

Southwestern Water Conservation District
Board of Directors Meeting
February 12-13, 2020

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

Absent: Monte Naslund

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: Orla Bannon, Western Resources Advocates (Feb 13)
Ken Beegles, Animas La Plata Water Conservancy District (Feb 12-13)
Marcie Demmy Bidwell, Mountain Studies Institute (Feb 13)
Tom Burris, Upper Road 42 Water Association (Feb 12)
Peter Butler, Bonita Peak Community Advisory Group (Feb 12)
Elaine Chick, Water Information Program (Feb 13)
Ty Churchwell, Bonita Peak Community Advisory Group (Feb 12-13)
David Cook, Lindner Ranches (Feb 12 by phone)
Ken Curtis, Dolores Water Conservancy District (Feb 13)
Allison DiMarco, Upper Road 42 Water Association (Feb 12)
Robert DiMarco, Upper Road 42 Water Association (Feb 12)
Jordan Dimick, SGM (Feb 12 by phone)
Mandy Eskelson, Mountain Studies Institute (Feb 12)
Marcel Gaztambide, San Juan Citizens Alliance (Feb 12-13)
Mardi Gebhardt, Redmesa Reservoir & Ditch Company (Feb 12)
Rob Genualdi, Colorado Division of Water Resources (Feb 13)
Nathan Goodman, Conservation Colorado (Feb 13)
Jim Greer, Redmesa Reservoir & Ditch Company (Feb 12)
Randy Halls, Lindner Family Ranches (Feb 13)
Steve Harris, Interbasin Compact Committee (Feb 13)
Pat Hatch, Upper Road 42 Water Association (Feb 12)
Sarah Hatch, Upper Road 42 Water Association (Feb 12)
Celene Hawkins, The Nature Conservancy (February 13)
Kathy Hilimire, Fort Lewis College (Feb 12)
Emily Kayson, Southwest Conservation Corps (Feb 12)
Aaron Kimple, Mountain Studies Institute (Feb 12)
Amanda Kuenzi, Mountain Studies Institute (Feb 12)
Blake Mamich, Southern Ute Indian Tribe (Feb 12-13)
Phyllis McCoy, Lindner Ranches (Feb 12 by phone)
Linda Mount, Upper Road 42 Water Association (Feb 12)
Ed Millard, Interbasin Compact Committee (Feb 12 by phone, Feb 13)
Gary Muller, Animososa HOA (Feb 12)
Mike Nolan, Mancos Conservation District (Feb 12)
John Ott, Animas Water Company (Feb 12-13)
Gretchen Rank, Mancos Conservation District (Feb 12-13)
Ellen Roberts, Environmental Impact Fund (Feb 12)

Scott Roberts, Mountain Studies Institute (Feb 12)
John Simpson, Colorado Division of Water Resources (Feb 13)
Trent Taylor, Redmesa Reservoir & Ditch Company (Feb 12)
Chad Tidwell, Red Rock Range HOA (Feb 12)
Katherine Voiles, Upper Road 42 Water Association (Feb 12)
Mely Whiting, Trout Unlimited (Feb 13)

Wednesday, February 12, 2020

1.0 Call to Order – Roll Call and Verification of Quorum

President Bob Wolff called the meeting to order at 12:00 p.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:01:00)

There was unanimous consent to approve the agenda.

3.0 SWCD Director Appointments Archuleta, Dolores, San Miguel Counties *(time: 00:01:15)*

JR Ford (Archuleta County), Jenny Russell (San Miguel County), and Don Schwindt (Montezuma County) were all reappointed for a three-year term by their respective Boards of County Commissioners.

4.0 Election of Officers

(time: 00:02:05)

Bob Wolff was the only nomination for president and was elected by acclamation. Doug Stowe was the only nomination for vice president and was elected by acclamation. Jenny Russell and Charlie Smith were nominated for secretary-treasurer. Charlie Smith withdrew from consideration. Jenny Russell was elected by acclamation.

5.0 General Counsel Legal Services for 2020

(time: 00:08:45)

Beth Van Vurst announced that she will be opening her own law firm and has given notice to Fairfield and Woods. Her last day at that firm is February 21st. Beth also informed the board of their options as a Fairfield and Woods client: follow Beth to her new firm, stay with Fairfield and Woods, or engage new counsel. Fairfield and Woods and Beth Van Vurst will send a joint notice letter to SWCD outlining these three options. Beth provided details regarding the transition, should SWCD choose to engage Beth and her firm. SWCD's separate engagement letter with Michelle Magruder will not be impacted by this transition. Doug Stowe moved to authorize Bob Wolff to engage Van Vurst Law and direct Fairfield and Woods to transfer SWCD files to her new firm. Jenny Russell seconded. The motion passed unanimously.

