

**Southwestern Water Conservation District  
Board of Directors Meeting  
August 30, 2017  
Bruce Spruce Ranch (Mineral County)**

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

**Absent:** Doug Stowe

**Staff:** Bruce Whitehead, Southwestern Water Conservation District (SWCD) Executive Director  
Laura Spann, SWCD Programs Coordinator

**Consultants:** Christine Arbogast, Kogovsek & Associates  
Carrie Padgett, Harris Water Engineering  
Peggy Montaño, Trout Raley (by phone)  
Beth Van Vurst, Fairfield and Woods

**Guests:** Jimbo Buickerood, San Juan Citizens Alliance  
Ken Curtis, Dolores Water Conservancy District  
Steve Fearn, SWCD Director Emeritus  
Celene Hawkins, Colorado Water Conservation Board  
John Taylor, SWCD Director Emeritus  
Jean Taylor, Public  
Ryan Unterreiner, Colorado Parks & Wildlife

President Robert Wolff called the meeting to order at 8:30 a.m. Roll was taken and a quorum established.

## **General Session**

### **1.0 Administration**

#### **1.1 Approval of Minutes (June 15, 2017)**

*(time: 00:01:46)*

Jenny Russell moved to approve the June 15, 2017 minutes as corrected. Don Schwindt seconded. The motion passed unanimously.

#### **1.2 Approval of Treasurer's Report (July 2017)**

*(time: 00:04:25)*

The board reviewed the budget comparison, bank account summary and check detail. Monte Naslund moved to accept the Treasurer's Report. Rusty Hinger seconded. The motion passed unanimously. Board members were directed to the final 2016 audit as submitted to the State by the July 31 deadline, in which SWCD received a clean opinion.

### **1.3 Board Member Reports**

#### **JR Ford (Archuleta County)**

*(time: 00:09:35)*

San Juan Water Conservancy District has renamed the proposed Dry Gulch reservoir as the "San Juan Headwaters Project," and will go to the voters in November for a mill levy increase to fund the purchase of additional properties, some of which could be used for a land exchange with the US Forest Service.

**Charlie Smith (San Juan County)**

Progress continues on development of the Bonita Peak Mining District Superfund site. San Juan County Commissioners would like to continue in discussions on maintaining diligence on the San Juan County water rights held by SWCD. Charlie and Bruce are coordinating on this effort.

**Don Schwindt (Montezuma County)**

(time: 00:11:10)

McPhee Reservoir had a significant release for a controlled spill, due to generous snowpack and stream flows this year, and stayed full late into the season. A public meeting was held and stakeholders provided comments on the drought resilience plan developed by Dolores Water Conservancy District.

**Rusty Hinger (Mineral County)**

(time: 00:13:10)

Tourist seasons has kept the south end of Mineral County busy. Commissioner Ramona Weber could not attend the meeting, but expressed her appreciation for the board's work.

**Monte Naslund (Montrose County)**

(time: 00:14:09)

The San Miguel River is a bit lower than the average, and the monsoon season has produced less precipitation than the average year.

**Jenny Russell (San Miguel County)**

(time: 00:14:55)

The results of the San Miguel stream management pilot program will be presented at a public meeting on September 8 at the Moose Lodge in Nucla. Direct outreach efforts were conducted by Roundtable members Mely Whiting, Jenny Russell, and Mike Preston.

**Bob Wolff (La Plata County)**

(time: 00:16:55)

La Plata County had a good water year, including a productive monsoon season. The original design of the City of Durango RICD structure directed flows away from the water inlet for the treatment plant, so the park had to be reworked. In correcting this design flaw, the water now flows to the inlet, but has created a hole in the whitewater park that's difficult for boaters to navigate.

**David Guilliams (Hinsdale County)**

(time: 00:18:00)

On David's behalf, Director Emeritus John Taylor offered southern Hinsdale County for next year's remote board meeting and water tour in August. There was board consensus to accept the invitation and begin planning.

## **1.4 Agency Reports**

### **U.S. Geological Survey (USGS)**

There was no representative present; a report was not available.

### **U.S. Bureau of Reclamation (BOR)**

There was no representative present; a report was not available.

### **Division of Water Resources**

There was no representative present; a report was not available.

### **Colorado Parks & Wildlife**

(time: 00:21:30)

Ryan Unterreiner, Southwest Region Water Resources Specialist, introduced himself to the board and said he was here to learn more about the District and water issues in the area.

