

**Southwestern Water Conservation District  
Board of Directors Meeting  
October 1, 2019**

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

**Absent:**        David Guilliams

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

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

**Guests:**        Steve Anders, U.S. Geological Survey  
                     Russ Anderson, Michael Baker International  
                     Orla Bannon, Western Resources Advocates (by phone)  
                     Ken Beegles, Animas La Plata Water Conservancy District  
                     Susan Behery, U.S. Bureau of Reclamation  
                     Peter Butler, Animas River Stakeholders Group  
                     Elaine Chick, Water Information Program  
                     Ty Churchwell, Trout Unlimited  
                     Ken Curtis, Dolores Water Conservancy District  
                     Rob Genualdi, Colorado Division of Water Resources, Division 7 Engineer  
                     Nathan Goodman, Conservation Colorado  
                     Lain Leoniak, Colorado Attorney General's Office  
                     Ann McCoy-Harold, U.S. Senator Cory Gardner's Office  
                     Kevin Murphy, U.S. Geological Survey  
                     Brent Newman, Colorado Water Conservation Board  
                     John Ott, Animas Water Company  
                     Gigi Richard, Fort Lewis College  
                     John Simpson, Colorado Division of Water Resources  
                     Ryan Unterreiner, Colorado Parks and Wildlife  
                     John Whitney, U.S. Senator Michael Bennet's Office

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

President Bob Wolff called the meeting to order at 8:00 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda**

*(time: 00:01:20)*

There were no changes to the revised agenda as written.

**3.0 Executive Session**

*(time: 00:01:40)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing Colorado River interstate and intrastate matters, including drought contingency planning and demand management, case number 2019CW3045, Division 4 Rehoboth Land Partners, LLC, CWCB's proposed instream flow appropriations on Disappointment Creek, and recognition and administration of pre-existing use occurring under C.R.S. § 37-92-102(3)(b).

In addition, Beth recommended the board discuss in executive session the Fair Labor Standards Act, record keeping, employee benefits, termination of the SWCD-Animas La Plata Water Conservancy District cost sharing agreement, local government budget law of Colorado (specifically the budget message), and potential modifications to the SWCD Programs Coordinator position, including job duties and benefits.

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," § 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. Monte Naslund seconded. The motion passed.

#### **4.0 Report from Executive Session**

*(time: 00:04:20)*

Beth Van Vurst announced that the board was out of executive session at 10:00 a.m. The board discussed case number 2019CW3045 in Division 4 (Rehoboth Land Partners, LLC), the Fair Labor Standards Act, record keeping, employee benefits, termination of the SWCD-Animas La Plata Water Conservancy District cost sharing agreement, local government budget law of Colorado (specifically the budget message), and potential modifications to the SWCD Programs Coordinator position, including job duties and benefits. No action was taken during the executive session.

The board ran out of time to discuss Colorado River interstate and intra-state matters, including drought contingency planning and demand management, CWCB's proposed instream flow appropriations on Disappointment Creek, and recognition and administration of pre-existing uses occurring under C.R.S. § 37-92-102(3)(b). These topics will be discussed during the afternoon executive session.

The board adjourned for a short recess until 10:09 a.m. The board and audience introduced themselves.

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

There was consensus to accept the consent agenda as proposed.

#### **6.0 Consent Agenda**

*(time: 00:14:30)*

##### **6.1 Approval of Minutes (August 6, 2019; September 10, 2019)**

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

##### **6.3 2020 SWCD Board Meeting Schedule**

Given several proposed changes, the 2020 SWCD Board Meeting Schedule was removed from the consent agenda. Jenny Russell moved to approve consent agenda items 6.1 and 6.2. Rusty Hinger seconded. The motion passed.

#### **7.0 Questions & Comments from the Audience**

*(time: 00:18:00)*

There were no comments or questions from the audience.

