

**Southwestern Water Conservation District
Board of Directors Regular Meeting by Teleconference
April 2, 2020**

Present: Bob Wolff JR Ford David Guilliams
Monte Naslund (joined after 9:15am) Charlie Smith Don Schwindt
Rusty Hinger 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, Van Vurst Law

Guests: Orla Bannan, Western Resources Advocates
Elaine Chick, Water Information Program
Clyde Church, La Plata County Commissioner
Ken Curtis, Dolores Water Conservancy District
Marcel Gaztambide, San Juan Citizens Alliance
Blake Mamich, Southern Ute Indian Tribe
Chris Mannara, Pagosa Springs Sun
Ed Millard, Southwest Basins Roundtable
Mark Ragsdale, Colorado Division of Water Resources (Division 4)
Sandy Ragsdale, Colorado Division of Water Resources (Division 4)
Gretchen Rank, Mancos Conservation District
Gigi Richard, Four Corners Water Center at Fort Lewis College
Ryan Unterreiner, Colorado Parks & Wildlife

1.0 Call to Order – Roll Call and Verification of Quorum

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

2.0 Review and Approve Agenda

(time: 00:02:40)

There was unanimous consent to approve the agenda as posted.

3.0 Executive Session

(time: 00:03:15)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing Colorado River interstate and intrastate matters, including re-negotiation of the interim guidelines, drought contingency planning and exploration of demand management; joint SWCD/River District proposed agreement with Hydros Consulting for Colorado River Basin Modeling; and the proposed extension of C.R.S. 37-92-305(3)(c) to Water Division 7. 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.” JR Ford moved that the board go into executive session. Rusty Hinger seconded. The motion passed by unanimous consent.

4.0 Report from Executive Session

(time: 00:06:00)

Beth Van Vurst announced that the board was out of executive session at 9:19 a.m. The board discussed the joint SWCD/River District proposed agreement with Hydros Consulting for Colorado River Basin Modeling and the proposed extension of C.R.S. 37-92-305(3)(c) to Water Division 7. No action was taken during the executive session.

There was insufficient time to discuss Colorado River interstate and intrastate matters, including re-negotiation of the interim guidelines, drought contingency planning and exploration of demand management. That agenda item will be addressed in a second executive session toward the end of the meeting.

Don Schwindt moved that SWCD approve payment in the approximate amount of \$6,000 for the first phase of the joint SWCD/River District agreement with Hydros Consulting for Colorado River Basin Modeling and remain directly involved in developing the scope of work for Hydros Consulting. Charlie Smith seconded. The motion passed by unanimous consent.

5.0 Approve and/or Remove Consent Agenda Item

(time: 00:08:45)

There was board consensus to approve the consent agenda as noticed.

6.0 Introductions & Instructions

(time: 00:09:35)

Guidelines for Zoom meeting participation were reviewed and the remaining participants were identified.

7.0 Consent Agenda

(time: 00:13:15)

7.1 Approval of Minutes (February 12-13, February 26, March 11, March 18)

7.2 Approval of the Treasurer's Report (February 2020)

7.3 SWCD Policy: Public Access to Records, Research & Retrieval Fee

The SWCD Policy regarding Public Access to Records was updated and amended to reflect an increase in the research and retrieval fee from \$30 to \$33.58 per hour, after the first hour of time. David Guilliams moved to approve the consent agenda items. Rusty Hinger seconded. The motion passed by unanimous consent.

8.0 Reports

8.1 Board Committee Reports: Strategic Planning

(time: 00:15:25)

Laura Spann directed the board to the summary of the February Strategic Planning Committee meeting. A verbal report on this Committee meeting was provided at the February regular board meeting.

8.2 Schedule Upcoming Board Committee Meetings

(time: 00:16:25)

There was board consensus to generally hold either a remote Board or Committee meeting each Wednesday at 9:00am.

8.3 Hydrologic Conditions Update

(time: 00:19:30)

Frank Kugel reported that snowpack for the San Juan and Dolores Basins is currently at 98% of normal. He detailed reports from several local SNOTEL sites. The short-range forecast anticipates average temperatures and above-normal precipitation. The April-June forecast shows a trend towards above-normal temperatures and a below-normal precipitation.

8.4 Office Update

(time: 00:23:00)

Frank Kugel provided a detailed report from the March Law of the River Conference in Scottsdale. Board members asked for more information regarding the tribal water marketing presentation. Jenny Russell thanked Frank for the detailed written report on the conference. Southwest Pro Audio is working on installing an overhead projector, TV screens, microphones and other audiovisual upgrades to SWCD's conference room.

9.0 Questions & Comments from the Audience

(time: 00:30:05)

Orla Bannan, Western Resources Advocates (WRA), updated the board on the May 14th grant writing workshop in the southwest region, which will likely be postponed. WRA continues to provide direct assistance to individuals and organizations writing grants related to water conservation upon request.

Elaine Chick, Public Education Participation and Outreach (PEPO) Liaison, reported that an initial meeting was held to outline the scope of the short educational video on water issues in southwestern Colorado.