6.0 SWCD Human Resources

6.1 Employee timekeeping, work logs and benefits

(time: 00:14:30)

Bob Wolff directed the board to the summary report of staff time by category generated by SWCD's Executive Director and Programs Coordinator (with help from Carrie Padgett) for the period October 16, 2019 through February 9, 2020. Laura Spann explained the Programs Coordinator report. Board discussion focused on Roundtable Recorder duties, bookkeeping, overtime, and staff development. There were board requests to add PTO and holiday hours to the summary report, as well as a category to track time spent on payroll. There was board consensus to direct staff to present the next summary report of their individual staff time for the August board meeting.

Laura Spann explained the District benefit summary document developed by staff. She summarized the District's current health insurance plan offering, benefits, and enrollment schedule.

7.0 Executive Session

(time: 00:59:45)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the compensation packages for SWCD's Executive Director and Programs Coordinator. 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)(1), C.R.S., “personnel matters.” Doug Stowe moved that the board go into executive session. Rusty Hinger seconded. The motion passed.

8.0 Report from Executive Session

(time: 01:00:50)

Beth Van Vurst announced that the board was out of executive session at 1:44 p.m. The board discussed the compensation packages for SWCD’s Executive Director and Programs Coordinator. No action was taken during the executive session.

9.0 SWCD Grant Program

9.1 2019 Grant Program Summary Report

(time: 01:01:30)

Laura Spann summarized the 2019 Grant Program Summary Report and detailed the status of previously committed grants. Final grant reports received to date were provided to the board. Several projects were granted extensions by the board or provided progress updates.

9.2 Review of 2020 SWCD Grant Program Criteria

(time: 01:05:45)

Laura Spann briefly summarized the 2020 grant program criteria adopted by the board. Applications were submitted mid-December, and since then SWCD has followed up with applicants to address outstanding questions. Applicants are aware of the staff recommendations for their grant.

9.3 2020 SWCD Grant Applications for Action

(time: 01:06:50)

Emergency Request

Red Rocks Range HOA – Tripp Lateral 416 Emergency Response

Chad Tidwell presented the request for \$54,200 to support mitigation efforts for the Tripp Lateral due to impacts from the 416 fire. The Tripp Lateral is fed by the Animas Consolidated Ditch and serves the Hermosa Company Ditch, Animosa Subdivision and the Red Rock Ranch (RRR) Subdivision, plus a few smaller users. RRR is the applicant, but the other users listed above would also benefit from this project. Debris flows from the 416 burn scar have buried the lateral infrastructure on multiple occasions. This project would continue efforts to excavate sediment from the ditches and construct sedimentation troughs to minimize future siltation. Chad and Laura answered board questions regarding the applicant match and NRCS engineering for flood and debris solutions at the Tripp Triangle.

Redmesa Reservoir & Ditch Company – Reservoir Enlargement Final Engineering

Trent Taylor, Jim Greer, Mardi Gebhardt, and Jordan Dimick presented the request for \$75,000 to support a reservoir enlargement final engineering study. Redmesa Reservoir, also known as Red Mesa Ward or Mormon Reservoir, is an 1,176 acre-foot reservoir located on Hay Gulch in the La Plata River drainage. The water rights for this reservoir were decreed in 1965 but appropriated prior to the Colorado River Compact. The dam at Redmesa has been deemed unsafe by the Dam Safety Branch of the State Engineers Office due to its inadequately sized spillway. The estimated cost to enlarge the spillway is \$7 million. In order to access additional state funding, the owners are considering a reservoir enlargement of 1,190 acre feet. Their funding request would enable final design of the project, contingent upon securing a CWCB loan. The applicant responded to board questions regarding the potential basin-wide benefits of the reservoir.

Water Supply & Watershed Restoration Requests

FS Mockler Ditch – Ditch Rehabilitation

Phyllis McCoy and David Cook presented the request for \$75,000 to support rehabilitation of the FS Mockler Ditch. The F S Mockler Ditch diverts water from Cimarrona and Williams Creeks in the Piedra River basin. This ditch is decreed for 15 cfs with a pre-compact appropriation date and is senior to a transmountain diversion above it. The project involves replacement of a diversion structure and installation of 1000 feet of 36” diameter pipe. The ditch is in significant disrepair and in jeopardy of being abandoned if needed improvements are not

built. It was noted that this water right was flagged by Bruce Whitehead as a valuable pre-compact use in the Piedra River basin that should be maintained.

