

**Southwestern Water Conservation District
Board of Directors Meeting
June 7, 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

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

Guests Steve Anders, U.S. Geological Survey
Ken Beegles, Animas-La Plata Water Conservancy District
Eric Bikis, SGM Inc
Jimbo Buickerood, San Juan Citizens Alliance
Ty Churchwell, Five Rivers Trout Unlimited
Mardi Gebhardt, La Plata West Water Authority
Paul Gray, La Plata West Water Authority
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
Peggy Montano, Trout, Raley Montano, Witwer, Freeman (participated by phone)
Ann Oliver, Animas Watershed Partnership
Jessica Pace, Durango Herald
Denise Rue-Pastin, Water Information Program
John Simpson, Co. Division of Water Resources
Beth Van Vurst, Fairfield and Woods
Chuck Wanner, Co. Water Quality Control Commission
Adam Wilkes, Haynie & Company

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

General Session

Approval of Minutes (March 23, March 31; April 13; May 11) *(time: 00:02:35)*

Steve Fearn moved to approve the March 23, March 31, April 13 and May 11 minutes. Bob Wolff seconded. The motion passed unanimously.

Approval of Treasurer’s Report (April 2016) *(time: 00:03:15)*

Laura Spann detailed the financial report, including the budget comparison, bank account summaries, and transaction detail. Thanks to efforts by Steve Anders, the Los Pinos @ La Boca stream gage is fully funded by USGS. SWCD has committed \$240,286 in grant funding, leaving \$159,714 available for 2016 grant requests. Steve Fearn moved to accept the Treasurer’s Report. Doug Stowe seconded. The motion passed unanimously.

Board Member Reports

JR Ford (Archuleta County) *(time: 00:10:15)*

Bruce and JR updated the Archuleta County Commissioners on SWCD activities at their recent meeting. San Juan Water Conservancy District (SJWCD) has approached Archuleta County Commissioners about encouraging SWCD to lead advocacy and planning efforts for the proposed Dry Gulch reservoir. Bruce and JR explained SWCD’s intention not to get ahead of Archuleta County in pursuing the project; however, SWCD has committed grant

funds to support the proposed Dry Gulch reservoir. Archuleta County is encouraging SJWCD to pursue a smaller reservoir design.

Rusty Hinger (Mineral County)

(time: 00:20:00)

Tributaries are peaking and tourists are beginning to arrive for the summer.

Doug Stowe (Dolores County)

(time: 00:20:15)

David Robbins has recently started redrafting legislation for the proposed Dolores River National Conservation Area (NCA).

Steve Fearn (San Juan County)

(time: 00:20:50)

Cement Creek is running an orange color with peak flows. The U.S. Environmental Protection Agency (EPA) said they have the Gold King Mine release under control for now. The State of New Mexico has filed suit against the EPA and the Sunnyside Gold Corporation for their role in plugging the American tunnel, and the correlated Gold King Mine incident.

John Porter (Montezuma County)

(time: 00:22:40)

McPhee Reservoir made an early June rafting release on the Dolores River.

Bob Wolff (La Plata County)

(time: 00:23:45)

La Plata County had a cool, wet spring followed by a hot summer, which has allowed for a prescriptive scouring of heavy metal sediments at nearly 6,000 cfs.

Jenny Russell (San Miguel County)

(time: 00:26:15)

County Commissioner Elaine Fischer passed away before Memorial Day after a lengthy battle with cancer. A meeting of the environmental and recreational data gaps subcommittee was held on June 6 to discuss preliminary progress on the San Miguel Stream Management Plan. The Town of Norwood is pursuing a raw water system, and may come to SWCD for financial assistance.

David Guilliams (Hinsdale County)

(time: 00:27:40)

Runoff is peaking, afternoon showers have started, and cattle are being moved onto the forest for the summer.

Monte Naslund (Montrose County)

(time: 00:28:15)

Dust on snow impacts were not as notable this year. The river is coming up now, and the grass is much better than it has been in several years.

Agency Reports

U.S. Bureau of Reclamation (BOR)

No representative was present; a report was not available.

