

**Southwestern Water Conservation District
Board of Directors Special Meeting & Teleconference
January 28, 2020**

Present: JR Ford[†] David Guilliams Rusty Hinger[†]
 Monte Naslund[†] Don Schwindt[†] Charlie Smith[†]
 Bob Wolff

Absent: Jenny Russell Doug Stowe

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[†]

Guests: Gail Binkly, Four Corners Free Press[†]
 Marcel Gaztambide, San Juan Citizens Alliance[†]
 Liz Payne, U.S. Congressman Scott Tipton[†]

†Participated by phone.

1.0 Call to Order

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

2.0 Review and Approve Agenda

(time: 00:01:50)

Frank Kugel requested an addition to the agenda of CWCB’s proposed instream flow appropriation on Spring Creek. There was board consensus to accept the proposed revision to the agenda.

3.0 Questions and Comments from Audience

(time: 00:03:15)

There were no public comments or questions.

4.0 Paradox Salinity Unit Draft Environmental Impact Statement

(time: 00:03:40)

Carrie Padgett reported that, thanks to the River District, the SWCD is now participating in the Colorado River Basin Salinity Control Forum. The public comment period on the Paradox Salinity Unit Draft Environmental Impact Statement was extended through February 19, 2020. At public meetings on the draft EIS in Paradox (about 30 attendees) and Montrose (about 15 attendees), there were significant concerns expressed regarding seismic consequences of the current deep injection wells and the proposed alternative for a replacement well. Cattle ranchers have expressed concerns about the proposed alternative to construct an evaporation pond. San Miguel County is considering support of the “no-action” alternative. Salinity concentrations may also have an impact on the movement of fish populations on the Lower Dolores. There is stakeholder discussion of hybrid alternatives that incorporate aspects of the current options proposed by Reclamation. SWCD has conducted general and individual outreach to the public in the Paradox area to encourage their engagement in this draft EIS comment period. SWCD has already submitted general comments as part of the stakeholder process. Frank recommended that SWCD consider submitting comments, a draft of which will be prepared for board consideration at the February meeting. There was board direction that SWCD staff continue engaging with the Salinity Control Forum and the State of Colorado.

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5.0 Legislative Update & Position on Bills

(time: 00:12:45)

The Colorado Water Congress (CWC) State Affairs Committee met on January 21st and 27th to discuss water legislation introduced thus far during the 2020 Legislative Session. Frank Kugel and Beth Van Vurst explained the bills, relayed questions, concerns and other feedback that have been raised regarding these bills to the board, and referenced the SWCD 2020 Legislative Update dated 1-27-20.

The following bills were discussed: SB 008 (Enhance Penalties Water Quality Criminal Violations), SB 024 (Require Public Input on Water Demand Management Program), SB 025 (Conservancy District Boards Art & Beautification Projects), SB 048 (Study Strengthening Water Anti-Speculation Law), SJR 003 (Water Projects Eligibility Lists), HB 1037 (Augmentation of Instream Flows), HB 1042 (PFAS Manufacturer Notice Requirements), HB 1069 (Add Water Well Inspectors and Identify High-Risk Wells), HB 1072 (Study Emerging Technologies for Water Management), HB 1094 (Repeal Fee Cap On-site Wastewater Treatment System), HB 1095 (Local Governments Water Elements in Master Plans), HB 1097 (Connected Municipal Use No Change if Already Quantified), HB 1119 (State Government Regulation of PFAS), HB 1138 (Public Real Property Index), HB 1143 (Environmental Justice and Projects Increase Environmental Fines), HB 1157 (Loaned Water For Instream Flows to Improve Environment), HB 1159 (State Engineer Confirm Existing Use Instream Flow), and HB 1164 (Housing Authority Exemptions from Water Fees).

Charlie Smith moved that SWCD support SJR 003 (Water Projects Eligibility Lists). Monte Naslund seconded. The motion passed.

The board directed State Affairs representatives to seek further clarification of what qualifies as a “high-risk well” under HB 1069 and which entities (e.g. water conservancy districts, water authorities) would be subject to reporting requirements under HB 1138. The board discussed concerns with HB 1157, including the degree to which the loans are “temporary”, the limited role of water court in the loan process, and the potential negative impacts for other agricultural water users.

Monte Naslund moved that SWCD support HB 1159 (State Engineer Confirm Existing Use Instream Flow). David Guilliams seconded. The motion passed.

6.0 CWCB Proposed Instream Flow Appropriation on Spring Creek

(time: 01:08:00)

Frank Kugel reported on the CWCB’s proposed instream flow (ISF) appropriation on Spring Creek, which is in the San Miguel Basin (Division 4). Spring Creek is an ephemeral stream, and the proposed ISF appropriation is for 1.1 cfs minimum flow from March 15 through May 31, which would endeavor to protect macroinvertebrates and riparian vegetation rather than fish populations, a nontraditional use of the ISF program. The owner of three intervening water rights and the property through which this reach of Spring Creek flows was not aware of this proposed ISF appropriation. Frank Kugel communicated with CWCB regarding the property owner’s concerns and as a result, the CWCB staff postponed asking the CWCB Board to declare its intent to appropriate this proposed instream flow right on Spring Creek.

7.0 Weather Modification Program Contracts, WY 2019-20

(time: 01:11:30)

Beth Van Vurst recommended this agenda item for executive session.

8.0 November 2019 Water Court Resume for Water Divisions 3, 4 & 7

(time: 01:12:00)

There is an application in the November 2019 Water Court Resume for Division 4 that Beth Van Vurst recommended for further board discussion in executive session.

9.0 Executive Session

(time: 01:12:45)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the weather modification program contracts weather year 2019-2020 and the November 2019 water court resume for Water Division 4. The statutes covering this session are § 24-6-402(4)(b), C.R.S., “conferences with an attorney

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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. David Guilliams seconded. The motion passed.

10.0 Report Out from Executive Session

(time: 01:15:40)

Beth Van Vurst announced that the board was out of executive session at 10:30 a.m. The board discussed the weather modification program contracts weather year 2019-2020 and the November 2019 water court resume for Water Division 4. No action was taken during the executive session.

David Guilliams moved to approve the weather modification contracts for weather year 2019-2020. Monte Naslund seconded. The motion passed.

Monte Naslund moved that SWCD file a statement of opposition in case number 19CW3087. Don Schwindt seconded. The motion passed.

11.0 Adjournment

Bob Wolff adjourned the meeting at 10:35 a.m.

Next Meeting

February 12-13, 2020	TBD	Regular Board Meeting
February 26, 2020	9:00am	Special Board Meeting & Teleconference



Robert Wolff, Board President