

**Southwestern Water Conservation District
Board of Directors Meeting
Nucla, Colorado
First Park Community Center
August 9, 2016**

Present: John Porter, President Steve Fearn, Vice-President Bob Wolff, Secretary-Treasurer
David Guilliams Rusty Hinger Monte Naslund
Jenny Russell Doug Stowe

Absent: J.R. Ford

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

Consultants: Carrie Lile, Harris Water Engineering
Beth Van Vurst, Fairfield and Woods

Guests: Stan Garvey, Colorado Cooperative Ditch Company
Becky Guilliams, Taylor Ranch
Kenney Heldman, Farmers Water Development Company
Ann McCoy-Harold, U.S. Senator Cory Gardner
Dean Naslund, Colorado Cooperative Ditch Company
Lars Naslund, Colorado Cooperative Ditch Company
Mark Ragsdale, Colorado Division of Water Resources (Water Commissioner)
Sally Ragsdale, Colorado Division of Water Resources (Water Commissioner)
Troy Wallace, San Miguel Basin Forum

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

General Session

Approval of Minutes (June 7, July 19)

(time: 00:01:50)

Monte Naslund moved to approve the June 7 and July 19 minutes. David Guilliams seconded. The motion passed unanimously.

Approval of Treasurer's Report (July 2016)

(time: 00:02:30)

Bruce Whitehead and Laura Spann detailed the financial report, including the budget comparison, bank account summaries, and transaction detail. There was board consensus to contact Pagosa Lakes Property Owners and San Juan Water Conservancy District, whose grant approval extensions have expired. Bruce responded to questions from the audience about the SWCD grant program. As of June 2016 financials, Fredrick Zink and Associates will provide a quarterly instead of monthly review of financial statements. Steve Fearn moved to accept the Treasurer's Report. Bob Wolff seconded. The motion passed unanimously.

Board Member Reports

Jenny Russell (San Miguel County)

(time: 00:14:30)

The Town of Norwood is pursuing a raw water system to provide irrigation water for homes in the Norwood service area; in the proposed Phase I, the Town will develop a raw water shack in town. Work has included applying for grant funding, contracting SGM for a feasibility study, and surveying the community for participation. San Miguel County has experienced several major mudslides and flash flooding in the last week.

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(time: 00:19:50)

David Williams (Hinsdale County)

Hinsdale County has been quiet, hot and dry, followed by rain in the past week.

(time: 00:20:20)

Monte Naslund (Montrose County)

Monte thanked the board for the tour and board meeting. Flooding occurred over the weekend in Naturita.

(time: 00:21:25)

Bob Wolff (La Plata County)

La Plata County has been hot and dry, except for three days in early July and recent rains that brought two inches in 24 hours. As a result, the San Juan National Forest has lifted the open fire ban. Judge Lyman, Water Court Judge for Division 7, is about to retire and several candidates are being considered.

(time: 00:26:35)

John Porter (Montezuma County)

Mancos Water Conservancy District celebrated its 75th anniversary. McPhee Reservoir spilled, allowing for a recreational release. Public dissatisfaction with communication of the release is continuing to be discussed.

(time: 00:30:50)

Steve Fearn (San Juan County)

Steve showed Christi Bode several water quality remediation sites for the short SWCD video. EPA is operating the temporary water treatment plant at Gladstone, and considering expanding their operation to include the Red & Bonita discharge as well. The State of New Mexico has filed lawsuits against the EPA contractor and Sunnyside Gold.

(time: 00:35:55)

Doug Stowe (Dolores County)

A recent workshop with David Robbins to discuss the proposed Dolores River National Conservation Area was cancelled because the group did not feel they were ready.

(time: 00:37:15)

Rusty Hinger (Mineral County)

Mineral County has been hot and dry, followed by rain in the past week.

Agency Reports

U.S. Geological Survey (USGS)

No representative was present; a report was not available.