Questions/Comments from the Audience

(time: 00:29:15)

Darlene Marcus reported that U.S. Representative Scott Tipton introduced the Water Rights Protection Act, which was incorporated as part of the Energy Policy Modernization Act and approved by the House of Representatives. The bill aims to uphold state water law and protect the private water rights of individuals. Rep. Tipton is also vice-chair of the Western States Caucus, which is reviewing a number of natural resources issues. Ann McCoy-Harold also reported that many proposed bills are being developed currently in the U.S. Senate.

U.S. Geological Survey (USGS)

(time: 00:31:45)

Steve Anders reported that USGS will be relocating the Animas @ Tall Timbers gage to just below Cascade. USGS installed three continuous water quality monitors on gages on the Animas River and its tributaries in cooperation with the State of Colorado and funded by the EPA. Operational funding for these monitors is not guaranteed beyond March 2017. U.S. Bureau of Reclamation (BOR) is no longer funding 100% of operations at the Animas

River at Durango gage, currently \$16,000 annually. By reviewing website hits, the gage is the most used in the state and among the most used in the country. Starting in FY2017, USGS will fund 39%, BOR will fund 25%, which leaves a funding gap of 36% for the Animas River at Durango gage. There was general consensus that SWCD would consider approving funding 12% of gage operations at the August meeting, with the understanding that the City of Durango and ALPOM&R Association each agree to contribute 12%.

Division of Water Resources

(time: 00:57:10)

John Simpson, Assistant Division Engineer, reported that there is a new gage on the Mancos River to assist with Jackson Gulch Reservoir management. The Pine River is considered to be in flood stage, which is 2,000 cfs. The San Juan – Chama project has diverted up to 1000 cfs to the Chama River and the State of New Mexico. DWR was able to reduce water deliveries to New Mexico under the La Plata River compact from 100cfs to 80cfs thanks to reduced New Mexico uses and the beneficial use clause in the La Plata River Compact.

Colorado Water Conservation Board (CWCB)

No representative was present; a report was not available.

Colorado Water Congress (CWC)

(time: 00:59:00)

Steve Fearn summarized membership dues restructuring discussions from the last CWC board meeting in April. The 2016 budget is \$880,000. The next CWC board meeting is June 9-10 in Broomfield.

Colorado Foundation for Water Education (CFWE)

(time: 01:04:00)

The summer *Headwaters* issue will focus on economics, and an update to the *Citizen's Guide for Colorado Water Conservation* will be published in June, including a reworking of the agricultural water conservation section. The Gunnison Basin Tour is slated for June 21-22, and several members of the Interim Water Resources Review Committee of the Colorado Legislature are scheduled to attend. La Plata Archuleta Water District Manager Ed Tolen is participating in this year's Water Leaders program. The 2017 Water Fluency program will take place on the Western Slope. Laura Spann now serves on the Program Development Committee, and attended her first meeting in late March. Nicole Seltzer, current CFWE Executive Director, will be stepping down. Steve, Bruce and Laura attended the CFWE Presidents Reception, at which Governor Hickenlooper was recognized with the President's Award (now Diane Hoppe Award) and San Luis Water Conservancy District General Manager Heather Dutton received the Emerging Leader Award.

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

(time: 01:13:05)

Bob Wolff reported the Loma Linda Sanitation District grant-loan request was approved. CWR&PDA is grappling with redefining a "disadvantaged community."

River Protection Workgroup (Iron Fens)

(time: 01:14:30)

Workgroup efforts are moving to a critical decision point. Steve Fearn, John Taylor, and Bruce Whitehead represent SWCD on the Legislative Drafting Committee, the primary topics being W&S release language, and language related to "no major impoundments." The recent conversation with the full Steering Committee has been very focused around these two remaining issues, and it is hoped that putting these issues into context within the entire piece of legislation could be helpful in moving forward. There is now general agreement on the W&S release language, and at the last meeting the SWCD representatives circulated yet another attempt at language to address the impoundment language. It is possible that the group is quickly approaching "go" or "no go" decision on broader legislation. The next meeting will be held on July 15. Adam Reeves continues to represent SWCD in this process.