La Plata County Commissioner Clyde Church asked for an update regarding the storage restriction on Red Mesa Reservoir. Dam rehabilitation cost estimates have reduced significantly, from seven to less than three million dollars. The Federal Emergency Management Agency (FEMA) may also have hazard mitigation funding available for dam rehabilitations. The Red Mesa Reservoir and Ditch Company is working to secure a CWCB loan. SGM's final engineering report is scheduled to be completed by the end of May.

Dr. Gigi Richard, Fort Lewis College, reported that the remainder of the spring and beginning of the summer semesters will continue with classes held remotely. The Four Corners Water Center at Fort Lewis College has also cancelled or postponed its upcoming events, except for the Water Happy Hours, which will continue virtually. Student internships may be delayed, but the student water club continues to meet virtually.

Mark & Sandy Ragsdale joined the call and asked if the board took a position regarding the proposed extension of C.R.S. 37-92-305(3)(c) to Water Division 7.

Ryan Unterreiner, Colorado Parks & Wildlife (CPW), reported that hunting and fishing licenses have not been canceled or postponed, contrary to some social media posts and other rumors. CPW plans to go forward with hunting season. A recent executive order will delay requirements for registrations of ATVs, boats, and other recreational vehicles. CPW directed the public to a link on the website regarding the agency's COVID-19 response for state parks.

Laura Spann reported that registration is open for Water Education Colorado's Water Fluency course to be held in southwest Colorado this year. The course is designed for elected officials or other decision-makers who would like to improve their water management and policy understanding.

Don Schwindt reported that Colorado Water Congress is planning for several alternatives with the Summer Conference, with the hope the event can be held as normal.

10.0 Old Business

10.1 Colorado River matters

10.1.1 Interstate and intra-state matters, including re-negotiation of the interim guidelines, drought contingency planning and exploration of demand management

(time: 00:47:00)

Frank Kugel summarized the U.S. Bureau of Reclamation's webinar, which outlined their proposed scope, approach, process and schedule for reviewing the effectiveness of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (Guidelines). Nearly 50% of the storage in Lakes Powell and Mead was lost during the period 2000-2004, which prompted then Secretary of the Interior Gale Norton to direct the seven basin states to develop an initial drought plan. That effort resulted in the Guidelines. The current formal review by Reclamation is required to be initiated by December 31, 2020 under section 7.D. of the Guidelines.

Frank directed the board to Family Farm Alliance's summary of the Reclamation webinar. Public comments regarding the scope and approach for the 7.D. review are due on May 1st. In early summer, Reclamation will share a preliminary draft report. Public comments on the draft report will be due on September 1st. A final draft report will be shared with stakeholders before the final report is released in December 2020.

10.1.1.1 IBCC/Demand Management Workgroup Joint Meeting

(time: 00:53:10)

Ed Millard, one of the SW Basin Roundtable representatives to the Interbasin Compact Committee, briefly summarized the IBCC/Demand Management Workgroup Joint Meeting held in Lakewood on March 4-5, 2020. Beth Van Vurst reported on the Law and Policy Workgroup's breakout session with the Administration and Accounting Workgroup. There continue to be many questions around demand management, including how to clearly define common terms. All Demand Management Workgroups are focusing on delivering a work product to the CWCB for the July 2020 board meeting. Frank Kugel reported on the Accounting and Administration

Workgroup. There may be an effort from the Division of Water Resources to develop rules regarding measurement later this year. The State of Colorado may have an opportunity to adopt water quality powers currently held by the U.S. Army Corps of Engineers.

10.1.1.2 Law of the Colorado River Conference

This agenda item was addressed as part of the Office Update.

10.1.2 Colorado River Water Bank Working Group

(time: 01:02:30)

Carrie Padgett reported that the second round of Water Bank Working Group (WBWG) sub-basin outreach meetings have been put on hold as a result of the coronavirus outbreak. The WBWG wants to make sure that the opinions of those stakeholders who may not have good internet connection or would prefer not to videoconference are still reflected in the input. Once that second round of meetings is complete, the consultants will present a final draft Secondary Impacts Study.

10.2 Legislative Update & Position on Bills

(time: 01:04:00)

The Colorado General Assembly is temporarily adjourned. As a result, the Colorado Water Congress (CWC) State Affairs Committee has suspended their meetings and SWCD has put the written legislative updates on hold. The Colorado Supreme Court has ruled that, in this particular type of emergency circumstance, the 120-day requirement for the legislative session does not need to be counted consecutively, and therefore, the legislature may be able to reconvene later this year. CWC is holding a member update today, during which there may be more information regarding the legislature’s schedule and priorities.

10.2.1 Potential Cancellation of SWCD Board Teleconferences on April 15th and 29th

(time: 01:06:15)

Beth Van Vurst recommended that these meeting dates be held as there may be a need for the board to convene in April to respond to fast-changing circumstances.

