring John Porter

(time: 02:29:15)

JR Ford moved to adopt Resolution 17-04 Honoring John Porter. Monte Naslund seconded. The motion passed unanimously. Several audience and board members expressed their gratitude as John was presented with the resolution.

Resolution 17-05 Honoring Steve Fearn

(time: 02:40:30)

Monte Naslund moved to adopt Resolution 17-05 Honoring Steve Fearn. David Guilliams seconded. The motion passed unanimously. Several audience and board members expressed their gratitude as Steve was presented with the resolution.

Agency Reports (cont.)

Water Information Program (WIP)

(time: 02:49:50)

Elaine Chick reported that the April newsletter went out today, and all the presenters and schools are lined up to attend this year's Annual Water Festival at Fort Lewis College on May 3. The "Clean Water Mobile Learning Experience" trailer will be added to the festival this year at no additional cost. The Forest to Faucets Teacher Training Program is scheduled for June 27-28 in the Pagosa Springs area. Justice Hobbs is confirmed for Water 101/201 at the Pagosa Springs Community Center on October 5-6.

Old Business (cont.)

River Protection Workgroup Legislative Concept

(time: 02:53:30)

SWCD has been involved in the River Protection Workgroup process for nearly 10 years, a process which has addressed water issues across various basins in southwestern Colorado. At the Steering Committee meeting on April 5, the group is close to a broader agreement spanning several basins and addressing key issues, including a possible designation of a Wild and Scenic River, alternative protections for other segments and release of those segments from Wild and Scenic Suitability, and expansion of the Piedra area or similar protections. There was agreement not to define “no major impoundments,” which increased the group’s comfort level with the broader consensus. Per board direction at the February meeting, Bruce has updated several individual landowners regarding the process. There was significant board discussion regarding the specifics of the agreement, and a request for more information from new board members. There was general agreement by the SWCD board to move forward towards finalizing negotiations regarding draft legislation based on the consensus reached at yesterday’s River Protection Workgroup Steering Committee meeting.

West Slope Risk Assessment Additional Match Request and SOW (additional \$4,270)

(time: 03:27:50)

As a result of the revised scope of work for Phase II of the West Slope Risk Assessment Study discussed as part of the Office Report, the total estimated cost has increased. The River District has committed an additional \$4,270 for a total of \$29,020, and has requested that SWCD do the same. Charlie Smith moved to approve an additional \$4,270 to fund Phase II of the West Slope Risk Assessment Study. Don Schwindt seconded. The motion passed.

Update: SWCD Grant Program Review

(time: 03:29:00)

Staff and legal counsel summarized board discussion from the February meeting to frame a review and possible restructuring of the grant program. Bruce solicited additional comments and ideas to inform draft documents for board consideration at the June meeting.

Update: Water Bank Principal and Technical Meeting 4/3/17

(time: 03:33:15)

A full day meeting of principal stakeholders in the Water Bank Working Group was held on April 3 in Denver to solicit input regarding the priorities and future direction of the group. Topics included a review of what the water bank effort has learned, lessons from parallel or similar processes, and the role of pilot programs versus long-term solutions. Priorities that emerged from the meeting include: 1) continue support of the Grand Valley Water Users Association pilot program for this year, 2) increase public outreach and education to producers, 3) further discussion on the role of, or need for, additional pilot programs, 4) additional focus on the draft conceptual framework as identified in the water plan and scenario planning and 5) further analysis of shepherding water downstream and 6) the role and needs of municipal interests. There was board and staff discussion regarding the role of SWCD in the water bank process, the need for the group to further refine its goals, positions of various stakeholders, and conclusions the group has reached so far. Carrie will attend the follow up meeting to be held in a few weeks.

New Business (cont.)

CWCB May Board Meeting (Pagosa Springs), Sponsorship \$2000

(time: 04:05:35)

Jenny Russell moved to sponsor the CWCB May board meeting in Pagosa Springs in the amount of \$2,000. David Guilliams seconded. The motion passed.

Colorado Water Congress Stewardship Project Request (\$2000)

(time: 04:06:30)

Monte Naslund moved to approve the Colorado Water Congress’ request to fund activities by the Water Stewardship Project in 2017. Don Schwindt seconded. The motion passed.

Engineering Report

(time: 04:08:50)

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

- **Water Bank Working Group (WBWG):** There was board consensus to provide a letter of support for the Grand Valley Water Users Association’s application for a U.S. Bureau of Reclamation water-marketing grant.