Water Information Program (WIP)

(time: 01:19:20)

Denise Rue-Pastin summarized recent program highlights. The City of Durango is no longer a participating entity. Trout Unlimited, Bikis Consultants, and La Plata West Water Authority have joined as participating entities and Pagosa Area Water & Sanitation District increased their funding by \$1,800. Also, The Nature Conservancy is considering participation. More than 750 fifth graders attended the Annual Children's Water Festival on May 4,

and additional volunteers participated as class guides. The Forest to Faucets teacher training scheduled for the Animas watershed on June 22-23 is booked to capacity. Water 101/201 is scheduled for September 22-23. WIP applied for an Environmental Education grant from the EPA, but Denise could not confirm the status of the grant.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 01:26:50)

Steve Harris and Bruce Whitehead reported on recent discussions at the IBCC, including possible water project funding vehicles such as a container fee on non-alcoholic beverages, additional funding for Watershed Restoration grant program, and agricultural funding opportunities. The CWCB may also consider legislation in 2017 in the annual Projects Bill that would assist in backfilling the reduction in funds from the Water Supply Reserve Account (WSRA) with funds from the Perpetual Base Account. Carrie Lile summarized recent discussions by the Roundtable's grant criteria subcommittee, including proposed changes to the process such as having a grant review committee and requiring a minimum funding match from applicants. A third meeting will be held before the next Roundtable meeting on July 13 in Cortez. There was discussion of how invaluable the Roundtable process has been in building relationships across the river basins.

Office Report

(time: 01:48:45)

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

- Beth Van Vurst attended the recent Upper Colorado River Commission meeting as a newly appointed legal advisor. Bruce also attended as an engineering advisor for Colorado.
- US Forest Service (USFS) reserved rights claims: Bruce may accompany CWCB staff at meetings with County Commissioners in southwestern Colorado to discuss the pending instream flow appropriations in Water Division 7.
- Stakeholder meetings continue regarding the incorporation of a future use allocation for instream flow appropriations. CWCB chose not to participate in these ongoing discussions.
- The Interim Water Resources Review Committee of the Colorado Legislature will hold summer hearings in Gunnison and Alamosa to discuss proposed water legislation, including a proposed bill addressing water banking.
- The first of a series of three informational webinars has been held regarding the intent and basis for the study to expand on risk assessment work for the development of Colorado River supplies. The \$52,000 study is funded by the River District, SWCD, and the four west slope roundtables.
- SWCD has contracted a producer to develop a short 6-8 minute video to be used at Water Plan Outreach meetings, WIP events, speaking engagements, and the website to introduce the public to SWCD. Several board members and staff were interviewed over the past several months, with additional interviews and site visits to occur in August.

Old Business

Resolution 16-03 Honoring Steve Harris

(time: 01:58:20)

John Porter read Resolution 16-03 honoring Steve Harris for providing more than 30 years of water resources engineering services to SWCD. The board expressed its deepest gratitude and appreciation for Steve Harris' legacy of protecting southwestern Colorado water user needs with commitment to our communities and a spirit of cooperation. The resolution was adopted by consensus.

SWCD 75th Anniversary Legislative Tribute

(time: 02:02:45)

Senator Ellen Roberts could not be at the meeting, but delivered a tribute plaque congratulating and commending SWCD on its 75th anniversary. Bruce Whitehead read aloud the tribute text.

Grant Report: Animas Watershed Partnership

(time: 02:07:45)

Ann Oliver reported on findings from water quality studies funded in part by SWCD in 2014 and 2015. She summarized water quality impairments based on 2014-15 sampling on the Animas and Florida rivers, potential E.coli sources, and potential non-regulatory actions to coordinate water quality improvements with landowners.

Loan Update: La Plata West Water Authority

Mardi Gebhardt and Bruce Whitehead provided background on the \$60,000 loan extended to La Plata West Water Authority (LPWWA) in 2010. As part of the SWCD audit review, it came to staff's attention that the maturity date of the Promissory Note (amended in 2012 through June 4, 2014) has long passed. Mardi summarized recent LPWWA progress toward construction of a rural domestic water supply, and requested at least one year of billing customers while in operation before beginning repayment on the loan. JR Ford moved to extend the promissory note as written for two years from today's date, at which time the board may consider renegotiation of terms as necessary. Rusty Hinger seconded. The motion passed.