#### **8.0 Old Business**

##### **8.1 Colorado River matters**

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

*(time: 00:18:50)*

Beth Van Vurst updated the group on the demand management workgroups being organized by the Colorado Water Conservation Board (CWCB). Laura Spann reported on the Education and Outreach workgroup, which met in Salida on August 15. Two threshold issues the group identified were agreeing on a clear "why" for the program, and how to communicate with the public among various water messaging campaigns statewide. Frank Kugel reported on the Administration and Accounting workgroup, which is scheduled to meet on November 18. Beth Van Vurst is on the Water Law & Policy workgroup, which has yet to meet. Carrie Padgett reported on the

Monitoring and Verification Workgroup, which discussed accuracy, return flows, and existing studies to inform the participants. At the Colorado Water Congress Summer Conference, there was a regional demand management workshop to brainstorm potential issues and questions. The Interim Water Resources Review Committee dedicated an entire afternoon to Colorado River matters, including hydrologic conditions, climate change, and policy issues. Frank Kugel testified before the Committee, along with representatives from Denver Water, Northern Water Conservancy District, and the Colorado River Water Conservation District.

Regarding Phase III of the West Slope Risk Assessment, Frank Kugel reported that SWCD received additional funding from several local partners (Animas La Plata Water Conservancy District, Dolores Water Conservancy District, Florida Water Conservancy District, and La Plata Archuleta Water District). SWCD will facilitate getting specific modeling questions for these partners answered by John Carron. This information would be publicly available as part of the Phase III Risk Assessment.

### **8.1.2 State Update on DCP and Demand Management**

*(time: 00:28:40)*

Brent Newman (Colorado Water Conservation Board) and Lain Leoniak (Colorado Attorney General's Office) updated the board on recent outreach, the 2019 CWCB demand management workplan, including workgroup updates, and other progress. Amy Ostdiek has been hired by CWCB to manage the demand management work plan. Tribal interests are being updated directly by the CWCB regarding the demand management feasibility investigation. The Colorado River drought contingency plan (DCP) has been implemented in the Lower Basin states, with Tier 0 reductions. For example, Arizona will take 192,000 af less from Colorado River sources in 2020.

CWCB emphasized that the demand management program is not a foregone conclusion, and there are many high bars to jump for any proposed program to be implemented. CWCB referenced their charge in the Colorado Water Plan to investigate all tools to utilize Colorado's full compact entitlements while avoiding a compact call. CWCB is available to speak with all water users as the feasibility investigation proceeds. There was discussion about the second demand management regional workshop to be held in southwestern Colorado. Brent Newman summarized the highlights from the various demand management workshop that have met. Some central themes have emerged, including the need for common understanding of central terms such as temporary, equity, and proportionality. He emphasized that the CWCB's board September 2018 policy statement continues to guide the CWCB's approach to the demand management feasibility investigation. CWCB wants to focus the conversation on how a demand management program could have a net positive impact for communities. Brent expects that the CWCB will provide a 2020 workplan for the demand management feasibility investigation, as it surely won't be finalized in one year. Lain Leoniak and Brent Newman responded to various board questions on demand management and compact curtailment. The State Engineer's Office is reviewing what compact curtailment might look like on the Colorado River.

### **8.1.3 West Slope Risk Assessment – Phase III**

*(time: 01:08:40)*

Carrie Padgett said that work continues on the final report for the Phase III West Slope Risk Assessment. Frank provided the update on the budget. Carrie has discussed follow-up questions with John Currier and suggested that sub-basin specific background data be provided in the final report. Frank added that SWCD will be working with John Carron to see that specific questions from those southwest partners who've already provided funding for Phase III are answered. John Currier will present at the SWCD Annual Water Seminar without John Carron, since the Phase III outreach budget is already stretched.

### **8.1.4 Colorado River Water Bank Working Group**

*(time: 01:11:10)*

Carrie Padgett, Don Schwindt and Frank Kugel reported on the Water Bank Working Group's meeting on September 30, which was primarily focused on coordinating with the two economists leading the Secondary Impacts Study. The meeting covered the outreach conducted to date, including four sub-group meetings in basins across the Western Slope representing various sectors that might be impacted by reductions in consumptive use. The study will also review the secondary impacts of four demand management scenarios. One insight from the study so far: in order to entice agricultural water users to participate in a fallowing program, they need a financial incentive of 50% more revenue than they would earn from harvesting a crop. Based on numerous public requests for access to previous WBWG-commissioned studies, and the WBWG's desire to be transparent, Carrie asked the

board for their thoughts on posting those studies on the WBWG's website. Carrie confirmed that no studies currently in progress will be posted without being provided to the SWCD board. The reports to be posted online are substantively complete and marked as final drafts. As a reminder, SWCD has committed \$35,000 over a two-year period to support the Secondary Impacts study. Don Schwindt moved that, pending SWCD's general counsel review, to release all WBWG studies and documents. JR Ford seconded. The motion passed.

