

**Southwestern Water Conservation District  
Board of Directors Meeting  
Hinsdale County, Colorado  
(Lindner Ranch, Weminuche Creek)  
August 7, 2018**

**Present:** Bob Wolff David Guilliams Monte Naslund  
Jenny Russell (by phone, Exec Session) JR Ford Doug Stowe  
Don Schwindt Rusty Hinger

**Absent:** Charlie Smith

**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  
Beth Van Vurst, Fairfield and Woods

**Guests:** Tom Alvey, Colorado River Water Conservation District  
Orla Bannan, Western Resources Advocates  
Peter Butler, Animas River Stakeholders Group  
Dean Cox, Weminuche Valley resident  
Karen Cox, Weminuche Valley resident  
Cindy Dozier, Hinsdale County Commissioner  
Peter Fleming, Colorado River Water Conservation District  
Ashley Greco, U.S. Representative Scott Tipton's Office  
Becky Guilliams, Hinsdale County resident  
Marcel Gatzambide, San Juan Citizens Alliance  
Celene Hawkins, The Nature Conservancy  
Candice Kelly, San Juan Water Conservancy District  
Ann McCoy-Harold, Senator Cory Gardner's Office  
Andy Mueller, Colorado River Water Conservation District  
Al Pfister, San Juan Water Conservancy District  
John Porco, San Juan Water Conservancy District  
Doug Secrist, San Juan Water Conservancy District  
Jean Taylor, Hinsdale County resident  
John Taylor, SWCD Director Emeritus

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

*(time: 00:00:30)*

President Bob Wolff called the meeting to order at 9:27 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda**

*(time: 00:00:45)*

Beth Van Vurst recommended that CWCB's proposed instream flow appropriation on Himes Creek be removed from executive session.

Local resident Dean Cook addressed the board and public regarding the history of the Weminuche Valley.

### **3.0 Executive Session**

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, the San Luis Valley Water Conservancy District pending change case, no. 14CW3011, and the development of the San Juan County water rights held by SWCD, case no. 05CW88. 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.” Doug Stowe moved that the board go into executive session. JR Ford seconded. The motion passed unanimously.

On behalf of the Colorado River Water Conservation District, Andy Mueller, Peter Fleming, and Tom Alvey participated in the portion of executive session discussing drought contingency planning in the Upper Colorado River basin and within the State of Colorado. Their participation is permitted pursuant to the common interest agreement between the River District and SWCD.

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 and the development of the San Juan County water rights held by SWCD, case no. 05CW88. The board provided direction to negotiators.

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

(time: 00:17:25)

There was consensus to accept the consent agenda as proposed.

### **5.0 Consent Agenda**

(time: 00:17:40)

#### **5.1 Approval of Minutes (May 23, June 5, July 12)**

#### **5.2 Approval of Treasurer’s Report (July 2018)**

#### **5.3 2019 SWCD Grant Program Guidelines**

#### **5.4 SWCD Letter of Support, Bob Wolff Reappointment to CWRPDA Board**

David Guilliams moved to approve the consent agenda as proposed. Rusty Hinger seconded. The motion passed unanimously.

### **6.0 Reports**

(time: 00:17:55)

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

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

Stream flows are still well below average (25%) even though there have been some good rain events. The Town of Silverton will be pursuing grant funds for a water supply and storage study to identify short and long term solutions for water supply security. The U.S. Environmental Protection Agency (EPA) is accepting comments on the Bonita Peak Mining District Interim Action Plan until August 15. The plan does not address interim relocation of sludge from the Gold King treatment operation to the Kittimac tailings site north of Howardsville near the Animas River, nor does it address long term storage of sludge.

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

The 416 fire is contained but smoldering. Bob thanked Celene Hawkins for her role in CWCB securing funding for a temporary radar to assist with forecasting flash flood and debris flow events. Ditches in the Animas Valley are affected by the debris flows and ash.

##### **Doug Stowe (Dolores County)**

Light rain has been common, but no big storms. Most of the major Dolores project water has been used, and will no longer be available for Dolores County by the end of August.