Water Quality Control Commission Regulation 31 Rulemaking Proceeding*(time: 02:54:45)*

Beth Van Vurst summarized proposed revisions to the Basic Standards and Methodologies for Surface Water (Regulation No. 31). On behalf of SWCD, Jeff Kane filed responses to the Water Quality Control Division's (WQCD) proposals, along with 38 other parties. SWCD's response was primarily focused on supporting the WQCD's proposal to apply an elevation-based adjustment to the statewide temperature table value standards, and its proposal to apply a narrative only standard during the shoulder seasons. SWCD drafted a short rebuttal statement reiterating its support for the WQCD's proposals. The rulemaking hearing is scheduled for June 13, and Beth will attend the hearing on behalf of SWCD. In response to the numerous rebuttal statements, the WQCD provided an alternative proposal to implement the revisions basin by basin, starting with the San Juan and Dolores River basins in November 2016.

Southwest Colorado Appointment to CWCB*(time: 02:59:20)*

April Montgomery's term on the CWCB board will end in January 2017. Applications for the CWCB board are due in July, with appointments made by the governor in advance of the January meeting. Steve Harris requested a letter of support from the SWCD board in a November 2015 letter. The topic was tabled at the March meeting to give time for other potential applicants that the board had not considered. Jenny Russell was contacted by Travis Custer, High Desert Conservation District, who will also be applying for the appointment from southwest Colorado. Some Board members asked that opportunities for support from SWCD regarding appointments be more widely publicized in the future so that all those interested may come before the board. Bob Wolff moved that SWCD provide a letter of support for Steve Harris' application to the CWCB board. Monte Naslund seconded. The motion passed 8 to 1.

Instream Flow-Future Use Allocation*(time: 03:08:15)*

Bruce Whitehead reported that stakeholder meetings continue regarding the incorporation of a future use allocation for CWCB instream flow appropriations in lower stream reaches. CWCB chose not to participate in these ongoing discussions, citing that such changes would need to be addressed legislatively.

New Business**EPA/USGS Draft Technical Report (Protecting Aquatic Life – Hydrologic Alteration)***(time: 03:09:20)*

Beth Van Vurst summarized the joint USGS/EPA technical report on the effects of decreased flows on aquatic life. Comments on the technical report are due on June 17. The report provides 1) technical discussion of the biological impacts to aquatic life from flow alterations and the sources of those alterations, and 2) how Clean Water Act programs can be used to support the natural flow regime and maintain the health of aquatic life. The report expressly disclaims any resulting legal obligations; however, legal positions regarding federal authority were included. Some entities have expressed concern about how the report will be used. The State of Colorado is now reviewing the report to decide whether to comment. Legal counsel asked if the board would like to comment individually, or sign onto the comment letter to be submitted by Family Farm Alliance. Doug Stowe moved to direct legal counsel to coordinate with staff to draft and submit comments on the report from SWCD. Monte Naslund seconded. The motion passed.

August Board Meeting Location/September Budget Committee Meeting*(time: 03:20:40)*

There was consensus to hold the Budget Committee meeting on Thursday, September 8 at 10 am, and all board members are encouraged to attend. There was consensus to pursue a location for the August board meeting in Mineral County or Archuleta County, or Montrose County as a second option.

Grant Request: Five Rivers Trout Unlimited*(time: 03:27:45)*

Ty Churchwell presented the request for \$5,510 for 2016-17 to support continued assessment of the benthic macroinvertebrate community in the Animas River as an indicator of overall system health. The study will be compared to 2014 and 2015 studies conducted by Trout Unlimited, Colorado Parks and Wildlife (CPW), and Mountain Studies Institute. Total costs are estimated at \$15,260, and funding partners include Trout Unlimited, La Plata County, City of Durango, and CPW. Ty responded to board member questions.