## **9.0 Reports**

### **9.1 Partner Updates**

(time: 01:26:30)

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

Ryan Unterreiner reported that Haviland Lake dam is inoperable, and the contractor bids to fix it have come in significantly higher than expected. CPW has conducted a public fish salvage. Haviland will go into winter with a full pool. Hopefully, CPW will repair the outlet next year. Fishing quality (fish size) is down 88% on reaches of the Animas River, a result of the die out post-416 fire. However, the Animas River has seen an increase in bluehead suckers. Kokanee spawn egg collection will take place at McPhee and Lake Nighthorse in October and November. CPW and CDPHE continue to coordinate fish sample collection and mercury testing in area reservoirs.

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

This report was provided earlier in the meeting.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

No representative was present; a report was not available.

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

Rob Genualdi, Division 7 engineer, reported that the 2019 water year has been one of feast and famine. New Mexico placed a call on the La Plata River on July 8<sup>th</sup>, a record late date. Long Hollow Reservoir filled to 4,680 af, and currently has carryover of about 3,000 af. Electra Lake has seen significant seepage through the dam, and the storage restriction will likely go to 0 af. There will be significant water user impacts as the dam is rehabilitated over several years.

#### **Trout Unlimited**

Ty Churchwell reported on the continued efforts of Trout Unlimited to pass federal legislation to address liability for Good Samaritan mining reclamation efforts. Pennsylvania has state-level Good Samaritan statute in place to allow mining reclamation efforts to move forward and funds these efforts through severance tax revenues.

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

Susan Behery reported on area reservoir levels. Also, BOR, the ALPOM&R Association and Fort Lewis College are installing a weather station at Lake Nighthorse.

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

Kevin Murphy and Steve Anders reported that USGS has provided draft estimates for the 2020 joint funding agreement with SWCD. Tri-State Generation will be closing their plant in Nucla, which may impact their 2020 support for the San Miguel River at Brooks Bridge stream gage. Due to a decrease in funding from CDPHE, there may not be any winter water quality monitoring at the Animas gage. CWCB has pulled their cooperating funds for the Dolores River at Slick Rock gage, which also is supported by CPW, SWCD, and San Miguel County. Should

there be funding available for a new gage installation in southwestern Colorado, Steve recommended Hermosa Creek as a priority location.

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

Bob Wolff reported that CRWUA's Annual Conference will be held on December 11-13, 2019 at Bally's Hotel in Las Vegas.

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

Don Schwindt reported that CWC acted to support Proposition DD. The CWC Water Stewardship Project anticipates an overwhelming 200-300 number of ballot initiatives to be proposed in the 2020 election year. Given that at least one will likely propose the establishment of the public trust doctrine in Colorado, CWC will be requesting additional funding support from partners. Lee Miller will serve as co-chair and Beth Van Vurst as parliamentarian for the CWC State Affairs Committee. Frank Kugel was appointed to serve on the National Water Resources Association board. As part of CWC's strategic plan, there will be additional funding dedicated to rural outreach.

### **Conservation Colorado (CC)**

Nathan Goodman, Southwest Field Organizer, explained the goals of Conservation Colorado to use grassroots activism to support state-based public lands conservation policy, air quality, water security, wildlife. CC's current chief water advocacy goal is finding funding for full implementation of Colorado's Water Plan. CC is supportive of Proposition DD and is encouraging a legislative agenda to address the funding gap.

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

Laura Spann ceded her time to John Ott, who thanked the board for SWCD's tuition scholarship for the Water Leaders Program. He explained that the Water Leaders experience has made him more civic-minded, helped build his network, and encourage both personal and professional growth.

*The board adjourned for lunch.*

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

Elaine Chick encouraged people to sign up for the Water Law in a Nutshell class at Fort Lewis College on Monday, October 28. Board members and public discussed opportunities to promote the Water Law in a Nutshell course. Elaine attended the C9 Summit in Winter Park, along with a Public Education and Public Outreach (PEPO) liaison meeting, and additional meetings regarding the Statewide Water Education Action Plan. The WIP Steering Committee meeting will be held on October 2<sup>nd</sup> at the SWCD office. WIP will have a booth at the upcoming SWCD Annual Water Seminar.

### **Kogovsek & Associates**

A representative was not in attendance and a report was not available.

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

Bob Wolff reported that CWR&PDA board will meet on Friday, October 4th at 9:00am at the ALPOM&R Association. SWCD will host a reception for the CWR&PDA board and staff on Thursday, October 3rd at the DoubleTree Hotel from 6-8pm.

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

Carrie Padgett reported on the C9 Roundtable Summit held in Winter Park in late September. Discussion focused on the technical update to the state water plan and the path forward for updating the Basin Implementation Plans. The next Southwest Basins Roundtable meeting is October 9<sup>th</sup> in Durango, along with two pre-meeting workshops on weather modification and demand management. There was discussion regarding the potential for an interactive water exhibit at the Powerhouse Science Center.

**Water Education Colorado (WEco)**

Laura Spann ceded her time to John Ott and referred to additional information in the office report.

**9.2 Board Member Updates**

*(time: 02:25:00)*

**Doug Stowe (Dolores County)**

There was no update.

**Jenny Russell (San Miguel County)**

San Miguel County has a new manager. Conditions there are very dry.

**Monte Naslund (Montrose County)**

It has been a good year on the river, but now it is dry and cold. The coal plant has shut down several years before its scheduled closure.

**Don Schwindt (Montezuma County)**

McPhee Reservoir will have good carryover storage, even with the dry monsoon season. The Dolores River flows have been remarkably high, given the lack of late season rain. Ed Millard was an excellent appointment by Montezuma County Commissioners to the Southwest Basins Roundtable. Ed will present at Colorado Mesa University's Upper Colorado River Basin Forum

**Rusty Hinger (Mineral County)**

It is dry and dusty.

**Charlie Smith (San Juan County)**

Charlie Smith met with the San Juan County Commissioners in late September, and they would like to meet SWCD's new executive director. They also discussed the San Juan County water rights, case number 05CW88. The San Juan Mining Conference and Innovation Expo, which SWCD helped sponsor, was very successful.

**JR Ford (Archuleta County)**

Resilient Pagosa has several ideas for potential stream gage sites on the San Juan River in Archuleta County. The FS Mockler Ditch, above Williams Creek Reservoir, is putting together a 2020 SWCD grant application to rehabilitate the ditch and put its pre-compact water rights to use.

**Bob Wolff (La Plata County)**

The D2 drought line is now at La Plata County southern border. The City of Durango is currently seeking a manager. La Plata County is considering adoption of 1041 powers that could create significant regulatory burdens for rural domestic water systems such as Lake Durango Water Authority, La Plata West Water Authority, and La Plata Archuleta Water District.

**9.3 Hydrologic Conditions Update**

*(time: 02:36:30)*

Frank Kugel provided regional reservoir inflows for September 2019 reported by the Colorado River Basin Forecast Center.

**9.4 Office Update**

*(time: 02:37:15)*

Frank Kugel directed the board to the written office report. The River District is coordinating a Lower Basin Tour for spring 2019 and has invited SWCD to join. There was also board interest in holding another joint board meeting with the River District.

## 10.0 Old Business (cont.)

### 10.1 CWCB Proposed Instream Flow Appropriations

#### 10.1.1 Disappointment Creek

*(time: 02:42:00)*

Beth Van Vurst recommended a portion of this discussion for afternoon executive session. Dolores County had filed a Notice to Contest the two proposed instream flow appropriations on Disappointment Creek to ensure recognition of their pre-existing uses and secure the potential for the County's future water development. After filing water rights applications to address these concerns, Dolores County has decided not to participate in the hearing and withdraw their Notice to Contest. Western Resource Advocates has also withdrawn. SWCD was involved to support Dolores County, and therefore also withdrew. The hearing was cancelled. Dolores County and CWCB continue to discuss appropriation dates. CWCB will likely file an application to adjudicate these proposed instream flow appropriations.

#### 10.1.2 2020 Proposed Instream Flow Appropriations in Divisions 4 and 7

*(time: 02:44:30)*

Carrie Padgett reported that there have not been any updates on the proposed 2020 instream flow appropriations in southwestern Colorado, likely because additional data are still being collected. Temporary gages have been installed to support this data collection.

### 10.2 Potential changes to C.R.S § 37-83-105 authorizing temporary loans of water for instream flow purposes

*(time: 02:45:30)*

Beth Van Vurst reported that conversations continue regarding potential changes to the CWCB's instream flow temporary loan program as proposed in HB19-1218, which was postponed indefinitely and passed on to the Interim Water Resources Review Committee for additional discussion. Beth has participated in the CWC State Affairs Instream Flow Subcommittee, which is considering draft legislative language. Beth provided background on the CWCB's instream flow temporary loan program. This proposed legislation increases the number of years a temporary loan of water can be made to the instream flow program from 3 out of 10 years to 5 out of 10 years, for two renewals totaling 15 out of 30 years. The legislation also proposes that loans could only be made in reaches with an existing instream flow, to maintain or "improve" the natural environment. The CWC State Affairs Committee members are providing input regarding who might be injured by these loans, and whether the notification requirements are sufficient to protect water users. SWCD was opposed to the legislation in 2019. There was significant board discussion regarding the proposed legislative concept.

## 11.0 New Business

### 11.1 Report from Fort Lewis College Water Center

*(time: 03:12:30)*

Dr. Gigi Richard described three goals for the Four Corners Water Resources Center at Fort Lewis College, including 1) cultivating a new generation of water leaders, 2) developing a hub of information for water in the Four Corners region, and 3) play a leadership role in addressing regional water issues. At least 15 faculty are currently conducting water-related research. Dr. Richard detailed the Center's numerous activities already underway to support these goals. It was suggested that SWCD collaborate with the Center in developing a panel for the Annual Water Seminar to build pathways for younger people to engage with local water organizations and leaders. Dr. Richard also invited organizations interested in FLC interns to reach out to her.

### 11.2 Animas River Stakeholders Group, Transition to Bonita Peak CAG

*(time: 03:25:10)*

Peter Butler provided a summary of the Animas River Stakeholders Group's (ARSG) accomplishments. ARSG will dissolve in 2019, as the Bonita Peak Mining District Community Advisory Group (CAG) has become the primary vehicle for local stakeholders to engage the U.S. Environmental Protection Agency (EPA) as they clean up the Bonita Peak Mining District. ARSG sampled hundreds of mining waste sites and tailings piles, and determined high impact, low investment reclamation projects to enhance water quality in the Upper Animas River basin. ARSG proposed water quality standards, which were adopted and are still in place today.

**10.0 Old Business (cont.)**

**10.3 Interim Water Resources Review Committee (Update from September Meetings)** (time: 03:36:45)

Beth Van Vurst reported that the Interim Water Resources Review Committee discussed proposed legislative concepts for the 2020 session, including expanding the CWCB instream flow temporary loan program, studying the use of block chain technology in water projects, legislative oversight of sports betting overflow money, public review of water demand management and drought contingency plan, studying the use of block chain technology for water management, expand SB 1373 to individual CDPHE permits, increase the number of well inspectors for DWR, and prohibit water speculations. Beth may know more after the Committee meets again in October.

**10.4 SWCD Mission and Strategic Planning -Timeline** (time: 03:38:50)

Frank Kugel reported that SWCD will be sending a draft strategic plan document in late October for consideration and proposing the formation of a Strategic Planning board committee.

**10.5 Review of Proposed Budget FY2020** (time: 03:40:00)

The board reviewed the draft FY2020 budget, which was discussed at the September 5<sup>th</sup> budget workshop. By October 15<sup>th</sup>, a notice was published in each of the nine counties announcing the draft budget’s availability for inspection at the office and the date of the public hearing.