Division of Water Resources

Mark Ragsdale, San Miguel River Water Commissioner, and Sandy Ragsdale, San Miguel River Deputy Water Commissioner, commented on river conditions and the recent rains in the area. Mark provided input and comments throughout the meeting.

U.S. Bureau of Reclamation (BOR)

No representative was present; a report was not available.

Questions/Comments from the Audience

(time: 00:39:45)

Mark Ragsdale generally described administration in Division 4 on the San Miguel River, including the CC Ditch, the San Miguel River instream flow, and the pending Dolores River instream flow. Ann McCoy-Harold, U.S. Senator Cory Gardner, thanked the board for their continued efforts, and has passed along her impressions of the District's work to Senator Gardner.

Colorado Water Conservation Board (CWCB)

(time: 00:50:30)

April Montgomery was not able to attend the meeting, but did participate in the Western Montrose County tour on August 8. She provided written comments to the board via email, which Bruce summarized. The most interesting item from the July CWCB board meeting was the staff's proposed plan to assist in funding implementation projects by spending \$75 million over three years; this would be accomplished by stretching and leveraging CWCB's past five years of severance tax revenues. The draft plan is as follows: 1) Water Supply Reserve

Supplemental Funding (\$10 million over three years), 2) Watershed Restoration Program (\$5 million over three years), 3) CWCB Projects and Programs (\$10 million over three years, available as non-reimbursable investments starting August 2017), and 4) Loan Guarantee Fund (\$50 million FY2017 from FY2018 to be used to financially support regional projects with multiple entities to help finance large water projects). This plan would require legislative approval and has not yet been approved by the CWCB board. Also, the CWCB did agree to maintain an exception for meeting the 25% match for Basin Funds. CWCB, the WSRA subcommittee, and the IBCC are all in the process of reviewing and amending WSRA criteria and guidelines in order to require them to leverage more funding.

Colorado Water Congress (CWC)

(time: 00:57:10)

At the June CWC board meeting, there was discussion of the strategic plan, including a review of bylaws and board governance. Signatures were not turned in for Initiatives 40 (Right to Local Self Government) and 63 (Right to a Healthy Environment). Signatures were turned in for Initiative 75 (Right of Local Governments to Regulate Oil and Gas Development), Initiative 78 (Mandatory Setbacks for Oil and Gas Development) and Initiative 96 (Requirements for Constitutional Amendments). The Colorado Water Stewardship Project Committee will meet on August 15 to recommend positions on the remaining initiatives to the CWC board. The Summer Conference will take place August 24-26 in Steamboat Springs. Greg Walcher will be the opening speaker. Candidate for U.S. House of Representatives Gail Schwartz, Representative Tipton, Senator Bennet, Candidate for U.S. Senate Daryl Glenn, and Senator Gardner will also address the audience.

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

(time: 01:07:20)

The next board meeting will be held in Steamboat Springs. The City of Durango applied for \$60 million in bond loan funds for a new water treatment facility. Bond rates are below 2%.

Colorado Foundation for Water Education (CFWE)

(time: 01:08:20)

Nicole Seltzer, Executive Director, and Kristin Maharg, Program Manager, have announced their departure from CFWE in 2016. The CFWE board is in the process of transitioning to a new executive director from Colorado. The summer *Headwaters* on the economics of water has been published. Doug Stowe and Laura Spann attended the Gunnison Basin Tour in June. CFWE is sponsoring webinar on August 16 from 12-1pm in coordination with the summer magazine to focus on the financial aspect of water.

