

**Southwestern Water Conservation District  
Board of Directors Regular Meeting by Teleconference  
August 4-5, 2020**

**Present:** Bob Wolff (August 4<sup>th</sup>-5<sup>th</sup>) JR Ford (left August 4<sup>th</sup> mtg at 10:30 a.m, August 5<sup>th</sup>)  
Rusty Hinger (August 4<sup>th</sup>-5<sup>th</sup>) Jenny Russell (August 4<sup>th</sup>-5<sup>th</sup>)  
Charlie Smith (August 4<sup>th</sup>-5<sup>th</sup>) Don Schwindt (August 4<sup>th</sup>-5<sup>th</sup>)  
Doug Stowe (August 4<sup>th</sup>-5<sup>th</sup>)

**Absent:** David Guilliams (August 4<sup>th</sup>-5<sup>th</sup>) Monte Naslund (August 4<sup>th</sup>-5<sup>th</sup>)

**Staff:** Laura Spann, Programs Coordinator (August 4<sup>th</sup>-5<sup>th</sup>)

**Consultants:** Christine Arbogast, Kogovsek & Associates (August 4<sup>th</sup>-5<sup>th</sup>)  
Carrie Padgett, Harris Water Engineering (August 4<sup>th</sup>-5<sup>th</sup>)  
Beth Van Vurst, Van Vurst Law (August 4<sup>th</sup>-5<sup>th</sup>)

**Guests:** Todd Appel, Quantified Ventures (August 5<sup>th</sup>)  
Orla Bannan, Western Resources Advocates (August 5<sup>th</sup>)  
Ken Curtis, Dolores Water Conservancy District (August 4<sup>th</sup>-5<sup>th</sup>)  
Russ Howard, ALPOM&R Association (August 4<sup>th</sup>)  
Marcel Gaztambide, San Juan Citizens Alliance (August 4<sup>th</sup>-5<sup>th</sup>)  
Emily Lockard, CSU Southwestern Colorado Research Center (August 5<sup>th</sup>)  
Blake Mamich, Southern Ute Indian Tribe (August 5<sup>th</sup>)  
Ed Millard, Southwest Basins Roundtable (August 4<sup>th</sup>-5<sup>th</sup>)  
Kathy Rall, Southern Ute Indian Tribe (August 4<sup>th</sup>)  
Gigi Richard, Four Corners Water Center at Fort Lewis College (August 4<sup>th</sup>-5<sup>th</sup>)  
Ellen Roberts, Southwest Basins Roundtable (August 5<sup>th</sup>)  
Katie Russell, CSU Southwestern Colorado Research Center (August 5<sup>th</sup>)  
Jason Ullmann, Colorado Division of Water Resources (August 4<sup>th</sup>)  
Mely Whiting, Trout Unlimited (August 4<sup>th</sup>)

**Tuesday, August 4, 2020**

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

President Bob Wolff called the meeting to order at 8:32 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda**

*(time: 00:01:10)*

Charlie Smith moved to approve the agenda as noticed. Doug Stowe seconded. The motion passed by unanimous consent.

**3.0 Executive Session**

*(time: 00:02:55)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the process and criteria for hiring a general manager and potential consulting services agreement(s) for engineering and/or other services. 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." JR Ford moved that the board go into executive session. Rusty Hinger seconded. The motion passed.

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

Beth Van Vurst announced that the board was out of executive session at 9:46 a.m. The board discussed the process and criteria for hiring a general manager and potential consulting services agreement(s) for engineering and/or other services. No action was taken during the executive session.

#### **5.0 Introductions & Zoom Instructions**

(time: 00:06:20)

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

#### **6.0 Old Business**

##### **6.1 SWCD Human Resources**

##### **6.1.1 Short-Term and Long-Term SWCD Objectives, Organizational Structure, Staffing and Consultant Needs**

(time: 00:08:00)

Don Schwindt moved to approve the consulting services agreement with Chris Treese for assistance with the General Manager hiring process. JR Ford seconded. The motion passed by unanimous consent.