Mountain Studies Institute – Wildfire Mitigation Environmental Impact Fund

Aaron Kimple and Ellen Roberts presented the request for \$49,998 to support the Wildfire Mitigation Environmental Impact Fund (EIF). The funding would assist Mountain Studies Institute and other project partners in answering key stakeholder questions around creating a financing mechanism that can fund the treatment of forested lands in the San Juan National Forest and in adjacent communities in the wildland-urban interface (WUI). The project would support the implementation of forest health treatments on over 64,000 acres of land in the San Juan and Animas river basins in Southwest Colorado. This project would examine current risks to assets, including water resources and storage capacity, and work with water districts and other stakeholders to refine the treatment area and structure a multi-party entity that can coordinate payments from beneficiaries of the treatments to repay debt assumed to finance the treatments. The applicant answered board questions regarding opportunities for Colorado Water Resources & Power Development Authority to provide forest management financial support. JR Ford clarified that the EIF area and his Forest Health Company do not overlap boundaries, so he doesn't have a conflict of interest in voting on this grant application.

Southwest Conservation Corps – Dolores River Restoration Partnership

Emily Kasyon presented the request for \$25,000 to support the Dolores River Restoration Partnership, which is a public-private collaborative working to remove invasive phreatophytes and other noxious weeds to restore native vegetation communities and overall ecological function along the Dolores River. This project would include follow-up treatments and active revegetation along the Dolores River riparian corridor in San Miguel and Montrose counties.

Upper Road 42 Water Association – Water Extension Phase I (Engineering)

Tom Burris, along with numerous Association members, presented the request for \$11,130 to support Phase I of the Water Extensions Engineering Study for the Upper Road 42 Water Association. This project would design, construct, and install an extension of the Mancos Rural Water Company water system in order to provide domestic water to 24 residences near Jackson Gulch Reservoir. This would involve construction of a pump station and installation of 12,000 feet of 4-inch water line and a 20,000-gallon water tank. Ryan Unterreiner, Colorado Parks and Wildlife, called prior to the board meeting to offer support for this grant application. There was board discussion regarding whether or not this grant application qualifies for SWCD funding, given the restriction on treated water projects.

Public Forums, Studies, Planning, Workgroups Requests

Fort Lewis College – Water Action Plan Scoping Project

Kathy Hilimire presented the request for \$6,000 to support proposed scoping for Fort Lewis College's Water Action Plan. The goal of the proposed project is to conduct a strategic planning session and preliminary data gathering and mapping that will provide the foundation for a future Campus Water Action Plan at Fort Lewis College (FLC). The project will be divided into four tasks: 1) A report on the results of a strategic planning effort to determine priorities for a future water planning effort; 2) a summary of past efforts to survey campus attitudes and behaviors related to water and plan for a larger survey effort; 3) a summary of a preliminary water audit of campus water use and feasibility of a future campus-wide indoor/outdoor water audit; and 4) a preliminary GIS map of campus water infrastructure to be used as a base map for future campus-water mapping efforts. Information gathering in this preliminary scoping effort will be used to develop a plan for a larger campus water planning effort.

Mancos Conservation District – Watershed Stream Management Plan

Mike Nolan and Gretchen Rank presented the request for \$16,000 to support the Mancos Watershed Stream Management Plan, which seeks to improve water security for all water uses and values in the Mancos watershed by protecting existing uses, meeting user shortages, and maintaining a healthy riverine ecosystem in the face of future demands and climate uncertainty. The geographic focus of this effort is the entire Mancos River watershed. This diverse area encompasses Forest Service lands and Bureau of Reclamation facilities at the top end of the

watershed, a productive irrigated valley in the middle, and Tribal and National Park lands towards the bottom end.

Mountain Studies Institute – 416 Fire Aquatic Monitoring

Scott Roberts presented the request for \$7,800 to support ongoing 416 fire aquatic monitoring. Mountain Studies Institute submitted this application on behalf of the 416-Fire Aquatic Monitoring Research Group, which formed to investigate impacts to water quality and aquatic life from the 2018 416-Fire in southwest Colorado. The research group consists of scientists from Mountain Studies Institute, Colorado School of Mines, and the US Forest Service Rocky Mountain Research Station. This project contains the following objectives: 1) evaluate water quality impacts to Hermosa Creek and the Animas River from the 416-fire in context of the use of these waters for irrigation, water supply, recreation, and aquatic life; 2) document the recovery of water quality and aquatic life following the 416-Fire to share with concerned public members and more broadly to further our understanding of the recovery of river health after wildfire; and 3) establish monitoring sites on Hermosa Creek and Junction Creek to serve as watershed comparisons of differing forest health, fire history, and forest health treatments.

San Juan RC&D – Bonita Peak Community Advisory Group

Peter Butler presented the request for \$20,000 to support the Bonita Peak Community Advisory Group (Bonita Peak CAG). This group is continuing efforts to collect water quality data, analyze all new and existing Animas River data, and to use that information as a basis for community input into developing goals for mine cleanup in the Bonita Peak Mining District (BPMD) Superfund site by both federal and state agencies.