**Rusty Hinger (Mineral County)**

It has been very dry. Rusty's main ditch dried up in June.

**David Guilliams (Hinsdale County)**

A call was placed by the CWCB instream flow on the San Juan River for the first time ever.

**Don Schwindt (Montezuma County)**

The bullseye of the drought is the Four Corners. Don presented to the Water Availability Task Force Drought Tour in late July. Don compared water years 1977, 2002, and 2018. In 1977, groundwater and return flows kept his farm alive. This year, storage has greatly benefited the community. Stockman and dryland farmers are suffering more than others.

**Monte Naslund (Montezuma County)**

The CC Ditch Company placed a call at the end of June. There have been three fires, one of which is burning now. Norwood has had significantly diminished water supply, with some residents hauling water from Nucla/Naturita. The San Miguel River is at its deepest call ever at the 1914 water right in the Highline Canal and we have administered structures that have never been curtailed in the past. In addition, many augmentation plans utilize 1929 irrigation rights as the main replacement source. Consequently, those augmentation plans have failed.

**JR Ford (Archuleta County)**

High water temperatures on the San Juan (from 70 to 80 degrees in some places) have caused significant fish die off.

**6.2 Agency Reports**

**Colorado Parks & Wildlife (CPW)**

No representative was present; a report was not available.

**Colorado Water Conservation Board (CWCB)**

*(time: 00:37:20)*

As the temporary radar was installed on Missionary Ridge, Celene and Bruce discussed the possibility of SWCD assisting in, or leading the effort to secure permanent radar for southwestern Colorado to assist in forecasting for water managers. Celene will provide a CWCB resource document that summarizes available federal and state drought related funding. The first round of applications for CWCB Water Plan Implementation Grant Fund were accepted on August 1, with the second round due February 1.

**Division of Water Resources (DWR)**

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

Don Schwindt and Jenny Russell applied to replace Steve Fearn on the Colorado Water Congress in June, and Don was selected by the CWC Board as the new board member. Gubernatorial and congressional candidates were invited to speak at the CWC Summer Conference on August 22-24 in Vail.

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

(time: 00:50:00)

Elaine Chick was not present at the meeting, so Laura reported that Water Info Program's updated website is now live. Board members and public were encouraged to provide comments. Registration is now open for the Water 101-201 seminars to be held in Nucla at the First Park Community Center on September 18-19. As a result of Elaine and Bruce's outreach, WIP has four new partners, which resulted in \$7,000 increase in program revenues, \$14,000 total with SWCD's match. The next WIP Steering Committee will be held in September.

### **Kogovsek & Associates**

(time: 01:51:30)

Christine Arbogast reported on the following topics:

- She is monitoring development of the Upper Basin and Lower Basin drought contingency plans.
- Regarding the Farm Bill, the House and Senate passed different versions of the bill, which is now being taken up in conference. Fire regimes 4 and 5 (which includes Colorado) were not given categorical exclusions from the National Environmental Policy Act for fire management activities. Differences include forest health and water management, however any impediments to passing the final legislation this fall will likely related to work requirements and funding for the nutrition programs like SNAP.
- No infrastructure bills have been introduced, which is no surprise.
- The Water Resources Development Act has been introduced.
- A package of bills on Endangered Species Act "modernization" have been introduced. Should either chamber flip in November, these bills are not likely to advance.
- The U.S. Department of Interior continues efforts to reorganize the department and establish a new regional map, including relocation of major agency headquarters.
- There have been recent efforts to increase acreage limitation under the Reclamation Act.
- The National Water Resources Association and Colorado Water Congress are developing comments regarding Waters of the United States rulemaking and NEPA modification proposed by CEQ. Both comments will be circulated to the Water Congress Federal Affairs committee for review or to be used as a template.
- The Upper Colorado and San Juan River Basin Recovery Implementation could lose \$2.8 billion in FY2019, as a result of the Office of Management and Budget's (OMB) position not to allow transfers from the Department of Energy to environmental programs. The Colorado Congressional delegation are trying to initiate a fix in the energy and water conference.
- Brent Rhees, U.S. Bureau of Reclamation Regional Director, has announced his retirement.

