

**Southwestern Water Conservation District  
Board of Directors Meeting  
June 5, 2018**

**Present:** Bob Wolff  
Monte Naslund (called in from 11-12)  
Don Schwindt  
Rusty Hinger (participated in executive session and parts of general session by phone)  
JR Ford (participated in executive session by phone)

David Guilliams (called in at 1pm)  
Jenny Russell  
Charlie Smith

**Absent:** Doug Stowe

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

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

**Guests:** Ken Beegles, Animas La Plata Water Conservancy District  
Peter Butler, Animas River Stakeholders Group  
Marcel Gatzambide, San Juan Citizens Alliance  
Rob Genualdi, Colorado Division of Water Resources  
Steve Harris, Harris Water Engineering  
Ann McCoy-Harold, U.S. Senator Cory Gardner's Office  
Marc Miller, U.S. Bureau of Reclamation  
Kevin Murphy, U.S. Geological Survey  
John Porter, SWCD Director Emeritus  
Ryan Unterreiner, Colorado Parks and Wildlife  
Adam Wilkes, Haynie & Company (by phone)

**1.0 Call to Order – Roll Call and Verification of Quorum**

*(time: 00:00:00)*

President Bob Wolff called the meeting to order at 9:00 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda**

*(time: 00:00:55)*

Beth recommended adding the San Luis Valley Water Conservancy District change of water rights case, 14CW3011, to the topics to be discussed in executive session. There was board consensus to approve the agenda as amended.

**3.0 Executive Session**

*(time: 00:01:45)*

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing drought contingency planning in the Upper Colorado River Basin and within the State of Colorado, CWCB's proposed instream flow appropriation on Himes Creek, and the San Luis Valley Water Conservancy District pending change case, no. 14CW3011. The statutes covering this session are § 24-6-402(4)(b), C.R.S., "conferences with an attorney for the district for the purpose 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." Charlie Smith moved that the board go into executive session. Don Schwindt 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 drought contingency planning in the Upper Colorado River Basin and within the State of

Colorado, CWCB's proposed instream flow appropriation on Himes Creek, and the San Luis Valley Water Conservancy District pending change case, no. 14CW3011. The board provided direction to negotiators.

#### **4.0 Approve and/or Remove Consent Agenda Item**

(time: 00:04:30)

The April 5, 2018 minutes were removed from the consent agenda for further discussion.

#### **5.0 Consent Agenda**

(time: 00:00:00)

##### **5.1 Approval of Minutes (April 18, May 2, May 23)**

##### **5.2 Approval of Treasurer's Report (April 2018)**

##### **5.3 Retire Board Policy 3: Meeting Schedules and Definitions**

##### **5.4 Adopt Resolution 18-02 August Regular Meeting in Hinsdale County**

Jenny Russell moved to approve the consent agenda. Don Schwindt seconded. The motion passed unanimously.

Don Schwindt provided corrections to the April 5, 2018, minutes. Charlie Smith moved to approve the April 5 minutes as revised. Monte Naslund seconded. The motion passed.

#### **6.0 Reports**

(time: 00:11:10)

##### **6.1 Board Member Reports**

###### **Monte Naslund (Montezuma County)**

It's hot, dry and the cows are nuts! They want to go to the top for feed, or not go at all. So far, the CC Ditch has not made a call on the San Miguel River.

###### **Jenny Russell (San Miguel County)**

As of June 4, a fire west of Norwood has been 80% contained. The Sheriff has imposed Stage II fire restrictions. The Town of Norwood's raw water pipeline is under construction, with potential for use in late summer. Farmers Water Development Company will turn off mid-June, which is unusual.

###### **Rusty Hinger (Mineral County)**

Mineral County is under Stage II fire restrictions. However, there were rains all day on Sunday. Tourists are still keeping the resort busy.

###### **Don Schwindt (Montezuma County)**

Montezuma County is in the bullseye of the drought. Herds are getting sold, which will have long-lasting impacts on the community. Carryover storage in McPhee Reservoir is a real benefit for the area. Don described how DWCD and MVIC has managed the drought. He anticipates that there may be 75% of full allocation for both entities through August.

###### **Charlie Smith (San Juan County)**

Stage II fire restrictions also have been imposed in San Juan County. Charlie arranged a meeting with City and County officials regarding address Silverton's water rights. However, the City manager was put on administrative leave.

###### **Bob Wolff (La Plata County)**

The 416 fire north of Durango (which started June 1) has burned over 2,400 acres, with 20 aircraft and 400 firefighters on the scene. Steve Fearn's memorial service on May 27 was well-attended. The City of Durango has suspended selling bulk water licenses to their water docks, and are working with their largest water users to reduce consumption by 10%.