##### **6.1.1.1 Discussion of draft SWCD Diagram and associated documents**

(time: 00:10:45)

Bob Wolff described the draft SWCD diagram and associated documents he developed to graphically demonstrate SWCD operations by major themes, budget category, and responsible party (e.g. board, consultant, employee or other). These living documents are intended to be used in conjunction with the budget and strategic plan to guide SWCD operations, train new team members, and inform the public. Board members provided suggested revisions and thanked Bob for these documents that may contribute to refinement of SWCD's priorities.

##### **6.1.1.2 Review of recent allocation of staff time**

(time: 00:28:30)

Laura Spann summarized a report of her cumulative staff time allocation by category as Programs Coordinator from October 16, 2019 through July 12, 2020. This report included the addition of several categories, a summary of paid time off, paid holidays, and overtime, and an additional analysis of time just for the period since February 10<sup>th</sup> to evaluate how COVID-19 might have impacted trends in staff time allocation. She provided some initial observations about these trends. The next staff time report to the board will be for the period of October 2019 to October 2020.

##### **6.1.1.3 General Manager job search goals, including job description, deadline for application and hiring process**

(time: 00:35:00)

Beth Van Vurst summarized the draft General Manager job description, job announcement, and hiring process timeline. She outlined several recommended modifications to these documents, including a note that any questions regarding the General Manager hiring process be directed to Chris Treese. The deadline for applications will be September 25<sup>th</sup>. Charlie Smith moved to approve the General Manager job description, announcement and hiring process timeline as modified. JR Ford seconded. The motion passed by unanimous consent.

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

(time: 00:42:45)

There were no questions or comments from the audience.

*The board adjourned for a short break.*

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

(time: 00:43:40)

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

#### **8.0 Consent Agenda**

(time: 00:44:45)

##### **8.1 Approval of Minutes (June 30)**

##### **8.2 Acceptance of Treasurer's Report (June 2020)**

Rusty Hinger moved to approve the consent agenda as presented. Charlie Smith seconded. The motion passed by unanimous consent.

## 9.0 Reports

### 9.1 Director Reports

(time: 00:45:45)

Bob Wolff (La Plata County) reported that he recorded three inches of rain because of recent monsoons. La Plata County now has 200 confirmed cases of COVID-19.

Charlie Smith (San Juan County) reported that despite recent rains, Silverton is still very dry. He summarized recent bulkhead testing at the Red and Bonita mines initiated by the U.S. Environmental Protection Agency (EPA). The Town of Silverton may pursue an in-town well and off-stream storage to supplement supplies from Boulder and Bear Creeks.

Don Schwindt (Montezuma County) reported that it has been hotter and drier than normal. Dolores Water Conservancy District will be considering a draft demand management policy statement at their August 13<sup>th</sup> board meeting. As several local organizations provide input and policy statements on the proposed demand management program, Don highlighted SWCD's vital role, in conjunction with the Colorado River Water Conservation District, in leading and relaying input from southwestern Colorado to the Colorado Water Conservation Board (CWCB) regarding the demand management feasibility investigation.

Doug Stowe (Dolores County) reported that Dolores County has received an inch of rain and has only two COVID-19 cases so far.

Jenny Russell (San Miguel County) reported that there were several rainstorms. Lots of people are visiting from out-of-state COVID-19 hot spots.

Rusty Hinger (Mineral County) reported that his irrigation ditch went from dry to running water. There are lots of people in the mountains right now.

### 9.2 Board Committee Reports

(time: 00:58:00)

Laura Spann directed the board to unofficial notes from the Finance Committee meeting (July 9<sup>th</sup>), Strategic Planning Committee meeting (July 15<sup>th</sup>), and the Personnel Committee meetings (July 9<sup>th</sup> and July 16<sup>th</sup>). She summarized several highlights from the Finance Committee meeting, including SWCD's investment in two new CDs, increased interest income, a new deadline of October 13<sup>th</sup> for counties to provide their preliminary assessed valuations, and the resumption of Fredrick Zink and Associates' monthly review of SWCD accounting.