The board asked that a funding request, in-kind or otherwise, be made to the board in person by an Association representative clearly stating the benefits of SWCD participation to southwestern Colorado. There was agreement to send a general letter of support that Carrie will draft and review with Bruce.

- **San Juan River Basin Recovery Implementation Program (SJRBRIP):** Carrie participated in the Program's annual May meetings in Washington, D.C. with relevant Senators and Representatives to provide an update on progress toward recovery and encourage continued federal funding of the program. For FY2018, the Program is requesting \$1.5 million from the U.S. Fish and Wildlife Service budget, and \$3.8 million from the U.S. Bureau of Reclamation. The legislation authorizing use of Colorado River Storage Project Act funds will expire in 2019, with the broader appropriations bill expiring in 2021. The group provided draft legislation striking the 2019 date only, which has not yet been introduced. The SJRBRIP Annual Meeting will be held May 17. This year was the best year for the collection of Colorado pikeminnow larvae throughout the river system. There were positive results from the Navajo Reservoir spring peak release.

General Counsel Legal Report

(time: 04:29:12)

Beth Van Vurst referred the board to the written report. Cases currently before the water court are in negotiations. The remaining legal report topics on the agenda were recommended for executive session. Beth highlighted the following issues:

- **Water Quality Control Commission Regulation Nos. 34 and 35 Rulemaking Hearing:**
- Montezuma County has notified SWCD via several letters regarding the implications of the Supreme Court lawsuit pending with Kinder Morgan, which alleges that the County did not have the authority to collect the taxes from Kinder Morgan in prior years back to 2008 or 2009. Therefore, an unclear amount of tax revenue dispersed to SWCD may have to be re-paid at the resolution of the Supreme Court case. Doug Stowe moved to direct legal counsel to contact the Montezuma County attorney for clarification regarding the funds disbursed to SWCD that may be affected. David Guilliams seconded. The motion passed.
- **Case No. 13CW3040, City of Ouray:** Parties are prepared to stipulate, limiting diversions to 6 cfs. Jenny Russell moved to authorize settlement of Case No. 13CW3040 (City of Ouray) per the stipulation outlined in the legal memo. JR Ford seconded. The motion passed.

Special Counsel Legal Report

(time: 04:40:10)

Peggy Montaño reported that, in fact, SWCD had agreed per the settlement not to file a statement of opposition in Animas La Plata Project water rights change case (17CW3002). Instead, SWCD submitted a letter outlining the board's concerns to the ALPOM&R Association, La Plata County Commissioners, San Juan County Commissioners, and the Division 7 Engineer. SWCD also requested an informal review of the decree.

Executive Session

(time: 04:42:20)

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing USFS reserved rights (W-1605-76), Dolores River instream flow appropriation (15CW3111), proposed instream flow appropriations on Vallecito and Little Sands Creek, and SWCD Project Water Rights. The statutes covering this session are § 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," 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." Jenny Russell moved that the board go into executive session. Monte Naslund seconded. Don Schwindt recused himself from the portion of the executive session during which the USFS reserved rights (W-1605-76) and Dolores River instream flow appropriation (15CW3111) cases were discussed. The motion passed unanimously.

Beth Van Vurst announced that the board was out of executive session, during which no action was taken. The board discussed the USFS reserved rights (W-1605-76), Dolores River instream flow appropriation (15CW3111), proposed instream flow appropriations on Vallecito and Little Sands Creek, and SWCD Project water rights.

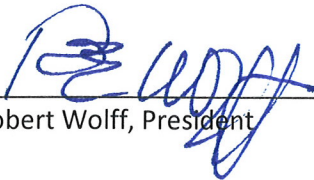
Regarding Case No. 10CW36, Timothy and Lori Lovato, it is likely that the applicant will withdraw the claim. A meeting will be held in May regarding Case No. 14CW3011, San Luis Valley Water Conservancy District.

Next Meetings

Friday, April 7	8:00am	SWCD Annual Water Seminar
Wednesday, April 19	9:00am	Board Teleconference
Wednesday, May 3	9:00am	Board Work Session
Thursday, June 15	10:00am	Special Regular Board Meeting

Adjournment

President Robert Wolff adjourned the meeting at about 4:45 pm.



Robert Wolff, President