Trout Unlimited – Upper San Juan Watershed Enhancement Partnership Phase II

Mandy Eskelson presented the request for \$20,000 to support Phase II of the Upper San Juan Watershed Enhancement Partnership. The primary objective of this proposal is to develop technical information necessary to identify environmental and recreational water supply needs, agricultural irrigation structural needs, and to begin identifying opportunities for cooperative projects to address the multiple water needs of the project area. The project area is situated in the Upper San Juan River Basin from the Continental Divide to downstream of the Town of Pagosa Springs. The irrigation structural needs assessment portion of the project will expand beyond this area and into the Navajo and Rio Blanco basins.

The board adjourned for a short break.

Educational Requests

Mountain Studies Institute – Forest to Faucets Teacher Training Program

Amanda Kuenzi presented the request for \$2,000 to support the Forest to Faucets Teacher Training Program. This proposal was submitted by MSI in partnership with San Juan Mountains Association, Fort Lewis College and the Water Information Program (WIP). The purpose of the 2020 Workshop is to train 15-20 teachers in the Animas/San Juan River Basin about the importance and interconnection of healthy watersheds to area water supplies through a two-day field-based course, including an educational tour. This workshop will be appropriate for teachers of K-12 classrooms. The 2020 workshop will focus on the Upper San Juan River Basin.

2020 Grant Application Consideration

(time: 02:42:30)

Frank Kugel directed the board to a short memo summarizing each application and the staff recommendations. There was further board discussion regarding the Upper Road 42 Water Association application, the Upper San Juan Watershed Enhancement Partnership application, and the grant program guidelines related to treated water projects, disbursement, and other funding commitments.

Charlie Smith moved to approve all 2020 grant applications in full (in excess of the category limits established in the guidelines), excluding Upper Road 42 Water Association, and those that require securing additional funding demonstrate that prior to disbursement. David Guilliams seconded. There was board discussion. General counsel cautioned against going outside the category funding limits outlined in the approved 2020 SWCD grant program guidelines. The motion failed 2-6.

Don Schwindt made a motion to:

- Deny the Upper Road 42 Water Association application;
- Approve all other applications for the full amount in the Emergency, Water Supply and Water Restoration, and Education categories;
- Approve all applications in the reduced amount as pro-rated by staff for the Public Forums and Studies category;
- Condition approval of the FS Mockler Ditch application on formation of a mutual ditch company; and
- Condition all grant disbursements on documentation that all other funding has been committed.

Rusty Hinger seconded. The motion passed.

9.4 Board Feedback on Grant Program (Process, Criteria) and Wrap Up

(time: 03:22:30)

There was board consensus to direct staff to draft revisions to the SWCD grant program guidelines for 2021 that would further clarify 1) the board's prohibition on funding treated supplies or infrastructure and 2) the requirement that applicants provide documentation, prior to grant disbursement, that all other project funding commitments have been secured. The board may also consider adjusting the grant funding allocations by category, adding clarification regarding how the five-year funding limits apply for fiscal agents, and adding a limitation on administrative overhead.

Thursday, February 13, 2020

10.0 Call to Order – Roll Call and Verification of Quorum

(time: 03:43:15)

President Bob Wolff called the meeting to order at 8:30 a.m. Roll was taken, and a quorum established.

11.0 Review and Approve Agenda

(time: 03:44:00)

Beth Van Vurst recommended that Paradox Salinity Unit Draft Environmental Impact Statement, which is listed as a topic under the Engineering Report, be added as a topic for executive session. There was unanimous consent to approve this suggested revision to the agenda.

12.0 Executive Session

(time: 03:45:00)

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 the exploration of demand management; case number 05CW88, San Juan County Water Rights; case number 09CW51, La Plata Basin Exchange; case number 18CW3052, Montezuma Valley Irrigation Company; and Paradox Salinity Control Unit Draft Environmental Impact Statement.

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." Don Schwindt disclosed that he is a Montezuma Valley Irrigation Company shareholder and Dolores Water Conservancy District board member. Both entities are parties to case number 18CW3052, so Don recused himself only from the portion of executive session related to case number 18CW3052. David Guilliams moved that the board go into executive session. Charlie Smith seconded. The motion passed.

13.0 Report from Executive Session

(time: 03:50:00)

Beth Van Vurst announced that the board was out of executive session at 10:13 a.m. The board discussed Colorado River interstate and intrastate matters, including drought contingency planning and the exploration of demand management; case number 05CW88, San Juan County Water Rights; case number 09CW51, La Plata Basin Exchange; case number 18CW3052, Montezuma Valley Irrigation Company; and Paradox Salinity Control Unit Draft Environmental Impact Statement. Don Schwindt did not participate in the discussion related to case number 18CW3052. No action was taken during the executive session.

14.0 Approve and/or Remove Consent Agenda Item

(time: 03:51:30)

There was board consensus to approve the consent agenda.

