

**Southwestern Water Conservation District
Board of Directors Regular Meeting by Teleconference
October 13-14, 2020**

Present: Bob Wolff (October 13th-14th) JR Ford (October 13th-14th)
Rusty Hinger (October 13th-14th) Monte Naslund (October 14th)
Jenny Russell (October 13th-14th) Don Schwindt (October 13th-14th)
Doug Stowe (October 13th-14th)
Charlie Smith (October 13th after 10:05 a.m. and October 14th)

Absent: David Guilliams (October 13th-14th) Monte Naslund (October 13th)

Staff: Laura Spann, Programs Coordinator (October 13th-14th)

Consultants: Pete Foster, Wright Water Engineers (October 14th)
Carrie Padgett, Harris Water Engineering (October 13th-14th)
Chris Treese, Consultant (October 13th)
Beth Van Vurst, Van Vurst Law (October 13th-14th)

Guests: Orla Bannan, Western Resources Advocates (October 13th-14th)
Ken Curtis, Dolores Water Conservancy District (October 13th-14th)
Elaine Chick, Water Information Program (October 13th-14th)
Doug Jeavons, BBC Consulting (October 14th)
Ed Millard, Southwest Basins Roundtable (October 13th-14th)
George Oamek, Headwaters Corporation (October 14th)
Gigi Richard, Four Corners Water Center at Fort Lewis College (October 13th-14th)
Mely Whiting, Trout Unlimited (October 14th)

Tuesday, October 13, 2020

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: 00:01:15)

Bob Wolff recommended moving agenda item 10.2 before 10.1. Jenny Russell moved to approve the agenda as modified. Don Schwindt seconded. The motion passed by unanimous consent.

3.0 Executive Session

(time: 00:02:45)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the general manager hiring process and in particular to review and consider applications for that position, and the southwest Colorado wildfire mitigation environmental impact fund authority. The statutes covering the first topic of this session are § 24-6-402(3.5), C.R.S., § 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.” The statutes covering the second topic of 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.” Chris Treese joined the first part of the executive session. Rusty Hinger moved that the board go into executive session. