

**Southwestern Water Conservation District  
Board of Directors Meeting  
June 4, 2019**

**Present:** Bob Wolff David Guilliams Monte Naslund  
JR Ford Charlie Smith Don Schwindt  
Rusty Hinger Jenny Russell Doug Stowe

**Staff:** Laura Spann, SWCD Programs Coordinator

**Consultants:** Christine Arbogast, Kogovsek & Associates (by phone)  
Elaine Chick, Water Information Program  
Steve Harris, Interim Executive Director  
Carrie Padgett, Harris Water Engineering  
Beth Van Vurst, Fairfield and Woods

**Guests:** Russ Anderson, Michael Baker International  
Orla Bannon, Western Resources Advocates  
Clyde Church, La Plata County Commissioner  
Marcel Gatzambide, San Juan Citizens Alliance  
Terri House, Pagosa Springs Sun (by phone)  
Bob Hurford, Colorado Division of Water Resources, Division 4 Engineer (by phone)  
Ann Mc-Coy Harold, U.S. Senator Cory Gardner  
Trent Taylor, Redmesa Reservoir & Ditch Company  
Adam Wilkes, Haynie & Company (by phone)

**1.0 Call to Order – Roll Call and Verification of Quorum** *(time: 00:00:10)*

President Bob Wolff called the meeting to order at 9:05 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda** *(time: 00:01:00)*

There were no changes to the agenda.

**3.0 Executive Session** *(time: 00:01:25)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing Case No. 14CW3011, San Luis Valley Water Conservancy District, and Colorado River interstate and intra-state matters, including drought contingency planning and demand management. 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.” Monte Naslund moved that the board go into executive session. Charlie Smith seconded. The motion passed.

**4.0 Report from Executive Session** *(time: 00:02:20)*

Beth Van Vurst announced that the board was out of executive session, and that no action was taken during the executive session. The board discussed a revised settlement proposal in Case No. 14CW3011, San Luis Valley Water Conservancy District and Colorado River interstate and intra-state matters, including drought contingency planning and demand management.

**5.0 Approve and/or Remove Consent Agenda Item** *(time: 00:03:00)*

There was consensus to accept the consent agenda as proposed.

## **6.0 Consent Agenda**

### **6.1 Approval of Minutes (April 4-5, April 11, April 30)**

### **6.2 Approval of Treasurer's Report (April 2019)**

### **6.3 Retire SWCD Policy 5 (Agenda Formation)**

### **6.4 Resolution 19-04 August Board Meeting in the Dolores River Basin**

Doug Stowe moved to approve the consent agenda items. Rusty Hinger seconded. The motion passed. There was a request that the draft agenda be provided to board members several weeks in advance in order to allow board members to coordinate with their county commissioners.

## **7.0 Reports**

### **7.1 Partner Updates**

(time: 00:06:50)

#### **Colorado Parks & Wildlife**

No representative was present; a report was not available.

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

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.

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

Bob Hurford, Division 4 Engineer, summarized hydrologic conditions in Division 4 (San Miguel and Gunnison River Basins). The Colorado Division of Water Resources has placed a storage restriction on Gurley Reservoir.

#### **San Juan Citizens Alliance**

Marcel Gatzambide reported that conditions are very dynamic on the Animas River. The U.S. Environmental Protection Agency released their Interim Record of Decision for the 26 remedial actions the agency will begin in summer 2019. The Citizen Action Group is reviewing the 500-page document. The "Our Animas" report on the health of the Animas River is now complete and available online. San Juan Citizens Alliance hosted a raft race between Aztec and Farmington, and later this summer, there will be a group float from Durango to Farmington. Aquatic health monitoring below the 416 burn scar will continue through the summer on the Animas River and Hermosa Creek.

#### **Trout Unlimited**

No representative was present; a report was not available.

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

Bob Wolff reported that he did not attend the planning meeting in May for CRWUA's Annual Conference, which will be in Las Vegas on December 11-13, 2019.

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

Don Schwindt reported that CWC board will have a two-day retreat at the end of June. Staff and the Public Outreach Committee are actively preparing for the Summer Conference on August 20-22 in Steamboat. The Interim Water Resources Review Committee will meet on August 21 as part of the conference. He directed the board to the written office report for additional CWC updates.

### **Western Resources Advocates (WRA)**

Orla Bannon reported that WRA has been working with Water Reuse Colorado, CWCB, Colorado Department of Public Health & Environment, and other stakeholders to develop a framework for a direct potable reuse program in Colorado. Front Range water providers are expressing more interest in pursuing direct potable reuse. A report summarizing their efforts should be available at the end of 2019.

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

Elaine Chick reported on progress with Statewide Water Education Action Plan. Elaine recently attended an all-day facilitated workshop with other water educators in Colorado to inform the Plan's goals. The Annual Children's Water Festival on May 1 went off smoothly. Forest to Faucets will take place in the Animas River basin on June 5-6. The Water 101-201 seminar will be on October 23-24 in Mancos or Cortez.

### **Kogovsek & Associates**

Christine Arbogast reported on the following topics:

- The appropriations process is underway in the U.S. House of Representatives, with leadership planning to move all 12 bills through by the August recess. So far, the proposed House bills are providing generous appropriations to energy and water, including a proposed increase in funding above the president's budget of half a billion for U.S. Bureau of Reclamation. This additional funding would be used to wrap up projects and address long-overdue infrastructure maintenance. Appropriations bills also include funding for the San Juan River Basin Recovery Implementation Program. The president and congressional leadership have agreed to pursue a large infrastructure funding package, but have not identified how it will be paid for. House Transportation and Infrastructure Committee has proposed legislation that would fund infrastructure improvements by a doubling of the federal gasoline tax, which has been met with opposition. The House Energy & Commerce Committee appropriations bill includes \$21 billion for safe drinking water projects, but does not include a way to pay for it.
- No funding has been allocated to support the proposed reorganization of the Department of Interior, which is estimated to cost several million dollars. Durango and Grand Junction have been vying for the location of the new national Bureau of Land Management headquarters.
- Recent comments are being reviewed on the proposed revision to the definition of Waters of the United States under the Clean Water Act.

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

Bob Wolff reported that the next CWR&PDA board meeting is June 6-7. Keith McLachlan has been selected to succeed Mike Brod as executive director, and will take over February 1, 2020. The board will meet in Durango on October 4 and tour several local projects funded by CWR&PDA in recent years.

### **Interbasin Compact Committee & Roundtable**

Carrie Padgett reported that the primary topics at the April 10 Roundtable meeting were drought contingency planning and several concept proposals. The West Slope Roundtable Summit will be on June 20 at the Ute Water Conservancy District in Grand Junction. Several members from southwestern Colorado plan to attend. The focus of the meeting will be preliminary results from Phase III of the West Slope Risk Assessment, demand management, and other updates from around the state. The next Roundtable meeting is in Cortez on July 10.

Steve Harris reported that IBCC had not met recently, and so he had no updates.

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

Laura Spann attended WEco's May 17th board meeting in Gunnison as described in the written office report. In 2020, WEco's Water Fluency course is coming to southwestern Colorado. This course targets elected officials, planners, and other local leaders, and gets them "fluent" in water management concepts and hot topics. Tuition is \$1350 and the program allows 35 participants. Also, there has been an interest from water educators to include more diverse audiences in their programming. Responding to that, WEco is considering equity principles to guide inclusion of often marginalized voices. This topic generated significant discussion at the WEco board meeting, and it was agreed to continue the conversation.

## **7.2 Board Member Updates**

*(time: 00:43:45)*

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

Things are wet in Dove Creek!

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

Gurley Reservoir may reach out to SWCD for emergency funding to support their work to address the recent storage restriction. The Town of Norwood has completed their raw water project, which was partially funded through SWCD's grant program. There have been several avalanches near Telluride.

### **Monte Naslund (Montrose County)**

It's wet and grass is growing.