15.0 Introductions

(time: 03:52:30)

Introductions were made.

16.0 Consent Agenda

(time: 03:56:20)

16.1 Approval of Minutes (December 5, 2019; January 15, 2020; January 28, 2020)

16.2 Resolution 2020-01 Meeting Posting Location

Doug Stowe moved to approve the consent agenda items. Rusty Hinger seconded. The motion passed.

17.0 Reports

17.1 Approval of Treasurer's Report

(time: 03:56:50)

Laura Spann summarized the Treasurer's Report, including trends in income and expenses from the year end 2019 budget comparison, the check detail for November-December 2019, and the bank account summary for January 2020. Laura will provide balances for the Project Reserve Fund and Emergency Reserve Fund at the April board meeting. Doug Stowe moved to approve the Treasurer's Report. David Guilliams seconded. The motion passed.

17.2 Partner Updates

(time: 04:05:00)

Colorado Division of Water Resources

Rob Genualdi and John Simpson (Division 7) reported that snowpack is 100% of average today. Some leakage was identified at Electra Lake last summer. Some repairs have been made, and storage will be limited through 2020. The gate at Haviland Lake failed. Repairs should be made this spring 2020, with a goal of refilling in summer 2020. Redmesa Reservoir's spillway has long been identified as inadequate, but funding has been an obstacle to addressing the issue. The Colorado Division of Water Resources has offered to be a partner in solutions for Redmesa Reservoir, given some exchange opportunities to improve the state's position in the La Plata River Compact.

Water Information Program

Elaine Chick reported on the Water Festival Coordinators and PEPO liaison meetings held in conjunction with the Colorado Water Congress Annual Conference. Elaine has approved the Southwest Basin Education Action Plan for the Roundtable. She will be contracting with Christi Bode to develop a short video on the southwest basins utilizing PEPO funds available from the CWCB. Elaine will be coordinating with several stakeholders to contribute to the video's production.

Bonita Peak Community Advisory Group

Ty Churchwell reported that the Bonita Peak Mining District has been selected by the U.S. Environmental Protection Agency (EPA) as one of six Superfund Sites in the country to employ an adaptive management plan. The Bonita Peak Community Advisory Group (CAG) have arrived on consensus recommendations for the adaptive management plan, and the EPA has fully adopted those recommendations within the adaptive management plan. Ty detailed some of the specific priorities for reclamation and water quality improvements above Silverton.

San Juan Citizens Alliance

Marcel Gaztambide is concerned that the president's budget includes a 26% cut to EPA funding, which may impact the agency's ability to follow through on work in the Bonita Peak Mining District. Riverkeepers in Colorado are also monitoring the new Waters of the United States definition under the Clean Water Act, and how it impacts protection for ephemeral streams and wetlands. Marcel invited everyone to attend the BANFF Mountain Film Festival on at Fort Lewis College on February 28-29. San Juan Citizens Alliance is also planning a group float of the Lower Animas River on May 31st.

Western Resource Advocates

Orla Bannon reported on grant writing and grant implementation support that Western Resources Advocates is offering entities that undertake water conservation projects and planning grants. A training workshop may be held in southwestern Colorado in August 2020.

Mountain Studies Institute

Marcie Demmy Bidwell reported on MSI's work in forest health, water and science. An advisory committee is being formed through the US Forest Service to guide projects and funding for the Rocky Mountain Restoration Initiative. Marcie also thanked the board for supporting the Environmental Impact Fund. MSI is supporting the Animas River Community Forum, which has developed a 416 restoration and recovery plan for the basin. MSI is also helping to maintain three climate stations. MSI thanked SWCD for supporting the continuation of the Red Mountain SNOTEL site. MSI continues to work on development of the Silverton Reclamation Science and Information Center.

Dolores Water Conservancy District

Ken Curtis reported that DWCD is coordinating with Fort Lewis College and the Lower Dolores monitoring group to gather data on the fish species of "outstanding remarkable value." DWCD is also working with Upper Dolores collaboratives to address water quality and supply issues related to forest health. DWCD, as the new fiscal agent, will be sending over an invoice for the weather modification program shortly.

Conservation Colorado

Nathan Goodman reported on Conservation Colorado's support for three state legislative efforts: first, to secure \$10 million in funding for water plan implementation as recommended by Governor Polis; second, to give local governments authority to include water plan implementation in their community planning (HB20-1095); and third, to enhance the temporary instream flow loan program (HB20-1157). At least 75 people attended an event hosted by Conservation Colorado at 4 Corners Riversports regarding the Colorado Water Plan.