### **Colorado Water Conservation Board (CWCB)**

(time: 00:24:20)

Celene Hawkins introduced herself as the new representative from southwestern Colorado to the CWCB, and reported on the following topics:

- At the July board meeting, Celene requested that CWCB work with water users affected by the current issues with funding tied to the Colorado River Storage Project Act Memorandum of Agreement.

- The Statewide Water Supply Initiative (SWSI) update is underway, with several technical advisory groups comprised of members from southwestern Colorado.
- At upcoming meetings, the CWCB board will be considering water plan implementation grant program applications. In the first round, CWCB has received 33 applications for a total of \$8.9 million dollars. She anticipates the funds to be spent in the first fiscal year of availability. Celene asked for the board's assistance in recruiting projects from southwestern Colorado. Interested applicants were encouraged to contact CWCB staff as soon as an applicant is interesting. Celene responded to questions regarding funding criteria.

Bob thanked Celene for her engagement in reaching out to SWCD immediately upon her appointment. Celene offered to attend other organization meetings and emphasized an open-door policy in hearing from stakeholders as the southwestern Colorado representative.

In her role with The Nature Conservancy, Celene has been involved in the Dolores River native fish monitoring as part of the release from McPhee Reservoir this year. The release has been managed collaboratively and studied by various institutions. Preliminary results will be reported at a public meeting on October 27.

### **Colorado Water Congress (CWC)**

*(time: 00:37:30)*

Steve Fearn, CWC board member, reported on the following topics:

- Summer Conference attendance decreased slightly from last year likely due to the conference relocation from Vail to Steamboat. The conference theme was "Setting Priorities." Among the highlights were the Interim Water Resources Review Committee meeting, and a listening session on Colorado Water Plan priorities.
- The CWC communications committee reported that membership generally likes the type of communications being provided, with conferences, email and websites being the most popular. The top three policy issues of interest to members were ballot issues, water court cases, and water administration.
- The key issue for the Water Stewardship Project continues to be maintaining adequate funding, which will be taken up at the next board meeting.
- Erin Wilson is now board president. The next CWC board meeting will be held on September 28.

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

*(time: 00:50:46)*

CWR&PDA approved five loans ranging in scope at their board meeting at Colorado Water Congress. CWR&PDA has received interest for larger projects to take advantage of the state water plan implementation funding. In 2018, the authority will recommend a slight adjustment in their enabling legislation to allow for changes in the terms of loans offered.

### **Water Information Program (WIP)**

*(time: 00:54:00)*

Board members and the public were invited to attend the Water 101 and 201 seminars to be held in Pagosa Springs on October 5 and 6.

### **Interbasin Compact Committee (IBCC) & Roundtable**

*(time: 00:55:45)*

At the July Roundtable meeting, members discussed additional 2017 water funding to backfill the Water Supply Reserve Fund. Of that, the Southwest Basins Roundtable has received \$160,000 for the first installment for FY2018. In addition, \$10 million was allocated for a new Water Plan implementation grant program. The next Roundtable meeting is October 11 in Durango. The IBCC has not met recently and anticipates playing a role in the SWSI update and implementation of the Water Plan.

### **Colorado River Water Users Association (CRWUA)**

*(time: 00:57:10)*

The Annual Conference in Las Vegas will be held December 13-15, with the Upper Colorado River Commission meeting on December 13.

### **Colorado Foundation for Water Education (CFWE)**

*(time: 00:59:00)*

The new *Headwaters*, focused on data use in water management, is now out, along with coordinated webinars and other educational programming. CFWE will also host a regionalization workshop to highlight considerations in

implementing regional water solutions such as the WISE project. CFWE has submitted an application for Water Plan implementation funding to distribute materials statewide and received support from the Southwest Basins Roundtable. CFWE is soliciting interest in the open Education and Outreach Program Assistant position. The next board meeting is September 22.

## 1.5 Questions/Comments from the Audience

(time: 01:03:45)

There were no comments nor questions from the audience.