Water Information Program (WIP)

(time: 01:17:30)

The Nature Conservancy and Trout Unlimited have officially joined WIP! Water 101/Water 202 (Pilot) is scheduled for September 22-23 at the La Plata County Fairgrounds in Durango. The first revamped WIP e-newsletter was distributed in late June, with local stories, links to grant applications, job opportunities, and events. Board members provided background on the program goals and origins. Mark Ragsdale commented that brochures provided by WIP are very useful in educating water users in the area.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 01:23:30)

Bruce Whitehead reported that the IBCC will meet in August to take action on their support for water plan implementation funding and review progress on the Colorado River risk assessment study. The next Roundtable meeting will take place in Durango on October 12. A subcommittee was formed to update Water Supply Reserve Account (WSRA) criteria, and is proposing a requirement of 25% from the grant applicant, a committee to review grants before they are presented to the Roundtable, and a possible cap on request amounts. Currently, Southwest Basin Roundtable seats are open for Montrose County and Montrose County Municipalities (Nucla/Naturita). Lars Naslund expressed interest in sitting on the Roundtable.

River Protection Workgroup (Iron Fens)

(time: 01:38:40)

Steve Fearn provided a summary of the River Protection Workgroup process for audience members. Adam Reeves (Maynes, Bradford, Shippo & Sheftel) has agreed to continue working with SWCD to draft legislation. Steve Fearn, John Taylor, and Bruce Whitehead represent SWCD on the Legislative Drafting Committee, the primary topics being Wild and Scenic 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 a sub-group of the drafting committee has been formed to develop possible language for legislation. At the last meeting of the full Steering Committee on July 15, most entities expressed the desire to develop the legislative language, but acknowledged that this may be one of the last attempts since recent discussions had resulted in a bit of a stalemate. The next meeting of the full drafting committee is scheduled for September 1.

Questions/Comments from the Audience

(time: 01:48:20)

Stan Garvey (President, Colorado Cooperative Ditch Company) thanked the board for holding the meeting in Montrose County, and expressed the Ditch Company's appreciation for recent project funding provided by SWCD. Ann McCoy-Harold (Senator Cory Gardner) added that the Senate is currently in August recess. Kenney Heldman, Lars Naslund, Dean Naslund, and Troy Wallace were also in attendance.

Office Report

(time: 01:50:45)

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

- Bruce summarized the Western Montrose County tour held yesterday, which board members and several members of the public from San Miguel County attended.
- The *Durango Herald* covered the board work session held on July 19 to hear from experts on the SWCD Project Water Rights.
- SWCD, the River District and other stakeholders continue to meet to discuss a solution to statewide concerns about instream flows low in a system, including the possibility of a need to change state statutes to allow for a small future use allocation as part of instream flow filings. A stakeholder meeting regarding the topic may be organized at the CWC Summer Conference.
- Several informational webinars have been held regarding preliminary results of the Colorado River Risk Assessment Study.
- DWCD, with SWCD's assistance, hosted a meeting regarding the southwestern Colorado weather modification program, at which the participating entities, CWCB staff, fiscal agent San Juan RC&D, and other interested parties kicked off the program's strategic planning process (funded by a CWCB grant). There was significant discussion about how the program could be improved in light of the results of Wyoming's recent study on cloud seeding's efficacy, which indicated the importance of utilizing new technologies to better target storms and increase seeding efficiencies.
- SWCD has participated for nine years in the Water Bank Working Group (WBWG), including a recent pilot program looking at demand management options. To support a pilot effort by the Grand Valley Water Users Association, the request to SWCD for FY2017 will increase to \$35,000. A WBWG meeting will be held at the CWC Summer Conference. There was additional discussion regarding water banking concepts.

Old Business

Funding Request: USGS Animas River @ Durango Gage

(time: 02:14:00)

At the June meeting, Steve Anders (USGS) reported that the U.S. Bureau of Reclamation (BOR) is no longer funding 100% of operations at the Animas River at Durango gage, currently \$16,000 annually. 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. Doug Stowe moved to approved funding 12% (\$1,992) of Animas River @ Durango gage operations to match the City of Durango and ALPOM&R Association 12% funding respectively. Monte Naslund seconded. The motion passed.