Southern Ute Indian Tribe

Blake Mamich reported that the Southern Ute Indian Tribe is working with the CWCB regarding renegotiation of the 2007 Interim Guidelines and feasibility of demand management. The Tribe remains engaged with the 10 Tribes Partnership. The Tribe is currently undertaking an emergency rehabilitation of the Pine River Irrigation Project, which they hope to have completed before irrigation season starts.

17.3 Board Member Updates

(time: 04:39:00)

JR Ford (Archuleta County)

There were no major updates.

Charlie Smith (San Juan County)

Frank Kugel and Charlie met with the San Juan County Commissioners regarding the 05CW88 conditional water rights, among other water issues.

Rusty Hinger (Mineral County)

The USFS and Colorado Parks and Wildlife (CPW) are pursuing habitat improvements along Fall Creek to support San Juan lineage of Colorado cutthroat trout.

Don Schwindt (Montezuma County)

Don summarized his reflections on the Colorado Water Congress Annual Conference, emphasized the challenge and need for voices that represent water users, and noted the lack of water user presence in the SWCD board meeting audience.

David Guilliams (Hinsdale County)

There were no major updates. David attended Colorado Water Congress Annual Conference and learned a lot.

Jenny Russell (San Miguel County)

Telluride has good snowpack for the moment. Norwood is relatively dry. Frank will attend the San Miguel County Commissioners meeting with Jenny in April. He also recently attended the San Miguel Watershed Partnership meeting, and was invited to the Farmers Water Development Company Annual Meeting on February 15th.

Doug Stowe (Dolores County)

There were no major updates from Dolores County, and people are concerned about the weather pattern shifting precipitation away from the Four Corners region.

Bob Wolff (La Plata County)

La Plata County is in D2 drought.

17.4 Highlights: Colorado Water Congress Annual Conference

(time: 04:48:10)

Board members and staff shared their insights from the Colorado Water Congress Annual Conference. Christine Arbogast, Kogovsek and Associates, received the 2020 Aspinall Award.

17.5 Board Committee Reports: Strategic Planning

(time: 04:59:00)

Bob Wolff reported on the first Board Strategic Planning Committee meeting held yesterday, February 12th. At the meeting, the committee began revision of the draft SWCD goals document. Laura Spann directed the board to unofficial notes from the November Finance Committee meeting.

17.6 Hydrologic Conditions Update

(time: 05:00:15)

Frank Kugel reported that it's drier than normal as weather patterns are guiding storms to New Mexico or northern Colorado mountains. The Colorado River Basin Forecast Center anticipates an 85% runoff, given the dry soil conditions.

17.7 Office Update

(time: 05:02:30)

Laura Spann gaged board interest in the Lower Arkansas Basin Tour (June 2-3, 2020), which was not enough to consider rescheduling the June board meeting. The River District is coordinating a Lower Colorado River Basin Tour for November 10-13, 2020. SWCD's phone system upgrade will soon be online. Frank asked Rob Genualdi regarding the abandonment process for Division 7, and he described the steps for assessing if there is an intent to abandon a water right.

18.0 Questions & Comments from the Audience

(time: 05:11:00)

There were no questions or comments from the audience.

19.0 Old Business

19.1 Colorado River matters

19.1.1 Interstate and intra-state matters, including drought contingency planning effort and exploration of demand management

(time: 05:11:45)

CWCB Demand Management Workgroup participants relayed highlights from recent meetings. Frank Kugel reported on the Administration and Accounting workgroup, which consists primarily of current and former DWR employees and has discussed the limited implementation statewide of alternative transfer methods for agriculture.

Carrie Padgett reported on the Monitoring and Verification workgroup, which most recently discussed the potential use of remote sensing data to verify full or partial fallowing and ideas for monitoring and verifying agricultural demand management projects. The next meeting will focus on verification for municipal or industrial demand management program participation.

Beth Van Vurst reported on the Law and Policy workgroup, which consists of several water attorneys and has met twice. Discussion has focused on defining terms and how participants could qualify to participate in a proposed demand management program.

Laura Spann reported on the Education and Outreach workgroup, which met on February 10th and identified common understanding of terms, improved branding, and a change of tone as threshold communication issues for any potential demand management program to be feasible in Colorado.

Mely Whiting reported on the Environmental Considerations workgroup, which has met twice but did not have a lot to report to date. Ken Curtis reported on the Agricultural Impacts workgroup, which has been reviewing the results of the System Conservation Pilot Program and other partial fallowing efforts in the Grand Valley. Ed Millard sat in on the Economics and Local Government meeting and provided comment.

There is a joint IBCC/Demand Management Workgroup meeting scheduled for March 4-5, 2020.

Kevin Rein, State Engineer, presented at Colorado Water Congress Annual Conference on the factors that may be considered in any compact administration scenario on the Colorado River. He also addressed the interaction that would need to take place with the Upper Colorado River Commission before any compact administration would be considered. He also mentioned rules regarding measurement that might need to be implemented on the Western Slope.