Grant Request: La Plata Water Conservancy District*(time: 03:38:00)*

Eric Bikis, Bikis Water Consultants, presented the request for \$60,000 for 2017 to line the Freed Ditch and Red Mesa Supply Ditch to help prevent seepage. Funding would also go to upgrade the existing Red Mesa Supply Ditch headgate by installing telemetric and automated equipment. The ditch lining would benefit irrigators by increasing water conservation and water-use efficiency as a result of significant reduction of seepage losses, and the State of Colorado by capturing diurnal fluctuations to improve the predictability of Compact deliveries. Total project costs are estimated at \$223,042. LPWCD will cover 50 percent of the project costs, with any other remaining funding to be sought from the Southwest Basin Roundtable. Eric responded to board member questions.

Grant Request: River Protection Workgroup*(time: 04:02:45)*

On behalf of the River Protection Workgroup (RPW), Jimbo Buickerood presented the request for \$20,000 for 2016-17 to support a hydrologic study of iron fens in the Mineral and South Mineral basins near Silverton. The RPW's goal is to identify the hydrology of these fens, and similar fens, so that future development proposals could be evaluated for their potential impacts on fens. Another goal is to determine if agreement can be found, as part of the overall "Regional RPW Discussion" and its potential proposals and trade-offs, on permanent protection tools. The total cost is estimated at \$131,077, with additional funding from the CWCB of \$99,990 (pending matches raised) and other matches totaling \$11,087 from Trout Unlimited, CPW, San Juan Citizens Alliance and The Wilderness Society. Jimbo, Steve Fearn and Chuck Wanner responded to board member questions.

Grant Request: Colorado Water Stewardship Project*(time: 04:18:50)*

Steve Fearn summarized current activities of the Colorado Water Stewardship Project regarding the ballot initiatives, and an open request from CWC for 2016 financial support to pursue additional education regarding pending ballot measures affected water rights, water policy, and the prior appropriation doctrine in Colorado. SWCD contributed to the effort in the amount of \$15,000 for 2015.

Financial Assistance Requests Approval*(time: 04:27:40)*

Bob moved to approve the following grant requests:

- Five Rivers Trout Unlimited, \$5,510 for 2016-2017;
- La Plata Water Conservancy District, \$60,000 for 2016-2017;
- River Protection Workgroup, \$20,000 for 2016-2017;
- Colorado Water Stewardship Project, \$5,000 initial commitment, with an additional \$5,000 should the ballot initiatives collect the necessary number of signatures.

Doug Stowe seconded. The motion passed.

FY2015 Audit Report*(time: 04:29:30)*

Adam Wilkes, auditor with Haynie and Company, discussed the process followed to conduct the 2015 financial audit, and summarized the draft findings provided to the board. The auditors will report a clean opinion. Haynie and Company will file the final audit report by July 31 with the State of Colorado. Adam responded to board

questions and there was discussion. Steve Fearn moved to accept the FY2015 audit report. Bob Wolff seconded. The motion passed unanimously.

Engineering Report

(time: 04:40:15)

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

- **San Juan River Basin Recovery Implementation Program (SJRBRIP):** At the environmental flow workshop in Albuquerque, the flow decision tree was redefined to determine if spring peak releases will be made in a given year using an end of year water storage target. Navajo Reservoir is closely managed 2016 peak releases up to 5,000 cfs after initial flows flooded structures near the banks. Noteworthy items from the Program Annual Meeting in Durango in mid-May: 1) more and more endangered fish are being found in Lake Powell, which count towards species recovery; 2) overall, endangered fish continued to be caught in increased numbers with increasing larval fish catches; however, the missing piece still seems to be the recruitment life stage as monitoring efforts lack fish in those size classes; and 3) a study of Animas River diversions was conducted, and now stocking of endangered species in the Animas River is being proposed by the Biology Committee, to which water users are strongly opposed. Carrie responded to board questions.

Note: Due to technical difficulties, the remainder of engineering report not recorded. Minutes are based on notes taken during the meeting, and review of content by consulting engineer and office staff.