BLM's Draft Uncompahgre Resource Management Plan

(time: 02:16:00)

Beth reported that the BLM has released its draft Resource Management Plan and Environmental Impact Statement for the Uncompahgre Field Office, which covers portions of Montrose and San Miguel Counties ("Uncompahgre Draft RMP"). The BLM has invited the public to provide comments on the analysis and conclusions presented in the Draft RMP. The BLM will then consider those comments and prepare a Proposed RMP/Final EIS, which, if approved, will guide BLM's future management decisions in this area. SWCD previously reviewed and provided comments on the Resource Management Plan for the Tres Rios Field Office. It is anticipated that the Uncompahgre Draft RMP will raise similar issues, such as: (1) recommending aquatic habitat

requirements that arguably conflict with state water law; (2) determining that certain stream segments are suitable for designation under the Wild and Scenic Rivers Act; and (3) identifying additional Areas of Critical Environmental Concern (ACECs). The comment deadline has been extended to November 1, 2016. Doug Stowe expressed concerns from the Lower Dolores Working Group that the Uncompahgre Draft RMP might supercede the public consensus reached by the group. Jenny Russell noted that many stakeholders were involved in a public process to incorporate the San Miguel basin stream reaches proposed for Wild and Scenic suitability, and asked that SWCD respect that community consensus. Monte Naslund moved to direct legal counsel and staff to review the Uncompahgre Draft RMP for the board to consider submitting public comments at the October meeting. Bob Wolff seconded. The motion passed.

Instream Flow – Future Use Allocation

(time: 02:31:15)

Bruce referred to his comments in the office report.

New Business

2017 Aspinall Award Nomination

(time: 02:33:30)

Steve Fearn moved to direct staff to prepare an 2017 Aspinall Award Application nominating Eric Kuhn, General Manager of the Colorado River Water Conservation District, who will be retiring within a few years. Jenny Russell seconded. The motion passed unanimously.

CWC State Affairs Committee Alternate

(time: 02:37:30)

John referred the board to his memo resigning his post as Alternate Representative to the CWC State Affairs Committee. Bruce Whitehead is the principal representative to the CWC State Affairs Committee. Jenny Russell moved to appoint Laura Spann as CWC State Affairs Alternate, replacing John Porter. Steve Fearn seconded. The motion passed unanimously.

San Juan County BLM Realignment

(time: 02:43:30)

Steve Fearn summarized the BLM's decision to realign San Juan County from the Tres Rios Office to the Gunnison Office, and to the Front Range District. San Juan County Board of County Commissioners wrote a letter to the BLM expressing their concerns that the community would be negatively impacted by the change. This administrative shift relocates the headwaters of the Animas River to the jurisdiction of the Gunnison office, effectively dividing the watershed between BLM offices and impeding the region's ability to work effectively with the BLM. Bob Wolff moved to direct staff to send a letter raising San Juan County concerns with the BLM office realignment. Doug Stowe seconded. The motion passed unanimously.

Engineering Report

(time: 02:51:00)

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

- Water Bank Working Group (WBWG): Grand Valley Water Users Association has been approved for an Alternative Transfer Method grant for their work in the pilot water banking effort. GVWUA is asking for a letter of support for the application from SWCD and other funders. In the past, SWCD's funding of the pilot program has been close to \$15,000 per year. To support the GVWUA pilot effort, the request for FY2017 will increase to \$35,000. Carrie will present about the WBWG at the Water 101 Seminar.
- San Juan River Basin Recovery Implementation Program (SJRBRIP): Water users have expressed concerns about the Animas River Diversion study. A meeting among program staff has been scheduled to discuss concerns with the Animas River stocking proposal. Tom Pitts is working on draft legislation to extend capital funding through 2023.
- Carrie took producer Christi Bode, Mike Preston, and John Porter on a boat on McPhee Reservoir for SWCD video footage.

Special Counsel Legal Report

(time: 03:04:00)

Since the day-long work session on July 19, there has been no additional activity regarding the SWCD Project Water Rights. Conversations continue with the other parties to Case No. 13CW3011 (ALP Water Rights) to address

a clerical error in the decree. The State Engineer has approved a "Change of Water Year" to April 1-March 31 for the Animas-La Plata Project.