##### **6.1 Agency Reports**

###### **Colorado Parks & Wildlife (CPW)**

(time: 00:23:35)

Ryan Unterreiner reported that CPW is monitoring the low flow conditions across the region. In 2002, CPW had to conduct some emergency salvage operations to rescue sensitive fish populations, and may need to do the same this year. Fish impacted by the 416 fire were also mentioned. As part of the Hermosa Creek cutthroat trout habitat restoration project, CPW put in a fish barrier below the confluence of the East Fork and mainstem in 2017. This summer, CPW hopes to reintroduce cutthroat to a three-mile section of the creek, and Ryan solicited volunteers to help with the endeavor. DWR, WQQC, and CPW have a memorandum of understanding for communication regarding low flow conditions and low elevations in water bodies.

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

No representative was present.

### **Division of Water Resources (DWR)**

*(time: 00:28:00)*

Rob Genualdi, Division 7 Engineer, listed off more than 10 rivers on call. Some wells are going dry upstream of Vallecito Reservoir. Judge Wilson signed the decree in Case No. 17CW3002, authorizing downstream alternate points of use for the ALP Project water rights. Scott McElroy, long-time attorney for the Southern Ute Indian Tribe, has retired. Lake Durango Water Authority has initiated pumping from Lake Nighthorse. Long Hollow Reservoir is still being used for exchange, and the State has not needed to utilize the Compact pool yet. Rob responded to board questions.

### **U.S. Bureau of Land Management (USBLM)**

No representative was present.

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

*(time: 00:35:00)*

Marc Miller summarized area reservoir levels. Lake Powell is at 53% and Lake Mead is at 38%. BOR met with the San Juan Water Commission, the New Mexico State Engineer, and others to discuss a water bank concept for Navajo Reservoir. Work on the ALP Project final cost allocation continues, with a target completion date of December 2018. Navajo is currently releasing 650 cfs, which will jump to 2,000 cfs tonight and continue through Thursday to satisfy a request from New Mexico Game and Fish to support their habitat restoration project.

### **U.S. Forest Service (USFS)**

No representative was present.

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

*(time: 00:39:45)*

Kevin Murphy reported on area low flows, from 7-29% of average. A new gaging station on the Pine River above Vallecito Reservoir is now operational, with flow data available online.

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

*(time: 00:41:50)*

John Porter reported on the May CRWUA board meeting in Las Vegas. At the December 2017 annual conference, there was record attendance. John provided background on the organization's structure and the role of CRWUA to provide a collaborative structure for Colorado River basin states. John serves on the budget and audit committee. The organization budget is above \$420,000 annually, most of which is revenue from the annual conference and is used to fund the annual conference. Sam Maynes served as the representative from southwestern Colorado, then John Porter. John Porter recommended that the CRWUA representative from southwestern Colorado be an active board member.

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

There was no report.

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

*(time: 00:48:00)*

Elaine Chick was assisting with the Forest to Faucets teacher training program. Elaine was personally invited to observe the Ute Water Conservancy District children's water festival in Grand Junction, at which she gleaned opportunities to improve the SWCD festival. At the WIP Steering Committee meeting held in late May, partners

got a first look and provided feedback on the updated website which we anticipate will go live in mid-July. Several new WIP partners have signed up, including the Pine River Conservation District, SME Environmental Consultants, Animas Water Company, and the City of Durango that had been a previous partner in WIP.

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

(time: 00:50:15)

Bob Wolff reported that CWR&PDA met on June 1, and approved loans for Fairway Metro District, Town of Nederland, Timber Water and Sanitation District, Pueblo Metropolitan District, and the Town of La Junta. Discussion on the Town of Antonito's loan request was postponed for a future meeting.

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

(time: 00:52:15)

Steve Harris reported that the funding sub-group will meet on June 27 in Denver to put sideboards on the use of any revenues generated by a statewide water funding mechanism. Steve Harris, IBCC Representative, and Mike Preston, Southwest Basin Roundtable Chair, have announced their pending retirement from leadership in the coming years, and willingness to support others interested in serving. Steve is part of a committee organized by the SEO (State Engineers Office) and the CWCB to develop consumptive use analyses for high elevation grasses, to allow for the potential for alternative transfer mechanisms to be applied in areas other than the Lower Arkansas River basin. Bruce Whitehead added that no severance tax revenues are anticipated for CWCB's Tier II funding, including the Water Supply Reserve Fund. The Colorado legislature approved HB18-1338, which allocated two million dollars to backfill the Water Supply Reserve Fund and seven million dollars for the Water Plan Implementation Grant Fund. As a result of the limited WSRF funding, the Roundtable placed a \$25,000 limit on future requests to be considered twice a year.