#### 9.4.1 Possible Scheduling of Special Meeting in September

(time: 01:02:30)

There was board consensus to combine the scheduled SWCD budget workshop with a special board meeting on Wednesday, September 9<sup>th</sup> from 9:00 a.m.-11:00 a.m. to allow consideration of several action items, including a draft Paid Time Off policy and potential changes to 2021 employee health insurance benefits.

### 9.3 Hydrologic Conditions Update

(time: 01:04:00)

Laura Spann referred the board to the hydrologic conditions update in the packet, which includes local and regional reservoir levels, stream flows, the drought monitor, and the Lake Powell forecast.

### 9.4 Office Update

(time: 01:05:15)

Laura Spann summarized several recent meetings, including the "For the Love of Colorado" coalition, a recent update on progress toward installation of permanent radar in southwestern Colorado, and the August Southwest Basin Roundtable meeting. She provided a short update from Water Education Colorado.

There was consensus to hold a Board Personnel Committee meeting on Thursday, September 3<sup>rd</sup> from 1:00-3:00 p.m. to prepare recommendations for a draft Paid Time Off policy and 2021 employee health insurance benefits for board consideration at their September 9<sup>th</sup> special meeting.

*The board took a recess on Tuesday, August 4<sup>th</sup> at 11:15 a.m. until Wednesday, August 5<sup>th</sup> at 8:30 a.m.*

## **Wednesday, August 5, 2020**

### **10.0 Call to Order – Roll Call and Verification of Quorum**

*(time: 01:23:25)*

President Bob Wolff reconvened the meeting at 8:32 a.m. Roll was taken and a quorum established.

### **11.0 Introductions & Zoom Instructions**

This agenda item was not discussed as all Zoom participants at the time were familiar with the platform.

### **12.0 Review and Approve Agenda**

*(time: 01:30:00)*

Two additional items were added to the agenda: discussion of the draft demand management policy being considered by the Dolores Water Conservancy District under agenda item 16.1 and a Colorado Water Congress (CWC) request for increased summer conference sponsorship as agenda item 17.5. There was unanimous consent to approve the agenda as revised.

### **13.0 Executive Session**

*(time: 01:31:00)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing Colorado River interstate and intra-state matters, including re-negotiation of the interim guidelines, Lake Powell Pipeline, and exploration of demand management; La Plata River Exchange (Case No. 09CW151, Division 7); and San Juan County Conditional Water Rights (Case No. 05CW88, 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.” Charlie Smith moved that the board go into executive session. Rusty Hinger seconded. The motion passed by unanimous consent.

### **14.0 Report from Executive Session**

*(time: 01:35:15)*

Beth Van Vurst announced that the board was out of executive session at 9:27 a.m. The board discussed Colorado River interstate and intra-state matters, including re-negotiation of the interim guidelines, Lake Powell Pipeline, and exploration of demand management. The board did not discuss the La Plata River Exchange (Case No. 09CW151, Division 7) and San Juan County Conditional Water Rights (Case No. 05CW88, Division 7). No action was taken during the executive session. The board reserved additional discussion of agenda item 13.1 as part of executive session at the end of the meeting, agenda item 20.

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

*(time: 01:36:30)*

There were no questions or comments from the audience.

### **16.0 Old Business (continued)**

#### **16.2 Proposed Virtual Event to Replace SWCD Annual Water Seminar, Two-Day Morning October Board Meeting**

*(time: 01:37:30)*

Laura Spann and Gigi Richard presented a proposal for a free virtual water event hosted jointly by SWCD and Four Corners Water Center at Fort Lewis College on October 14<sup>th</sup> from 4:00-5:30 p.m. The content would include southwest Colorado hydrology, a brief state fiscal report, and short updates from local water entities. There may also be opportunities for student engagement. There was board consensus to host the October 14<sup>th</sup> joint virtual event as proposed.