## 1.6 Office Report

(time: 01:04:00)

Board members were directed to the written Executive Director report, and the following topics were highlighted:

- Rusty Hinger, JR Ford and Laura Spann were thanked for coordinating the board meeting and Upper San Juan basin tour.
- Bruce detailed the area drought indicator, runoff and reservoir levels.
- Several webinars have been held on Phase II of the West Slope Risk Assessment Study, and have included a broad range of participants. A technical group, including representatives from the CWCB and other basins (including Front Range interests) will provide input and review of technical modeling assumptions.
- Becky Mitchell is now CWCB Director, replacing James Eklund, and Kevin Rein is now the State Engineer, replacing Dick Wolfe.
- Bruce and Beth attended a meeting on July 19 convened by Northern Water to discuss potential legislation which may be needed to protect mitigation flow requirements for the Northern Integrated System Project (NISP). Northern proposed similar legislation (SB17-282) that did not pass out of the Senate Ag Committee during the 2017 session. Another meeting has been set for September 5 to discuss various “strawmen” legislative proposals.
- Beth and Bruce met with River District staff and CWCB Director Becky Mitchell regarding coordination between the two districts and the state.
- Board members were encouraged to attend the budget committee workshop on Thursday, September 14, at 9:00am.
- Board members were directed to the renewed letter of support for the nomination of River District General Manager Eric Kuhn for the 2018 Aspinall Award. The Florida Water Conservancy District, Dolores Water Conservancy District, San Juan Water Conservancy District, Animas La Plata Water Conservancy District and The Nature Conservancy also supported his nomination.
- The final 2016 grant report is available on the website under director login.
- Board members were directed to a memo regarding feedback on the annual water seminar, which was very well received overall. Starting in 2019, the board may need to discuss how to address the event now reaching capacity.
- The public and board members were invited to provide feedback on the usability and organization of the website, since it has been updated to a new format and organization since the seminar.
- There was general board consensus to list current board member terms along with their biographies and photos on the SWCD website for the public.

## 3.0 New Business

### 3.1 Kogovsek & Associates Contract Renewal

(time: 01:25:00)

Board members were provided background on renewal of the contract with Kogovsek & Associates. General counsel and Christine Arbogast have agreed generally on a draft to present to the board for final approval at the October meeting.

Christine Arbogast reported on the following federal issues:

- The US EPA Waters of the United States rule is being rescinded and rewritten. Various organizations including Colorado Water Congress and National Water Resources Association have provided input in the process of revision.

- Political appointments from the new administration are coming slowly. Deputy Secretary of the Interior David Bernhardt is from Colorado, and has worked for Congressman McGinnis. Brenda Burman has been nominated as U.S. Bureau of Reclamation Commissioner. Several other water resources appointments have not yet been made.
- There is a proposal to relocating to Denver the headquarters of Interior agencies including US Geological Survey, the US Fish and Wildlife Service, US Bureau of Land Management, and US Bureau of Reclamation.
- Federal legislation, a drought bill passed the House, but likely will not pass the Senate. The administration's proposed infrastructure bill may not be a boon for water infrastructure needs. There may be opportunities in the proposed farm bill to include funding for forest health.
- As part of the administration's proposed tax reform efforts, there is talk of doing away with tax exemption for municipal bonds, which would be a blow to municipal providers who use that tool to build infrastructure.
- Aquatic nuisance species (ANS) larvae have been found in Green Mountain Reservoir. There is an effort to seek federal funding to prevent the spread of ANS in Colorado.
- The appropriations process is out of regular order, as it has been for several years. As well, it's very difficult to get proposed legislation passed out of the committees.

## 2.0 Old Business

### 2.1 Colorado River Discussions

*(time: 01:43:40)*

Minute 323 will be ratified in fall 2017, and all the Colorado River basin states, the US Secretary of the Interior and Mexico are supportive of the agreement. Minute 323 works to address potential Colorado River water shortages and to meet new water conservation and storage objectives. It represents the joint efforts of local, state, and the federal governments of both countries to set a course for a more secure water future. Basin states are in the process of approving separate agreements to ensure implementation of Minute 323. There has also been significant movement recently within the State on Colorado River issues, including efforts to draft potential state legislation on shepherding flows, which general counsel recommended the board discuss in executive session. The Upper Colorado River Commission had agreed in June to pause their participation in the system conservation program; however, in August the UCRC may be reconsidering continuing the program in 2018. The UCRC, like the Water Bank Working Group, is struggling with whether these water banking efforts result in a significant amount of water saved in a way that is cost effective.

### 2.2 Ditch Companies & Urbanization of Agricultural Areas

*(time: 01:49:30)*

At the June meeting, Ed Zink requested SWCD's leadership in helping ditch companies address the rapid urbanization of agricultural areas and the water user concerns that arise. Relatedly, the Town of Bayfield has scheduled a meeting with several ditch companies to address similar concerns as the town annexes more properties and approves subdivisions adjacent to ditches. Some of the board ideas included: a panel at the SWCD Annual Water Seminar, involving the Ditch and Reservoir Company Alliance in the effort, a large ditch companies meeting with legal counsel, SWCD possibly funding broader assistance to address these issues via legal review or a public process, sharing more widely the High Desert Conservation District's "Rural Living" guide, and utilizing the Water Info Program website to provide resources, among others.