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

(time: 01:11:45)

The next CWR&PDA board meeting will be held during the CWC Summer Conference, at which there will be additional discussion of the Town of Antonito's water treatment plant. Bob has submitted his application for a second four-year term on the board, which SWCD supported as part of their consent agenda today.

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

(time: 01:12:20)

A meeting was held in Cortez on July 11. Mike Preston was reelected as Chair, as he grooms Ed Tolen, elected First Vice Chair to replace him in the near future. Brandon Johnson was elected as Second Vice Chair. Bruce Whitehead and Steve Harris were reelected as IBCC representatives. Mely Whiting was elected as IBCC alternative representative. The IBCC will be meeting in Durango on October 18. Greg Black was elected to fill the at-large vacancy. An estimated 20 billion dollars of water project funding is needed by 2050, some of which would come from project proponents and the state, but there is a significant hole to fill. The IBCC has established a task group that is working to identify a funding mechanism to generate revenues, establish water funding priorities, and discuss who might administer these funds.

## Water Education Colorado (WEco)

Bob Wolff, Don Schwindt, and Laura Spann joined in the Rio Grande Basin Tour in early June, which will be discussed as an agenda item later on in the meeting. WEco has launched their improved website: [watereducationcolorado.org](http://watereducationcolorado.org). WEco will be developing a Statewide Education Action Plan (SWEAP) for release March 2019. One goal of Colorado's water plan is to "create a data-based water education plan," so WEco has taken the lead in this effort to identify strategies to increase the amount, quality, and effectiveness of water education activities statewide. More specifically, WEco will document ways to 1) amplify and support local activities, 2) cross-pollinate education messages and activities, 3) fill in gaps around the state, and 4) create a common and unified vision. Elaine and Laura will collaborate in this effort. Laura will attend the next board meeting and retreat in Buena Vista on September 27-28. Laura also passed out the summer 2018 *Headwaters* magazine focused on stream management planning.

### 6.3 Questions/Comments from the Audience

(time: 01:20:20)

Ashley Greco reported that Congressman Tipton is currently working on Water Protection Act, to ensure the primacy of state water law.

*The board adjourned for lunch.*

Laura Spann was recognized for five years working at SWCD.

John Porco, board president for the San Juan Water Conservancy District, introduced board members present. SJWCD will not go before the voters this year to request a return to the original mill levy to fund the San Juan Headwaters Project (aka Dry Gulch). The Growing Water Smart Working Group has been meeting regularly to develop consensus-based population estimates. The Town of Pagosa and PAWSD has approached SJWCD about using their jointly owned property as a put-in for rafters. Jeff Kane has been selected to represent the San Juan Water Conservancy District.

### 6.4 Office Report

(time: 01:30:35)

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

- Bruce provided streamflow comparisons between drought years 2002 and 2018. He also highlighted the significant carryover storage from 2017.
- Bob attended a ribbon cutting for the LPWWA pipeline from Lake Nighthorse to Lake Durango.
- Phase III of the Colorado River West Slope Risk Assessment Study will be funded jointly by SWCD and the River District to allow work to begin immediately. The two Conservation Districts will reach out to their respective Conservancy Districts to seek possible contributions towards the effort to help offset the costs. Beth, Carrie, and Bruce have met to review the Phase III scope of work. Front Range and CWCB representatives have also provided input.
- Carrie, Don, and Bruce attended a recent Water Bank Work Group meeting, which focused on the future role of the group, specifically studying secondary impacts of deficit irrigation and temporary fallowing.
- The Water Availability Task Force organized a Drought Tour in late July, which focused on fire and drought impacts in southwestern Colorado.

## 7.0 Old Business

### 7.2 Update: Red Mesa Reservoir Feasibility Study

(time: 01:39:35)

The State of Colorado issued a storage restriction at Red Mesa Reservoir for 2018, and the reservoir is now under a compliance plan. The Ditch and Reservoir Company has discussed with SWCD, CWCB and regional partners potential rehabilitation options, and eventually elected not to submit a grant/loan application under the Water Implementation Grant Fund by August 1 so that additional information could be reviewed.