## 16.1 Colorado River matters

### 16.1.1 Interstate and intra-state matters, including re-negotiation of the interim guidelines, the Lake Powell Pipeline and exploration of demand management (time: 01:46:25)

Beth Van Vurst reported that the U.S. Bureau of Reclamation recently released the draft Environmental Impact Statement (EIS) for the proposed Lake Powell Pipeline, which would divert up to 86,000 acre-feet from Lake Powell to Sand Hollow Reservoir near St. George, Utah. The diversion location would be in the Upper Basin while the proposed use is in the Lower Basin. Public comment on the draft EIS is due on September 8<sup>th</sup>. There was board consensus to direct legal counsel to submit a short comment letter on behalf of SWCD, which would highlight that Utah is required under the Colorado River Compact to obtain consent from the other Basin States and the U.S. Congress to utilize this water in the Lower Basin, and potentially other concerns that Beth may identify in her review of the EIS.

At their July meeting, the CWCB board was presented with a detailed written update by CWCB staff regarding their demand management feasibility investigation, specifically reports from the various workgroups. The CWCB plans to hold a workshop in September to summarize the written update, which SWCD representatives will attend and then report back to the board if comments or other feedback from SWCD on the written update is needed. Laura Spann summarized the report from the Education and Outreach workgroup and Carrie Padgett on the Monitoring and Verification workgroup. There was board discussion.

### 16.1.2 Colorado River Water Bank Working Group (time: 02:04:45)

Carrie Padgett reported that the Colorado River Water Bank Working Group (WBWG) will meet on August 6<sup>th</sup> to provide final comments on the Secondary Impacts Study, after which time it will be shared broadly. The Colorado River Water Conservation District secured a Reclamation WaterSMART grant to conduct public outreach regarding the conclusions of the Secondary Impacts Study. The economist and author of the Secondary Impacts Study is also available to present to the SWCD board at a future meeting.

With the study complete, the WBWG is now considering its role and purpose moving forward. Carrie Padgett and Don Schwindt recommended that SWCD continue to participate actively with the WBWG in the near term.

### 16.1.3 Draft Demand Management Policy under consideration by DWCD (time: 02:12:45)

Ken Curtis, Dolores Water Conservancy District (DWCD), summarized the draft demand management policy statement for potential adoption by the DWCD board on August 13<sup>th</sup>. There was board discussion.

## 16.2 Proposed Virtual Event to Replace SWCD Annual Water Seminar, Two-Day Morning October Board Meeting (time: 02:22:10)

Given that the full-day Annual Water Seminar was cancelled, there was board consensus to hold two half-day morning meetings on October 13<sup>th</sup> and 14<sup>th</sup>.

*The board adjourned for a short break.*

## 17.0 New Business

### 17.1 Update: CSU Southwestern Colorado Research Center (time: 02:25:45)

Katie Russell and Emily Lockard presented on recent and future research projects at the CSU Southwestern Colorado Research Center located north of Cortez. For many years, SWCD has provided \$10,000 in annual funding to support the Center's research regarding irrigation efficiency, alternative dryland crops, and soil health. All these research efforts intend to maintain crop yields for growers.

### 17.2 Update and Request from Environmental Impact Fund (time: 02:43:00)

Ellen Roberts and Todd Appel updated the board on the creation and implementation of the Southwest Colorado Environmental Impact Fund (EIF), which will endeavor to support a forest health treatment plan for approximately 65,000 acres mostly in La Plata County. The current plan is that an EIF Authority will be formed to manage funding for these treatment projects capitalized by a state bond issued by the Colorado Water Resources & Power

Development Authority. Members entities will be responsible to pay the bond back. Additional monies to capitalize the fund will be provided through grants.