### 2.3 Red Mountain SNOTEL Update

*(time: 02:00:50)*

SWCD has been involved in the effort to maintain the historic Red Mountain SNOTEL site by gaining control of the property on which it sits. The property appraised at \$110,000, and the appraisal was funded by the CWCB. The negotiated purchase price is \$132,000. With transaction costs, the total funding needed is up to \$146,000. Conversations continue with the Trust for Land Restoration, the River District, the Upper Gunnison Water Conservancy District, SWCD and other stakeholders in partnering to fund the purchase of the property with an easement for the SNOTEL site. Board members discussed the possibility of participating as a funding partner, and/or as a possible property owner, to help secure control of the property and maintain continuity of snowpack data. JR moved for SWCD to seek ownership of the property on which the Red Mountain SNOTEL site sits, with a contribution toward the property purchase of up to \$30,000. Monte Naslund seconded. The motion passed unanimously.

## 2.4 SWCD Meeting Dates for 2018

Board, legal counsel, and staff discussed holding regular board meetings on the fourth Tuesday in January, April, July, and October to coordinate with the enabling statute, rather than holding special regular board meetings every other month. After significant discussion, there was board consensus to direct staff to draft legislative language for board consideration to update the SWCD statute to provide the board with flexibility regarding regular board meeting dates, and continue with board meetings every two months as SWCD has done in the past.

## 2.5 SWCD Vision Discussion

(time: 02:51:00)

As an outgrowth of the SWCD grant program, staff and legal counsel set up the ongoing board discussion to revisit how current board and staff efforts are achieving the District's statutory purpose. Focusing on the future of the basins, and the District, could better inform what court cases to be involved in, how to direct and budget funds, and how to approve grant funding. Most significantly, at what level should the District be involved in Colorado River compact issues? By statute, SWCD is one of three entities in the state (River District and CWCB) charged with a role to "safeguard for Colorado, all waters to which the state of Colorado is equitably entitled."

Board members raised the following topics for discussion: revisiting the history of SWCD's role to inform today's purpose, SWCD's unique perspectives on the western slope on Colorado River issues and coordination with the River District, guidelines in filing statements of opposition in water cases, SWCD's collaboration with local stakeholders to find consensus-based solutions, coordination with grassroots community efforts, and the degree of flexibility allowed by the statute. There was board consensus to hold a structured half-day board workshop to review District priorities as guided by the enabling legislation.

*Note: Due to technical problems, agenda items 2.6, the engineering report and a portion of the legal report were not recorded. The minutes are based on notes taken during meeting, and a review of content by legal counsel, the consulting engineer, and staff.*

## 2.6 SWCD Grant Program and Criteria

As a basis for ongoing review of SWCD's grant program, Beth provided a summary and analysis of SWCD's legislative declaration, district powers and grant/loan authority. After the roll out of the new annual grant cycle consideration, there was some concerns expressed by previous grant applicants that it may impact their ability to leverage other funding. There was general board consensus to continue with the annual grant cycle in 2018 as proposed. The board was directed to the draft SWCD grant guidelines with the comments incorporated from the June meeting. Board members commented that some annual requests included as line items in SWCD's budget should receive annual review and be required to report progress, possibly with a five-year limitation. Staff should ensure all applications meet the grant program criteria prior to funding requests coming before the board. Any lack of clarity or special cases should be brought to the board for their consideration. There was additional discussion regarding the District's educational funding and varied opinions expressed. There was general consensus to accept and share the SWCD grant program criteria as drafted, and to distribute it widely.

## 4.0 Engineering Report

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

- **San Juan River Basin Recovery Implementation Program (SJRBRIP):** Carrie participated in a Biology Committee meeting in July and an Upper Colorado Executive Committee meeting in June. The Program Office provided an update on the calcien mark retention study. The study was implemented because the field personnel need to a way to differentiate wild spawned young of year from stock young of year Colorado pikeminnow. The study shown that after 196 days, 90% of young of year fish were still identifiable. This study will be implemented this year with stocked fish. The natal origin analysis determined that five wild-spawned Razorback sucker were collected in the San Juan arm of Lake Powell. The fall meeting of the Biology Committee will be on November 28-30, and the winter meeting of the Biology Committee in February.