## 8.0 New Business

### 8.1 Rio Grande Basin Tour Summary & Takeaways

(time: 01:43:05)

Bob Wolff, Don Schwindt, and Laura Spann provided a memo summarizing Water Education Colorado's Rio Grande Basin Tour in early June 2018, and attendee takeaways. Don and Bob encouraged the board to participate in future basin tours and read the memo provided. As a result of the tour, Cleave Simpson (Rio Grande Water Conservation District) was invited to attend the October board meeting. Don highlighted the historical value of the Rio Grande tour, as well as of the Piedra River tour today, in making effective water policy decisions moving forward.

### 7.1 Colorado River Discussions

(time: 01:47:05)

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

Bruce, Carrie, and Don referred to the existing compilation of secondary community impacts to temporary fallowing and deficit irrigation. The study by WestWater has led to the development of a scope of work to evaluate secondary impacts specifically for the Western Slope. Don and Carrie will participate on the subcommittee to develop the scope of work. A suggestion to expand membership of the WBWG was not approved by the members. There was discussion regarding the need for a basin-specific understanding of secondary impacts, as agriculture on the Western Slope varies widely, as well as the complex web of market and factors (many not water-related) under which producers make decisions.

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

Beth Van Vurst summarized recent efforts by the seven basin states to finalize their drought contingency plans by yearend, as directed by the Secretary of Interior. The Upper Basin drought contingency plan includes CRSP reservoir re-operations, water supply augmentation (cloud seeding), and demand management. The Upper Colorado River Commission (UCRC) met in Santa Fe in June, at which there was a resolution passed regarding the System Conservation Pilot Program (SCPP). It has been deemed a success, having met the goals of better understanding the potential for voluntary participation in producing conserved consumptive use. The program also raised additional questions regarding demand management, which UCRC will continue to evaluate as they put the SCPP program on hold.

#### Risk Study – Phase III

Phase III of the Colorado River West Slope Risk Assessment Study will be funded jointly by SWCD and the River District, with possible contributions by Conservancy Districts, to allow work to begin immediately. Beth, Carrie, and Bruce have met to review the Phase III scope of work. Front Range and CWCB representatives have also provided input.

### 8.2 CRWUA Representation

(time: 02:09:10)

John Porter has now formally resigned from the Board of Directors of the Colorado River Water Users Association. Monte Naslund moved to send a letter of support for Bob Wolff to replace John Porter on the CRWUA board. Doug Stowe seconded. The motion passed unanimously.

### 8.3 Sponsorship Request: Silverton Innovation Expo

(time: 02:11:00)

Mountain Studies Institute is hosting the Silverton Innovation Expo on August 28-30 to provide a forum for discussion and exchange of ideas, offer prime opportunities for exhibitors and speakers to showcase their innovative future technologies, and time and space to network and build partnerships with other stakeholders. Don Schwindt moved to sponsor the Silverton Innovation Expo in the amount of \$600, contingent upon SWCD recognition in the promotional materials. Doug Stowe seconded. The motion passed.

### 8.4 Sponsorship Request: IBCC Reception

(time: 02:20:30)

The IBCC will meet in Durango on October 18, the first time in southwestern Colorado. Monte Naslund moved to sponsor a reception for the IBCC up to \$1000. David Guilliams seconded. The motion passed.

### 8.5 Bonita Peak Mining District Proposed Interim Remedial Action Plan

Charlie Smith asked that the board consider this agenda item for SWCD to consider providing draft comments on the EPA's proposed Interim Remedial Action Plan for the Bonita Peak Mining District Superfund Site. Public comments are due by August 15. Peter Butler provided his personal draft comments for board discussion, which primarily focused on encouraging best management practices and good governance, as the report suggests costly remediation without estimating the positive water quality impacts. Peter suggested it would be helpful if SWCD weighed in. JR Ford moved that SWCD support the comments provided by Peter Butler on the EPA's proposed Interim Remedial Action Plan for the Bonita Peak Mining District Superfund Site, and reiterate concerns on the trucking and incorporation of sludge in the Kittimac tailings site, as raised by San Juan Citizens Alliance. Monte Naslund seconded. The motion passed.