General Counsel Legal Report

(time: 03:08:00)

Beth Van Vurst referred the board to the written report, and provided the following discussion:

- Water Quality Control Commission – Regulation No. 31 Rulemaking Proceeding: SWCD obtained party status and participated in the briefing before the Water Quality Control Commission ("Commission"). SWCD's participation was primarily focused on supporting the Division's proposal to revise Regulation No. 31 by: (1) applying an elevation-based adjustment to the existing statewide temperature table value standards; and (2) removing the numeric temperature standard during the shoulder seasons. The Commission declined to adopt the Division's initial and alternative proposed revisions to the statewide temperature table value standards. A hearing scheduled for June 12, 2017 will address the classifications and numeric standards for the San Juan and Dolores River Basins (Regulation No. 34) as well as the Gunnison River Basins and Lower Dolores River Basins (Regulation No. 35). In the interim, an issues formulation hearing will occur in November 2016. There was board consensus to continue to be involved, but not take an official position at this time.
- USGS/EPA Joint Technical Report on Protecting Aquatic Life from Effects of Hydrologic Alteration: More than 149 comment letters were submitted during the public comment period. Most of those letters assert that the report advocates for an unlawful expansion of the Clean Water Act and impermissibly interferes with the rights of States to allocate and administer the water within their boundaries. The comment letter that SWCD submitted can be found within the Board's packet. There is additional opposition to the EPA Draft Report in Congress.
- Uncompahgre Resource Management Plan and Environmental Impact Statement: Beth referred to the previous agenda item.
- New Department of Labor Regulation on Exemptions from Overtime Pay: The Fair Labor Standards Act generally requires employers to pay their employees overtime pay, unless the employees meet certain requirements under the "white collar" exception. This exception is being modified and affects SWCD employees. This topic was recommended for executive session.
- USFS Conditional to Absolute, Case No. 12CW34, Division 7: The next status report is September 6.
- City of Ouray, Case No. 13CW3040, Division 7; Case No. 13CW3072, Water Division 4: Settlement negotiations are progressing favorably.
- Dolores River Instream Flow Filing, Case No. 15CW3111, Division 4: This topic was recommended for executive session.
- USFS Federal Reserved Rights, Case No. W-1605-76, Division 7: This topic was recommended for executive session.
- San Luis Valley Water Conservancy District, Case No. 14CW3011, Division 3: SWCD had a conference call on July 20 with the opposers to discuss concerns with the most recent revised proposed ruling and supplemental engineering report. Each opposer is required to provide the applicant with comments on the proposed ruling and supplemental engineering by August 25.
- Treasure Pass Ditch, Case No. 10CW36, Division 3: SWCD filed a statement of opposition, along with the Colorado Water Conservation Board, Pagosa Area Water and Sanitation District and San Juan Water Conservancy District.

Executive Session

(time: 03:27:10)

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing the Dolores River instream flow filing (15CW3111), USFS reserved rights (W-1605-76), and the new Department of Labor Overtime Rule. The statues 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," § 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," and § 24-6-402(4)(f), C.R.S., "personnel matters." Steve Fearn moved that the board go into executive session. Doug Stowe seconded. The motion passed unanimously.

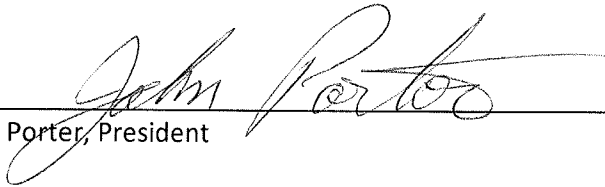
Beth Van Vurst announced that the board was out of executive session, during which no action was taken. The board discussed the Dolores River instream flow filing (15CW3111), USFS reserved rights (W-1605-76), and the new Department of Labor Overtime Rule.

Next Meetings

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 2:00 p.m.



John Porter, President