Several changes were proposed to the budget, including an increase in funding for the Center for Snow and Avalanche Studies, the continuation of \$5,000 annual funding for Animas basin mining reclamation efforts via the Bonita Peak CAG, an increase from \$8,000 to \$9,500 for the Children’s Water Festival, and an increase to the SWCD Project Water Rights line from \$0 to \$10,000. There was additional review and discussion of various line items.

*The board adjourned for a short break.*

Staff proposed the adoption of an annual budget schedule and procedures, encouraged to streamline the process. The board proposed a revision to allow for additional revisions to the draft budget in December with the goal of having it substantially complete after the October meeting. There was consensus to provide the revised budget process document for adoption at the next board meeting.

Staff also proposed a significantly revised budget message to further explain the board’s direction on District spending for the coming year. This will provide clarification for the public, as well as be a reminder for board and staff. Jenny Russell moved to approve the draft 2020 budget message as revised. Monte Naslund seconded. The motion passed.

**10.6 Proposed Personnel Policies** (time: 04:32:00)

SWCD has been using the transition period to update its personnel policies. This agenda item was postponed for the December board meeting.

**11.0 New Business (cont.)**

**11.3 Formation of Board Committees** (time: 04:32:45)

Board members volunteered to serve on the following board committees:

| Finance       | Colorado River | Instream Flow | Litigation    | Personnel     | Outreach     |
|---------------|----------------|---------------|---------------|---------------|--------------|
| JR Ford       | Don Schwindt   | Monte Naslund | Jenny Russell | JR Ford       | Rusty Hinger |
| Jenny Russell | Doug Stowe     | Jenny Russell | Charlie Smith | Jenny Russell | Don Schwindt |
| Bob Wolff     | Bob Wolff      | Don Schwindt  | Bob Wolff     | Bob Wolff     | Bob Wolff    |
|               |                | Charlie Smith |               |               |              |
|               |                | Doug Stowe    |               |               |              |
|               |                | Bob Wolff     |               |               |              |



#### **11.4 SWCD Appointments**

(time: 04:39:45)

Charlie Smith moved to appoint Frank Kugel as SWCD's representative to the CWC Federal Affairs Committee, CWC Water Stewardship Committee, Southwest Basins Roundtable, and Family Farm Alliance Advisory Committee; support Frank Kugel's appointment to the CRWUA and NWRA boards; and appoint Beth Van Vurst as SWCD's primary representative and Frank Kugel as alternate representative to the CWC State Affairs Committee. Monte Naslund seconded. The motion passed.

#### **11.5 Termination of Interim Period Independent Contractor Agreements**

(time: 04:42:50)

The interim period independent contractor agreements with Steve Harris and Whitehead H2O will expire on October 15, 2019. Beth Van Vurst recommended that the SWCD board allow these contracts expire.

#### **11.6 Proposition DD**

(time: 04:43:50)

Proposition DD would legalize sports betting in Colorado and dedicate those tax revenues to implementation of Colorado's Water Plan. Don Schwindt moved that SWCD support Proposition DD. Monte Naslund seconded. The motion passed 6-2.

#### **11.7 Proposed Revision to 2020 SWCD Grant Program Guidelines**

(time: 04:47:43)

Staff proposed revisions to the 2020 SWCD Grant Program Guidelines to condition fund disbursement upon completion of the project. There was significant discussion and no consensus. This topic was postponed for reconsideration during the grant program portion of the February 2020 meeting.

#### **11.8 Early termination of SWCD-ALPWCD Cost Share Agreement**

(time: 05:02:00)

The Animas La Plata Water Conservancy District (ALPWCD) has provided notice of their termination of the amended SWCD-ALPWCD cost share agreement effective October 15, 2019. The Programs Coordinator time is currently split between the two entities: 70% for SWCD and 30% for ALPWCD. Jenny Russell moved that the Program Coordinator position transition to full-time for SWCD effective October 15, 2019. Monte Naslund seconded. The motion passed.