### 9.0 Engineering Report

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

- 9.1 Upper Colorado & San Juan River Basin Recovery Implementation Program (SJRBRIP):** Bruce and Carrie, along with other members of the Water User Steering Committee, met with the new USFWS Regional Director in Albuquerque, NM on August 6, and specifically highlighted the following topics: the threat to FY2019 program funding, Tom Pitts' request for a Sufficient Progress Assessment update outlining steps made towards recovery, post-2023 planning and the future role of the recovery program, what recovery looks like and how efforts on the San Juan River can best support it, hiring of the new Program Coordinator, and sustained USFWS funding of the program coordination staff.
- 9.2 Colorado River Water Bank Working Group:** This topic was covered earlier in the meeting.
- 9.3 West Slope Risk Assessment Study – Phase III:** This topic was covered earlier in the meeting.
- 9.4 Animas Watershed Partnership:** AWP was awarded a WaterSmart grant for the Florida Watershed Opportunity Assessment, a two-year study to identify opportunities to decrease nutrient loading on the Florida River. AWP will work closely with landowners.
- 9.5 Paradox Salinity Unit:** Carrie has taken over on this task from Brent Sherman, HWE, who is moving to Denver. The Paradox Salinity Unit has an injection well that removes salt from the Dolores River and deposits it below ground. The draft Environmental Impact Statement should be ready by November 2018, and presents the following alternatives to replace the current injection well, which is reaching the end of its natural life: 1) to allow the current injection well system to operate through the end of its natural life, 2) install a new injection well, 3) salt evaporation ponds, and 4) utilizing a zero liquid discharge technology to remove salt. The draft EIS will evaluate the salt removed, the life span of the alternative, and the costs associated. The record of decision is expected in 2020.

Carrie also reported on the status of the San Juan Resource Conservation and Development Council (San Juan RC&D), of which she is the chairwoman. San Juan RC&D acts as fiscal agent for the weather modification program, the Animas River Stakeholders Group, the Pine River Watershed Group, and others. After a staffing crisis, San Juan RC&D has hired a new administrator, so the organization plans to continue offering these critical services to local organizations.

### 10.0 General Counsel Legal Report

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. Beth and Bruce met with tribal attorney Sam Maynes on June 6 to discuss their application and the process moving forward. Maynes expressed the Tribe's understanding of SWCD's concerns and their intention to have an open, transparent rulemaking process.
- 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 will be discussed in the afternoon executive session.

- 10.4 **CWCB Proposed ISF Appropriation Himes Creek:** There has been no recent activity regarding CWCB's intention to file an instream flow appropriation on Himes Creek for all unappropriated flows.
- 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.
- 10.10 **Proposed Recodification of Preexisting "Waters of the United States" Rule:** This change is part of a broader trend of filings related to federal agency changes to environmental regulations. The EPA and Army Corps of Engineers to clarify their intent to repeal the 2015 Waters of the United States rule. The agencies are requesting comments on specific questions. CWC, Family Farm Alliance, and NWRA will be submitting comments, which are due at the end of August.
- 10.11 **Proposed Update to Regulations for Implementing the Procedural Provisions of NEPA, ESA:** The Council on Environmental Quality is requesting public comment on potential revisions to the regulations that implement NEPA, including addressing efficiency, interagency cooperation, and the definition of a "major federal action." The comments are due August 20. Comments have also been requested on significant revisions to the ESA. There was board consensus not to provide comments on these regulatory actions at this time, given the other comments being considered and anticipated opportunities for comments in the future.

## 11.0 Executive Session

(time: 03:12:00)

Beth Van Vurst recommended that the board go into executive session for the purpose of discussing 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." 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 a possible settlement in the San Luis Valley Water Conservancy District pending change case, no. 14CW3011. JR Ford moved to direct legal counsel to seek settlement in case number 14CW3011 per the terms discussed in executive session. Monte Naslund seconded. The motion passed.

## 12.0 Adjournment

President Bob Wolff adjourned the meeting at 3:20 p.m.



Bob Wolff, President