Currently, some team members are drafting an intergovernmental agreement to form the EIF and describe member responsibilities. Todd and Ellen requested that SWCD consider a role as EIF member, which would include providing input on forest treatment priorities as it relates to water management and committing to a portion of bond repayment. There was board discussion regarding the potential to further study the hydrologic impact of various forest health treatment strategies as part of the EIF. There was board consensus to direct legal counsel to review and discuss the draft EIF intergovernmental agreement with EIF's legal counsel. The Board will discuss this proposal further at the October board meeting.

### **17.3 Proposed Revisions to SWCD Grant Program Guidelines**

*(time: 03:06:15)*

Laura Spann and Beth Van Vurst detailed proposed revisions to SWCD's grant program guidelines for 2021, which clarify that grants will not be awarded for municipal or domestic drinking water projects or disbursed until the applicant demonstrates it has secured all committed matching funds, among other changes. The board discussed these revisions at length and made further revisions during the meeting. J.R. Ford moved to approve the SWCD grant program guidelines as revised at today's meeting. Don Schwindt seconded. The motion passed by unanimous consent.

### **17.4 Colorado Water Congress Request for Financial Support to File Amicus Brief in lawsuit regarding implementation of the 2020 Waters of the United States Rule in Colorado**

*(time: 03:44:30)*

Beth Van Vurst and Don Schwindt reported that CWC is asking members for contributions to pay the cost of filing an amicus brief in the State of Colorado versus the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers lawsuit regarding the 2020 Waters of the United States (WOTUS) rule. Through that brief, CWC is asking the 10<sup>th</sup> Circuit to overturn a preliminary injunction issued by a federal district court that prevents implementation the 2020 WOTUS rule in Colorado. Beth summarized the arguments outlined in the CWC amicus brief, which has already been filed.

### **17.5 Colorado Water Congress Request for Increased Summer Conference Sponsorship**

*(time: 03:48:45)*

Laura Spann presented the request for an increase in SWCD's sponsorship of the CWC Summer Conference. SWCD has already paid \$500 to sponsor the event.

Don Schwindt moved to support CWC's filing of an amicus brief in the 2020 Waters of the United States rule lawsuit in the amount of \$1,000, and additional \$500 sponsorship of the CWC Summer Conference. Rusty Hinger seconded. The motion passed by unanimous consent.

## **18.0 Engineering Report**

Carrie Padgett reported on the following topics:

### **18.1 Upper Colorado & San Juan River Basin Recovery Implementation Program**

*(time: 03:51:00)*

Carrie directed the board to her written memo.

### **18.2 Paradox Salinity Unit Environmental Impact Statement**

There were no updates on the Paradox Salinity Unit Environmental Statement, which was expected to be released in July.

### **18.3 Animas Watershed Partnership**

Warren Ryder has taken over as Coordinator of the Animas Water Partnership.

## 19.0 General Counsel Legal Report

### 19.1 Proposed Revisions to CWCB Instream Flow Program Rules

(time: 03:53:00)

Beth Van Vurst reported on proposed revisions to the CWCB instream flow program rules to incorporate the rulemaking requirements established by HB-20 1157, which provided additional flexibility within CWCB's loan program to accept applications for expedited and renewable loans. Beth attended the CWCB stakeholder meeting on August 3<sup>rd</sup>, at which CWCB seemed open to addressing stakeholder concerns. Another update will be provided at the next board meeting, as the stakeholder process is ongoing.

### 19.2 June Water Court Resume Review (Divisions 3, 4, 7)

Beth Van Vurst reported that there were no applications in the June water court resumes for Divisions 3, 4 and 7 that warrant further discussion or action by SWCD.

SWCD continues to spread the word about the release of the preliminary decennial abandonment list. The State Engineer's Office is not listing any present perfected water rights on the preliminary abandonment list.

There was board consensus not to hold an additional executive session to discuss Colorado River matters and instead hold a longer special board meeting on the topic in late September if necessary.

## 20.0 Adjournment

President Bob Wolff adjourned the meeting at 12:10 p.m.



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Robert Wolff, President