19.1.2 Colorado River Water Bank Working Group

(time: 05:32:00)

Carrie Padgett reported that the Water Bank Working Group is scheduling a second round of workshops and reviewing preliminary results for the Secondary Impacts study. She also summarized the water management scenarios to be modeled in the study.

The board adjourned for lunch.

19.2 Legislative Update & Position on Bills

(time: 05:34:45)

The Colorado Water Congress (CWC) State Affairs Committee met on February 3rd and 10th 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. They referenced the SWCD 2020 Legislative Update dated 2-10-20.

The following bills were discussed: SB 008 (Enhance Penalties Water Quality Criminal Violations), SB 153 (Water Resource Financing Enterprise), SB 155 (Keep Presumption Noninjury Well on Divided Land), SB 159 (Global Warming Potential for Public Project Materials), 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), HB 1164 (Housing Authority Exemptions from Water Fees), HB 1172 (No Abandonment of Water Rights for Efficiencies), HB 1233 (Basic Life Functions in Public Spaces), SB 024 (Require Public Input on Water Demand Management Program), and HB 1069 (Add Water Well Inspectors Identify High-Risk Wells).

The following motions were made regarding SWCD positions on proposed legislation:

- Charlie Smith moved to support SB 008 (Enhance Penalties Water Quality Criminal Violations). Jenny Russell seconded. The motion failed 2-5.
- Don Schwindt moved to oppose HB 1138 (Public Real Property Index). Bob Wolff seconded. The motion passed 7-1.
- David Guilliams moved to oppose HB 1164 (Housing Authority Exemptions from Water Fees). Rusty Hinger seconded. The motion passed.
- Doug Stowe moved to support HB 1172 (No Abandonment of Water Rights for Efficiencies). JR Ford seconded. The motion passed.

19.2.1 Concept: Expansion of Water Conservation Program to Division 7*(time: 06:29:20)*

Frank Kugel summarized the current protection available to water conservation program participants in Divisions 1-6 that subsequently seek to change their water rights in water court. He provided background on the legislative evolution of the statute that provides this protection, and SWCD's past positions on the legislation when it was established in 2013 in Divisions 4-6 and then extended in 2017 to Divisions 1-3.

Mely Whiting, Trout Unlimited, asked SWCD to support a legislative effort to extend this statutory protection to water conservation program participants to Division 7. In addition, Mely requested that SWCD consider adopting a water conservation program, like that of the River District, to ensure local input on program applications. The Colorado Water Trust has processed eight water conservation program applications statewide since 2013. SWCD received letters of support for extending this statutory protection to water conservation program participants in Division 7 from the Mancos Conservation District, Wolcott Ranch, Lindner Ranch, San Juan Water Conservancy District, and Florida Consolidated Ditch Company. Celene Hawkins, The Nature Conservancy, added that she has heard feedback from water users in Division 7 who have wondered why this protection isn't available to them. Gretchen Rank, Mancos Conservation District, and Randy Hall, Lindner Family Ranch, expressed support for this request and explained why the legislative change would provide opportunities for them.

Beth Van Vurst clarified that this request relates to C.R.S. § 37-92-305(3)(c), which applies to a change of water right proceeding before the Water Court. C.R.S. § 37-92-105 also provides some protection for water conservation program participants, but it already applies statewide and relates to abandonment claims.

It was also clarified that the proponents of this proposal have not spoken to the potential bill sponsors but did hope to introduce legislation to address this change in the 2020 session, should SWCD support the effort.

There was board discussion regarding the timing of consideration of proposed legislation and SWCD could establish a program that uniquely addresses needs in southwestern Colorado. Ed Millard asked for clarification regarding how this statutory change would relate to the current demand management feasibility investigation. Beth Van Vurst read the statutory language in C.R.S. § 37-92-305(3)(c), which does include protection in the case of land following programs that provide water for compact compliance. Ed Millard suggested that the statute was drafted in 2013 to open the door to participation in a demand management program.

Charlie Smith moved to support Trout Unlimited and The Nature Conservancy's efforts to amend section 37-92-305(3)(c) to include Water Division 7. David Guilliams seconded. The motion passed unanimously.

19.3 CWCB Instream Flow Program**19.3.1 2020 Proposed Appropriations in Division 4 and 7***(time: 07:00:00)*

Frank Kugel reported on CWCB's Notice of Intent to appropriate an instream flow on Spring Creek, which is tributary to Tabeguache Creek near Uravan in Division 4. One of the intervening water rights holders was not notified of this proposed instream flow appropriation, which Frank brought to the attention of the CWCB staff and board. As a result, the CWCB staff pulled the Notice of Intent from January board consideration and postponed action until 2021. Meanwhile, Frank learned of another water rights holder who was also not notified by the BLM. Of note, the proposed Spring Creek instream flow appropriation would protect macroinvertebrate populations and the riparian community, which may be an expansion of the instream flow program. Frank will be monitoring this issue.