- **Water Bank Working Group (WBWG):** Carrie participated in biweekly calls for the work group and attended an in person meeting last week in Steamboat. Carrie requested guidance from the Board and this topic was further discussed in executive session.
- **Paradox Valley Salinity Unit EIS:** Nothing was reported on during the meeting.
- **Colorado River Risk Study Phase II:** Carrie has been participating in biweekly calls this summer regarding Phase II of the study. Carrie provided a summary of the recent outreach webinar and will send a copy of the PowerPoint to the Board. The study is moving forward and is currently tackling modeling efforts using StateMod. The contractors have learned a lot about StateMod and have overcome some hurdles with making the model useful for this effort. A presentation from the contractor to the Board and the Southwest Basin Roundtable is forthcoming once more analysis has occurred.
- **Animas Watershed Partnership:** Carrie invited the Board to attend the upcoming fall meeting of the group on September 7. The group will be taking a tour of the wetlands located on the Zink property. The partnership has also been participating in a work group formed around the Animas spill; this workgroup is seeking public input on how best to use future funds associated with the Superfund site.

## 5.0 General Counsel Legal Report

(time: 03:14:30)

Beth Van Vurst referred the board to the written report, and highlighted the following issues:

- **Waters of the United States (WOTUS) Rule:** Don moved to submit comments on the proposed Waters of the United States rulemaking. Monte Naslund seconded. The motion passed.
- **Colorado Water Quality Control Commission Regulation 93, 303(d) Impaired Waters Hearing:** Charlie Smith moved to file party status for the Regulation 93, 303 (d) impaired waters hearing. David Guilliams seconded. The motion passed unanimously.
- **13CW3040 City of Ouray:** SWCD has stipulated with the City of Ouray, which was approved by the court in May 2017.
- **12CW34 USFS Conditional to Absolute (06CW127):** This case is in a holding pattern, with the next status conference scheduled for September 15. It was suggested that legal counsel follow up with the USFS to encourage progress on the case.
- **10CW36 Timothy and Lori Lovato:** The judge has provided additional time for the applicant to secure a replacement supply, and, until they do so, the case is in a holding pattern.
- **Colorado River Discussions, Shepherding:** Bruce and Don Schwindt summarized their separate individual comments they submitted to Anne Castle regarding the shepherding of water to meet compact compliance or other demands.
- **14CW3111 San Luis Valley WCD:** SLVWCD recently circulated a revised proposed Ruling and engineering, which failed to address SWCD's concerns. Written feedback was provided on July 31.
- **05CW88 San Juan County Water Rights:** SWCD currently holds conditional waters for San Juan County senior to the City of Durango's RICD. San Juan County has expressed interest in further discussing ownership of the water rights and maintaining due diligence.

## 6.0 Special Counsel Legal Report

(time: 03:31:30)

Peggy Montaño reported on case number 17CW3002, a change of water right filed by the Animas-La Plata Operation Maintenance and Replacement Association to provide for direct delivery of the Animas-La Plata Project water rights to the New Mexico state line. Peggy has corresponded with Carolyn Burr, general counsel for the ALPOM&R Association, to request the draft decree and provide informal comments. Discussions continue with potential partners for development of the SWCD Project Water Rights, which may accelerate in the fall.

## 7.0 Executive Session

(time: 03:37:30)

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing San Luis Valley Water Conservancy District water rights case (14CWC3011) and the related substitute water supply plan, as well as inter and intrastate issues regarding Colorado River management discussions. 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." Monte

Naslund moved that the board go into executive session. Rusty Hinger seconded. The motion passed unanimously.

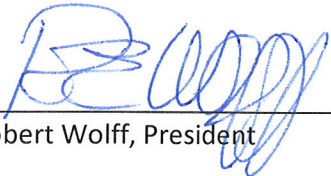
Beth Van Vurst announced that the board was out of executive session, during which no action was taken. The board discussed the San Luis Valley Water Conservancy District water rights case (14CWC3011) and the related substitute water supply plan, as well as inter and intrastate issues regarding Colorado River management discussions. The board provided direction to negotiators.

**Next Meetings**

Thursday, September 14	9:00am	Budget Workshop
Tuesday, October 10	10:00am	Special Regular Board Meeting
Tuesday, December 5	10:00am	Special Regular Board Meeting

**8.0 Adjournment**

President Bob Wolff adjourned the meeting at 3:30 p.m.

  
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Robert Wolff, President