#### **11.9 Potential modifications to the SWCD Programs Coordinator Position, including job duties and benefits**

(time: 05:03:30)

Beth Van Vurst recommended that the board increase the Program Coordinator's retirement benefits and number of paid holidays to match those of the Executive Director position. Jenny Russell moved that SWCD increase the employer match for the Program Coordinator's personal retirement contributions from 5 to 6% of annual salary and increase the number of paid holidays from 7 to 10 days. Monte Naslund seconded. The motion passed. General counsel will be developing a draft PTO policy for board consideration at the December meeting.

Doug Stowe moved that the board designate the specific paid holiday dates on an annual basis as part of the meeting schedule adoption. Jenny Russell seconded. The motion passed.

Beth Van Vurst recommended that, considering the strategic planning process and ongoing evaluation of the Program Coordinator position, the job be reclassified as non-exempt effective October 16, 2019. Don Schwindt moved that the Program Coordinator position be reclassified as non-exempt. Rusty Hinger seconded. The motion passed. The board provided direction for development of a timesheet and related policy for consideration at the next meeting. The proposed SWCD Program Coordinator job description will also be provided for board consideration at the next meeting.

## 12.0 Engineering Report

### 12.1 Upper Colorado & San Juan River Basin Recovery Implementation Program (time: 05:18:30)

Carrie Padgett provided her written board report. The Animas Watershed Partnership proposed a diversion improvement project, which required Section 7 consultation. As a result of the consultation, the diversion project was halted and the Recovery Program has proposed that the diversion be monitored.

Carrie directed the board to the recent WBWG presentation on the secondary impacts study.

### 12.2 Paradox Salinity Unit (time: 05:21:30)

Carrie summarized the general cooperating agency comments submitted to USBR on behalf of SWCD regarding the four proposed alternatives in the Paradox Valley Unit Administrative Draft Environmental Impact Statement (EIS). Carrie suggested the SWCD reach out to local communities once the draft EIS is released for public comment. USBR anticipates final EIS to be released in spring 2020. The board provided feedback.

## 13.0 General Counsel Legal Report (time: 05:31:00)

Beth Van Vurst reported on the following topics:

**Case No. 14CW3011, San Luis Valley Water Conservancy District:** The applicant has provided comments on the revised settlement proposal, which Beth and Frank will review for board discussion at the December meeting.

**BLM Substitute Water Supply Plan (SWSP) Application for the Treasure Pass Diversion Ditch:** No update.

**Waters of the United States (WOTUS):** The EPA and U.S. Army Corps of Engineer have signed a final rule repealing the 2015 rule. Once the 60-day period passes, the 2015 rule will not apply anywhere in the US. A new WOTUS definition is expected to be proposed in 2020.

**Regulation #93 – Colorado’s Section 303(d) List of Impaired Waters, and Monitoring and Evaluation List:** The rulemaking hearing is scheduled for early December, at which the 303 (d) List is updated. The deadline is October 2 to file for participation in the hearing. There was board direction that counsel communicate with DWCD on this topic.

**Water Court Resume Review (Divisions 3, 4, 7), including ratification of Statement of Opposition in the Application of Rehoboth Land Partners, LLC, Case No. 19CW3045, Water Division 4:** Charlie Smith moved to ratify the Statement of Opposition in the application of Rehoboth Land Partners, LCC, case number 19CW3045. Monte Naslund seconded. The motion passed.

## 14.0 Executive Session (continuation of 3.0) (time: 05:40:00)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing CWCB’s proposed instream flow appropriations on Disappointment Creek, and recognition and administration of pre-existing use occurring under C.R.S. § 37-92-102(3)(b). 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,” § 24-6-402(4)(e), and 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. Doug Stowe seconded. The motion passed.

Beth Van Vurst announced that the board was out of executive session at 4:45 p.m. The board discussed CWCB’s proposed instream flow appropriations on Disappointment Creek, and recognition and administration of pre-existing use occurring under C.R.S. § 37-92-102(3)(b). No action was taken during the executive session.

**15.0 Adjournment**

President Bob Wolff adjourned the meeting at 4:50 p.m.



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Bob Wolff, President