19.4 San Juan County Commissioners Meeting (05CW88 Conditional Water Rights)*(time: 07:05:00)*

Frank Kugel reported that, pursuant to the Memorandum of Understanding between San Juan County and SWCD, Charlie Smith and he had a semi-annual meeting with the San Juan County Commissioners at which both parties discussed the progress of development of the 05CW88 conditional water rights. Diligence is due in August 2020, for which San Juan County provided an update on recent activities.

20.0 New Business

20.1 2020 CWC Water Stewardship Project Funding Request

(time: 07:06:30)

Frank Kugel reported that the Colorado Water Congress has made a general funding request to support the Water Stewardship Project, and he recommended that SWCD consider supporting the project in the amount of \$2,000. There was board consensus to direct staff to disburse \$2,000 to the Colorado Water Congress Water Stewardship Project.

20.2 Update: 2020 SWCD Annual Water Seminar

(time: 07:08:50)

The 2020 SWCD Annual Water Seminar, "Wading into Watershed Health," is scheduled for Friday, April 3, 2020. Frank Kugel listed confirmed speakers. A draft agenda will be released in the coming weeks.

20.3 Update: Center for Snow & Avalanche Studies

(time: 07:12:15)

Jeff Derry summarized recent monitoring and data collection by the Center for Snow & Avalanche Studies, and how local water managers utilize that information for real time decision making. He also presented recent activities of the Colorado Dust on Snow program. He relayed the various tools available from the Center available to stakeholders and water managers. Jeff Derry also reported on the SnowEx effort to ground truth remote snowpack sensing. He invited the public and board members to follow updates via email and online.

Kogovsek & Associates

(time: 07:33:25)

The SWCD board congratulated Christine Arbogast, Kogovsek & Associates, on her 2020 Aspinall Award. Christine summarized two primary water infrastructure and supply bills for consideration during the 2020 session. Reclamation has received additional congressional funding in the past year, with much of those resources dedicated to rural water projects. Among several bills Christine mentioned, Senator Bennet has introduced a bill to authorize Reclamation to partner with local agencies to prevent the spread of aquatic nuisance species. Christine Arbogast is now president of the National Water Resources Association.

21.0 Engineering Report

Carrie Padgett reported on the following topics:

21.1 Upper Colorado & San Juan River Basin Recovery Implementation Program

(time: 07:43:00)

At December meetings, Carrie monitored carefully efforts to expand recovery program activities into the Animas Basin and urged that any proposed Animas project go through the normal comment and review process. In mid-February, Carrie will attend two all-day Biology Committee meetings at San Juan College. There was board consensus to direct Carrie to participate in the March trip to DC to update congressional staff on the recovery program.

Carrie is also participating in an Alternative Transfer Methods Advisory Committee coordinated by the CWCB, which has met once.

The Animas Watershed Partnership has executed two Reclamation grants for a best management practices assessment on the Florida River and a review of several diversions on the Lower Animas in New Mexico.

21.2 Paradox Salinity Unit Draft Environmental Impact Statement

(time: 07:49:10)

Since the last meeting, Carrie has reviewed the Paradox Salinity Unit Draft Environmental Impact Statement and engaged with the River District, the Paradox Salinity Control Forum, and other local stakeholders. Doug Stowe moved to direct Carrie to submit a comment letter to Reclamation by February 19th in support of the evaporation pond alternative, with elimination of wildlife impacts to the extent possible consistent with what CPW and CDPHE have proposed, and continued use of existing well in the interim period to a lesser extent than usual operations to limit seismic activities. Don Schwindt seconded. The motion passed.

22.0 General Counsel Legal Report

Beth Van Vurst reported on the following topics:

22.1 Case No. 18CW3052, Montezuma Valley Irrigation Company

(time: 07:54:45)

This item was discussed in executive session. Case No. 18CW3052 is still before the water referee. Frank and Beth are currently reviewing the proposed ruling and engineering from the applicant.

22.2 Waters of the United States

(time: 07:55:15)

The new Waters of the United States definition under the Clean Water Act has been released. There was board consensus to seek stakeholder analysis of the WOTUS rule via Christine Arbogast and the Family Farm Alliance.

22.3 December and January Water Court Resume Review (Divisions 3, 4, 7)

(time: 07:57:15)

There were no applications in the December and January water court resumes for Divisions 3, 4 and 7 that warrant a filing of statement of opposition from SWCD.

23.0 Executive Session (if needed)

An afternoon executive session was not necessary.

24.0 Adjournment

President Bob Wolff adjourned the meeting at 3:45pm.



Bob Wolff, President