10.3 Proposed extension of C.R.S. 37-92-305(3)(c) to Water Division 7

(time: 01:07:15)

Beth Van Vurst summarized that the SWCD board had planned on discussing this agenda item at an in-person meeting. The board believes this topic lends itself better to an in-person discussion. As a result, the discussion of this topic will be postponed until the Board’s next in-person meeting.

10.4 2021 CWCB Instream Flow Program Recommendations

(time: 01:08:30)

10.4.1 Water Division 4: Big A Creek, Kelly Creek, Naturita Creek (2), Red Canyon, and Spring Creek

Frank Kugel summarized the CWCB’s 2021 CWCB instream flow program recommendations in Water Division 4, several of which are proposed to protect macroinvertebrates and riparian habitat on intermittent streams that often go dry in late summer. Frank said this could be an expansion of the scope of protections offered by the instream flow program, which has traditionally filed on perennial stream reaches to protect fish species. Naturita Creek is heavily appropriated and so that proposed ISF recommendation bears monitoring.

10.4.2 Water Division 7: Rincon La Vaca

(time: 01:11:00)

As the recommending agency, Ryan Unterreiner with CPW described the proposed instream flow appropriation on Rincon La Vaca Creek and their goal to improve the aquatic habitat below CPW’s ditch diversion to the San Luis Valley. Frank suggested that SWCD consider supporting this proposed ISF recommendation, as it keeps water in the San Juan River basin in a headwaters area prone to transmountain diversions to the Rio Grande River basin.

11.0 New Business

11.1 Update on COVID-19 Impacts & Resources

11.1.1 Board Member Updates

(time: 01:13:30)

Directors summarized COVID-19 responses and hydrologic conditions in their respective county.

11.1.2 SWCD Operations

(time: 01:19:45)

Laura Spann reported that SWCD operations continue as (un)usual, despite the current work-from-home directive. Calls to the office number flow to Frank and Laura in real time. Frank and Laura have use of a printer for

board packets and other needs. SWCD's financials have now moved online, with all transactions documented electronically and invoices approved and paid remotely. Staff and board members are conducting meetings via Zoom. Partner organizations are operating in a similar fashion and can be reached by phone or email. Staff recommended setting a placeholder date for rescheduling of SWCD's Annual Water Seminar before the fall is fully booked and speaker schedules fill.

There was SWCD board consensus to set a placeholder for the board meeting on October 13th and SWCD annual water seminar on October 14th.

11.1.3 SWCD Annual Children's Water Festival

(time: 01:36:15)

Elaine Chick reported that she participated in a statewide Water Festival Coordinators call and there was consensus from organizers around the state that cancelling these events is best for public health and may be required soon enough by local officials. While Fort Lewis College has not given official word, campus events have been cancelled for April and the remainder of spring semester classes will be held remotely. There was board consensus to cancel the SWCD Annual Children's Water Festival consistent with the governor's order regarding COVID-19.

12.0 Engineering Report

Carrie Padgett reported on the following topics:

12.1 Upper Colorado & San Juan River Basin Recovery Implementation Program

(time: 01:39:40)

Because all public meetings were cancelled with Congressional staff, Carrie participated in 18 webinars with staff to present to various Congressional representatives regarding the San Juan River Basin Recovery Implementation Program.

12.2 Paradox Salinity Unit Draft Environmental Impact Statement

(time: 01:41:45)

As directed by the board, staff and consultants prepared a comment letter on the Paradox Salinity Unit Draft Environmental Impact Statement (DEIS) by the February 19th deadline. Reclamation plans to release the DEIS by April 17th. Prior to that release, there will be a confidential conference call for cooperators about the NEPA process and any other items Reclamation wants to share.

12.3 Animas Watershed Partnership

(time: 01:43:30)

Animas Watershed Partnership has executed all outstanding grants with Reclamation, and Warren Rider has been hired as the Coordinator.

Carrie also reported on the fifth meeting of the Monitoring and Verification demand management workgroup, during which the group continued developing documents identifying threshold issues for producer participation, flowcharts regarding terminology, and how transmountain diversions could be utilized. The workgroup plans to develop white papers on considerations for all types of demand management program participants.

13.0 General Counsel Legal Report

13.1 February Water Court Resume Review (Divisions 3, 4, 7)

(time: 01:50:30)

Beth Van Vurst reported that there were no applications in the February water court resume for Divisions 3, 4 and 7 that warrant a filing of statement of opposition from SWCD.

14.0 Executive Session

(time: 01:51:00)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing Colorado River interstate and intrastate matters, including re-negotiation of the interim guidelines, drought contingency planning and exploration of 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." Charlie Smith moved that the board go into executive session. Monte Naslund seconded. The motion passed by unanimous consent.

Beth Van Vurst announced that the board was out of executive session at 11:55 a.m. The board discussed Colorado River interstate and intrastate matters, including re-negotiation of the interim guidelines, drought contingency planning and exploration of demand management. No action was taken during the executive session.

15.0 Adjournment

President Bob Wolff adjourned the meeting at 11:57 a.m.



Bob Wolff, President