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

In May, Don had 6 inches in his rain gauge. Irrigation started on the farm on April 10. The plants and soil consumed a lot of water after last year's exceptional drought conditions. Many full service farmers are not yet irrigating. He summarized conditions at Groundhog and McPhee Reservoirs. Grand Valley Water Users Association presented in Cortez on their experience with conserving consumptive use in their system. The event generated a lot of local interest from agricultural water users, and the County Commissioners were in attendance.

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

San Juan County still has a lot of snow. It is still not plowed up to Cinnamon Pass. Steve and Beth will meet with San Juan County about the conditional water rights. John Sites and Charlie will meet to discuss Silverton's water plan.

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

There's lots of water.

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

There is lots of water. The Piedra River is coming out of its banks.

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

La Plata County has hired a new manager, Chuck Stevens. Temporary radar station has been installed on Missionary Ridge to overlook the 416 burn scar and monitor weather patterns. La Plata County is in negotiations with the property owner to secure a site for the permanent radar for southwestern Colorado. Today, the Animas River is 5,090 cfs.

## **7.3 Hydrologic Conditions Update**

*(time: 00:51:50)*

Steve Harris referred the board to the written office report.

## **7.4 Office Update**

*(time: 00:52:30)*

Steve Harris referred the board to the written office report. The board expressed interest in a full-day tour of the Dolores River basin, including the Ute Farm & Ranch.

## 8.0 Questions & Comments from the Audience

There were no comments or questions from the audience.

## 9.0 Old Business

### 9.1 Colorado River Discussions

#### 9.1.1 West Slope Risk Assessment Study – Phase III

(time: 00:55:20)

Carrie Padgett has participated in weekly webinars regarding the preliminary results of Phase III of the West Slope Risk Assessment Study, along with Beth and Steve. The initial modeling indicates which water rights may be at risk of compact curtailment during stress hydrology. There will be an initial review of the modeling at the West Slope Roundtable Summit on June 20. Carrie and possibly John Carron will present a more detailed, southwest-focused, review of the Phase III results at the August meeting. The final report has not yet been completed.

#### 9.1.2 Interstate and intra-state matters, including drought contingency planning efforts and demand management

(time: 00:57:00)

Beth Van Vurst reported that CWCB has begun to formulate their framework for investigating the feasibility of a demand management program in Colorado. The Upper Colorado River Commission is having a demand management stakeholder meeting on June 21 in Salt Lake City, which Beth (and maybe Don) will attend. Beth will express SWCD initial concerns regarding demand management, specifically about potential injury to water users not participating and negative secondary impacts to West Slope communities. There was additional board discussion regarding the Upper Basin drought contingency plan and the possibilities for exploring a demand management program across several states.

CWCB has selected participants for workgroups to explore the feasibility of a demand management program in Colorado. From SWCD, Beth Van Vurst was selected for Water Law & Policy, Carrie Padgett for Monitoring & Verification, and Laura Spann for Education & Outreach. Ken Curtis, Dolores Water Conservancy District, was appointed to the Agricultural Impacts workgroup and Steve Ruddell, Animas La Plata Water Conservancy District, was appointed to the Economic Considerations workgroup. Workgroup members are asked to sign confidentiality agreements and participate in closed door meetings to encourage candid conversation. The agreements state that CWCB will disclose information at some point in time, but did not commit to any specific date for public release of workgroup documents and meetings. SWCD board members urged the CWCB to put a “fuse” or time limit on the closed door process in order to maintain the same level of transparency as was employed with the water plan. They requested that those invited to participate not do so until these transparency concerns are addressed. They expressed concern regarding the damage this approach may do to the credibility of any demand management program implemented by CWCB. There was consensus to direct staff and legal counsel to initially coordinate with the River District regarding the demand management workgroups, and if appropriate, express concerns to the CWCB representatives.

## 10.0 Lunch

The board adjourned for lunch.