- **Water Bank Working Group (WBWG):** Carrie and Bruce attended a recent meeting in Glenwood Springs, at which stakeholders discussed administration of a pilot water banking effort with the Grand Valley Water Users Association. Current pilot program costs for the next year are estimated at \$1,000,000. Over the past four years, SWCD has funded the pilot program for \$60,000 total (around \$15,000 per year). The WBWG may request up to \$100,000 (approximately \$50,000 per year) from SWCD for 2017-2018 pilot program operations. Board members had questions related to how the community's ag-economy is affected by deficit irrigation, whether this program is truly a pilot now that producers are being compensated, and how the "banked" water will be measured. Bruce noted that more discussion about the future direction and intent of the Water Bank effort will occur.
- **Paradox Salinity Project:** Steve participated in a conference call on June 1. The group continues to discuss options for salinity removal on the Lower Dolores River, including an injection well or evaporation ponds.

General Counsel Legal Report

(time: 04:57:38)

Beth Van Vurst referred the board to the written report, and provided the following updates from the supplemental written report:

- San Luis Valley Water Conservancy District, Case No. 14CW3011 (Div. 3): The applicant has circulated a proposed ruling, and SWCD is providing comments.
- U.S. Bureau of Land Management's (BLM) Draft Uncompahgre Resource Management Plan/Environmental Impact Statement: The BLM recently released the first draft of its new Resource Management Plan, which covers 675,000 acres of BLM-administered lands and 971,220 acres of subsurface federal minerals. The public is invited to comment before September 1, 2016. Area open houses are scheduled for June. There was board consensus to review the RMP and monitor the process for water resources impacts in western Montrose and San Miguel Counties. Jenny requested a copy of any draft SWCD comments to pass along to the San Miguel County Commissioners, who have been supportive of the RMP process.
- New Department of Labor Regulation on Exemptions from Overtime Pay: On May 23, the U.S. Department of Labor issued its new ("overtime") regulations increasing the salary limit for exempt employees from \$23,660 to \$47,476, effective December 1, 2016. SWCD employees are affected by the change, and legal counsel will bring options for compliance before the board at the August meeting.

Beth also summarized recent Colorado Supreme Court Case Announcements. Several items in the written legal report were also recommended for discussion in executive session.

Special Counsel Legal Report

(time: 05:05:20)

Peggy Montano reported (by phone) that the board work session to report on expert findings for the SWCD Project water rights is scheduled for July 19 at 9:00 am at the SWCD office. A draft agenda and background documents will be distributed in advance of the session. Presentations will include economic, engineering, permitting, and legislative reviews of future uses of the SWCD Project water rights.

Executive Session

(time: 05:08:40)

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing pending water rights cases, including City of Ouray water rights filings (13CW3040, 13CW3072), Dolores River instream flow filing (15CW3111), and SWCD Project water rights (13CW3011). 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." Doug Stowe moved that the board go into executive session. Monte Naslund seconded. The motion passed unanimously.

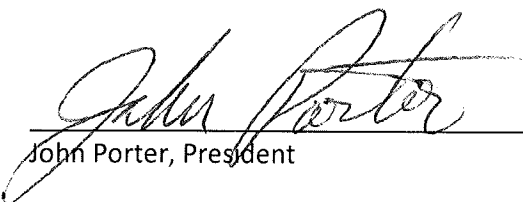
Beth Van Vurst announced that the board was out of executive session, during which no action was taken. The board discussed pending water rights cases, including City of Ouray water rights filings (13CW3040, 13CW3072), Dolores River instream flow filing (15CW3111), and SWCD Project water rights (13CW3011).

Next Meetings

Tuesday, July 19	9:00am	Board Work Session
Tuesday, August 9	10:00am	Special Regular Board Meeting (Nucla)
Thursday, September 8	10:00am	Budget Committee Meeting
Tuesday, September 15	12:30pm	Joint Meeting with the River District (Ridgway)
Tuesday, October 11	10:00am	Special Regular Board Meeting
Tuesday, December 6	10:00am	Special Regular Board Meeting

Adjournment

President John Porter adjourned the meeting at 5:15 p.m.



John Porter, President