### **Water Education Colorado (WEco)**

(time: 01:05:00)

Laura Spann attended the Program Committee meeting in April, then the President's Reception and WEco board meetings in May. WEco is especially dynamic now, with the budget increased by one-third from grants and a new digital news initiative. The President's Reception in mid-May raised \$32,000 for the organization, and is now the group's principal fundraiser. The Rio Grande Basin Tour (June 11-12) is at capacity. Don, Elaine, Bob and Laura plan to participate. The Water Leaders program is now underway, with Kate Greenberg (National Young Farmers Coalition, Durango) selected to participate. The summer *Headwaters* issue, focused on stream management planning, will be out in mid-June, with the fall issue to focus on water reuse. Laura directed the board to the 2017 annual report.

### **6.3 Questions/Comments from the Audience**

(time: 01:10:00)

There were no comments. Marcel Gatzambide, San Juan Citizens Alliance, reported on extremely low flows in the lower Animas River in New Mexico. SJCA is working with the San Juan Watershed Partnership to track dissolved oxygen levels and other water quality indicators. The regional U.S. Environmental Protection Agency Administrator will update the community on the Bonita Peak Mining District on June 12 at the La Plata County administrative building.

*The board adjourned for lunch.*

### **6.4 Office Report**

(time: 01:12:45)

Staff referred to the written report, and highlighted the following items:

- In response to board feedback at the February meeting, staff and legal counsel are in the process of revising the guidelines for SWCD's grant program for the board to consider at the August meeting
- Don Schwindt moved to nominate Steve Fearn posthumously for the 2019 CWC Wayne Aspinall Water Leader Award. Monte Naslund seconded. The motion passed.
- Bruce compared current low flows in the region with 2002 drought.
- Phase III of the Colorado River Risk Study will be funded jointly by the River District and SWCD, with the intention to invite participation in the process in a culture of transparency. The Four West Slope Roundtables will be asked to support Phase III of the study in principal, not financially.

- **Colorado River Water Bank Working Group (WBWG):** The group has reviewed a summary of secondary impact studies for temporary fallowing of agricultural lands and may pursue further study to evaluate the pros and cons of such impacts. Carrie read the new WBWG mission statement: “The purpose of the Water Bank Workgroup is to identify and explore unaddressed issues associated with voluntary and compensated arrangements to reduce the risk of compact curtailment.” The next meeting will be held on July 25 in Grand Junction.
- CWCB’s Water Availability Task Force will meet in southwestern Colorado on July 23-24 to outreach to the community and educate officials on drought impacts. Bruce solicited comments on drought conditions that should be highlighted. The governor has initiated the drought impact mitigation plan, but it is still unclear what steps will be taken in southwestern Colorado. There was discussion regarding the feasibility of an additional water dock in La Plata County.
- Bruce directed the board to the Boulder Weekly article regarding private investments by the Walton Foundation and others in the Colorado River system.

## 7.0 Old Business

### 7.1 Colorado River Discussions

(time: 01:43:25)

#### Upper Basin and Intra-State Drought Contingency Planning Efforts

Beth Van Vurst reported that declining hydrology and reservoir levels have spurred drought contingency efforts on the Colorado River. At this time, the Upper Basin drought contingency plan (DCP) includes reoperation of the CRSP reservoirs to generate additional flows in times of drought, water supply augmentation (via tamarisk removal and cloud seeding), and exploring the feasibility of a voluntary demand management program. The Upper Colorado River Commission will meet on June 20 in Santa Fe to further discuss the DCP and other topics. This was a topic of discussion at the joint meeting with the River District, as well as this morning’s executive session.

#### Colorado River Water Bank Working Group (WBWG)

This topic was addressed as part of the Office Report.

### 7.2 Colorado Water Congress Representation

(time: 01:45:16)

With Steve Fearn’s passing, there is not currently a representative from southwestern Colorado on the Colorado Water Congress board. Bruce summarized the application process. Both Don Schwindt and Jenny Russell expressed interested but had not applied. Charlie Smith moved that SWCD support any SWCD board member applying to fill the vacancy on the Colorado Water Congress board. Monte Naslund seconded. The motion passed.

Relatedly, John Porter has suggested that an active SWCD board member replace him on the Colorado River Water User Association board. Bob Wolff has reapplied for appointment to the CWR&PDA by the governor and may seek SWCD support at the next board meeting.