#### 9.1.3 Colorado River Water Bank Working Group

(time: 01:14:30)

Carrie Padgett reported that three new entities joined the Colorado River Water Bank Working Group (WBWG): Grand Valley Water Users Association, Upper Gunnison Water Conservancy District, and the Uncompahgre Valley Water Users Association. They have each committed \$9,500 to the Secondary Impacts Study. The WBWG recently met to make changes to the scope of work for the Secondary Impacts Study to allow for more stakeholder engagement. The first of those meetings will begin in July. SWCD has signed the WBWG cost share agreement. There was board discussion regarding the future of the WBWG.

### 9.2 CWCB Proposed Instream Flow Appropriations

#### 9.2.1 Himes Creek

(time: 01:20:30)

SWCD is actively working on potential settlement with CWCB regarding their proposed instream flow appropriation on Himes Creek. Beth hopes to finalize the settlement within a few days.

**9.2.2 Disappointment Creek***(time: 01:21:00)*

Dolores County has filed a Notice to Contest the proposed instream flow appropriations on Disappointment Creek. Since then, Western Resources Advocates and the BLM have filed for party status. Amy Beatie, Deputy Attorney General, has been appointed as the Hearing Officer. Per the board's direction, Beth filed a Notice for Contested Hearing Participant Status in late April which summarizes SWCD's comments. SWCD will participate in the pre-hearing conference and coordinate with Dolores County's attorney.

**9.2.3 2020 Proposed Instream Flow Appropriations in Divisions 4 and 7***(time: 01:22:20)*

Carrie Padgett referred the board to the engineering memo, where she summarized CWCB's 2020 proposed instream flow appropriations in Divisions 4 and 7: Spring Creek, Naturita Creek (2), and Rincon La Vaca. CWCB may install temporary stream gages on Spring Creek and Naturita Creek to better quantify the flows. These appropriations may be postponed to allow for additional data gathering. CWCB has not yet released the proposed flow rates and timing. Carrie will continue to collect information regarding these proposed appropriations as it becomes available and update the board.

**9.3 Amendment to SWCD-ALPWCD Cost-Share Agreement***(time: 01:26:30)*

Beth Van Vurst directed the board to the draft amendment to SWCD-ALPWCD cost-share agreement, which puts into effect the board's direction to end the executive director cost share immediately, end the remaining cost share provisions on or before December 31, 2019, and reduce ALPWCD's share of the rent from 50% to 30%. ALPWCD approved this revision at their May 21 meeting. The agreement is also revised to pro-rate ALPWCD's rent cost share to 50% from April 1-30, and 30% from May 1-June 30. Jenny Russell moved to approve the amendment to the SWCD-ALPWCD cost-share agreement. Rusty Hinger seconded. The motion passed.

**11.0 New Business****11.1 SWCD Grant Program & Funding Requests****11.1.1 Emergency Grant: Redmesa Ditch and Reservoir Company***(time: 01:32:00)*

Trent Taylor presented the request for \$19,000 in emergency grant funding to support Redmesa Ditch and Reservoir Company's effort to satisfy the Compliance Plan requirements dictated by Colorado Division of Water Resources. Towards this effort, the Company has already completed work to expand the spillway and needs to finalize their feasibility study based on the newly updated dam safety requirements released this spring. Board members expressed concern regarding the required match, the appropriate use of emergency funding, and the timing of the request. It was proposed that Redmesa come back to SWCD as part of the fall application process as they seek funding for design and construction. The board did not approve the funding request.

**11.1.2 Sponsorship: October 3<sup>rd</sup> Reception for CWRPDA Board of Directors***(time: 01:58:30)*

CWR&PDA will hold their October 4 board meeting in Durango. CWR&PDA recently elected to pay the ALP final cost allocation on behalf of local project participants: Animas La Plata Water Conservancy District, City of Durango, La Plata West Water Authority and Lake Durango Water Authority in the amount of approximately \$400,000 from the interest that has accrued in escrow. Charlie Smith moved that SWCD sponsor a reception for the CWR&PDA board the evening of October 3<sup>rd</sup> in an amount not to exceed \$1,500. Don Schwindt seconded. The motion passed.

**11.1.3 2020 SWCD Grant Program Guidelines***(time: 02:03:00)*

Laura Spann summarized the proposed revisions to the 2020 SWCD grant program guidelines, based on the board's input at the February meeting. Specifically, the revisions clarify the board's preference not to fund legal or personnel expenses, and weed management unless it relates to phreatophyte removal and there is an associated maintenance plan. There was board discussion regarding the applicant match and other guidelines. Monte Naslund moved to approve the 2020 SWCD Grant Program Guidelines. Doug Stowe seconded. The motion passed.

**11.2 SWCD Oversight of Southwest Colorado's Weather Modification Program***(time: 02:11:50)*

Steve Harris reported that San Juan Resource Conservation and Development Council (SJRC&D) will be closing its doors, and therefore can no longer serve as fiscal agent for southwestern Colorado's weather modification program. Staff met with Ken Curtis, DWCD, and Carrie Padgett, SJRC&D, board president regarding this change. DWCD is willing to assume the bookkeeping and contracting duties for the weather modification program. As a regional leader, SWCD has provided oversight and management of the program, including providing approval for seeding of marginal storms, coordinating among program partners, and assisting in big-picture questions regarding the program's modernization. Steve asked to confirm that SWCD would like to continue providing that program leadership going forward. Don Schwindt moved that SWCD continue to provide oversight and management of southwestern Colorado's weather modification program. JR Ford seconded. The motion passed.

**11.3 FY2018 Audit Report***(time: 02:13:30)*

Adam Wilkes, Haynie and Company, detailed the 2018 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 2018 audit. Staff suggested one update to the notes reflecting the remaining loan balance due from Bauer Lake Water Company. Jenny Russell moved to accept the final draft 2018 audit as presented for submittal to the State by the July 31 deadline with the modifications suggested at the meeting. Rusty Hinger seconded. The motion passed.

**12.0 General Counsel Legal Report***(time: 02:28:30)*

Beth Van Vurst reported on the following topics:

- 12.1 Case No. 14CW3011, San Luis Valley Water Conservancy District:** This item was discussed during the morning executive session.
- 12.2 BLM Substitute Water Supply Plan (SWSP) Application for the Treasure Pass Diversion Ditch:** SWCD, the San Juan Water Conservancy District, and Pagosa Area Water & Sanitation District all submitted comments on the BLM's application. The BLM submitted a response to the comments, which proposes monthly and annual volumetric limits for the SWSP, but does not fully address SWCD's concerns of potential injury to water users in the San Juan river basin. SWCD has asked, among other things, for the BLM to demonstrate they have a lease agreement with CPW before storing any Treasure Pass Diversion Ditch water in Beaver Park Reservoir. An SWSP approves a temporary change of water right just for the plan year. Board members asked questions and provided comment. There was board consensus to wait for DWR's decision before providing further comments or taking any other action.
- 12.3 Water Court Resume Review (Divisions 3,4,7):** Beth and Steve reviewed the Water Court resumes for Divisions 3, 4 & 7, and no applications warranted further discussion.

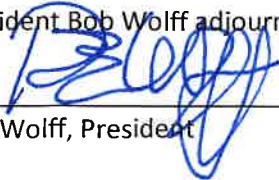
**13.0 Executive Session***(time: 02:37:20)*

Beth Van Vurst recommended that the board go into executive session for the purpose of reviewing and considering applications for the executive director position. The statutes covering this session are § 24-6-402 (3.5), C.R.S., § 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." Doug Stowe moved that the board go into executive session. David Guilliams seconded. The motion passed.

Beth Van Vurst announced that the board was out of executive session at 3:11 p.m., and that no action was taken during the executive session. The board reviewed and considered applications for the executive director position, and directed staff to schedule interviews.

**14.0 Adjournment**

President Bob Wolff adjourned the meeting at 3:12 p.m.

  
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Bob Wolff, President