## 8.0 New Business

### 8.2 Release of Promissory Note – La Plata West Water Authority

(time: 01:56:30)

Bruce reported that La Plata West Water Authority repaid SWCD’s loan of \$60,000 in full. Bruce recommended the loan principal be deposited with COLOTrust, then the promissory note be released.

### 8.1 FY2017 Audit Report

(time: 01:59:00)

Adam Wilkes, Haynie and Company, detailed the 2017 audit and answered board questions. There were no audit disagreements, and all requested documentation was supplied. No audit issues arose, and SWCD will receive a clean opinion for the 2017 audit. Jenny Russell moved to accept the final draft 2017 audit as presented for submittal to the State by the July 31 deadline. Charlie Smith seconded. The motion passed.

## 9.0 Engineering Report

(time: 02:09:00)

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

- **San Juan River Basin Recovery Implementation Program (SJRBRIP):** The Annual Meeting was held in mid-May. There will be a call in early July to work on the FY2019 work plan. Navajo Reservoir will increase releases to 2,000 cfs this week to support a habitat restoration project in Simon Canyon. The forecasted inflow is 24% of average.
- **West Slope Risk Study:** Carrie has provided comments on the Phase III Scope of Work, and will provide the draft Scope of Work as soon as it becomes available.
- **Water Bank Working Group (WBWG):** This item was discussed as part of the Office Report.
- **Linked Model Meeting:** On June 1, Carrie attended a meeting, and Bruce participated by phone, on the Linked CRSS model developed by CWCB to evaluate future hydrologic and compact scenarios. The Front Range requested to use the model, and the CWCB accepted and has released the model stripped of their assumptions. The "Linked Model," developed by Wilson Water Group, can now be used by other entities including SWCD to run scenarios separate from Phase III of the Risk Study. At the meeting, the group discussed the modeling assumptions and how it will be shared. Wilson Water is willing to provide training on the model for a fee.

## 10.0 General Counsel Legal Report

(time: 02:22:00)

Beth Van Vurst reported on the following topics:

- 10.1 Southern Ute Indian Tribe Program Authority under the Clean Water Act:** The Southern Ute Indian Tribe (SUIT) application to be treated in a manner similar to the State to promulgate water quality standards and issue 401 permits over their tribal lands. SWCD expressed concerns regarding how this authority will extend beyond tribal lands. Tribal attorney Sam Maynes reached out to SWCD for a meeting on June 6 to discuss their application and the process moving forward. Peter Butler, Animas River Stakeholders Group coordinator and former member of the Water Quality Control Commission, provided background on other joint environmental oversight provided by the State and SUIT.
- 10.2 05CW88 San Juan County Water Rights:** SWCD and San Juan County are negotiating a draft Memorandum of Agreement for joint development of the water rights.
- 10.3 14CW3011 San Luis Valley WCD:** Settlement discussions are ongoing with the applicant. This case was discussed in the morning executive session.
- 10.4 CWCB Proposed ISF Appropriation Himes Creek:** CWCB has noticed its intention to file an instream flow appropriation on Himes Creek for all unappropriated flows, which was discussed in the morning executive session.
- 10.5 Water Court Resume Review (Divisions 3,4,7):** The resume has been reviewed, and there were no cases recommended for consideration by the board.
- 10.6 W-1605-76 USFS Reserved Water Rights:** This case has been pending for decades and there have been no recent settlement discussions.
- 10.7 12CW34 USFS C-A (06CW127):** The applicant has recently reached an agreement on the proposed ruling with DWR, and SWCD has provided comments on the ruling to the USFS. SWCD is waiting to hear back.
- 10.8 10CW36 Timothy and Lori Lovato:** SWCD hopes the applicant will withdraw their filing for a change of water right on the trans-mountain diversion, at which time SWCD will get out of the case.
- 10.9 13CW3040 City of Ouray:** SWCD has stipulated out of this case, although it is still pending with other opposers.

## 11.0 Special Counsel Legal Report

(time: 02:49:00)

Peggy Montano reported on the following topics:


- 11.1 17CW3002 ALP Project Water Rights:** The final decree has been signed. DWR and the Association worked with Special Counsel to address SWCD's concerns. This matter has been successfully concluded.
- 11.2 SWCD Project Water Rights:** Peggy met with Peter Ortego, Ute Mountain Ute Tribe attorney, at the April 6 water seminar regarding both organizations mutual interests in regional water development.

## 12.0 Executive Session

There was no need for afternoon executive session.

**13.0 Adjournment**

President Bob Wolff adjourned the meeting at 2:45 p.m.



---

Bob Wolff, President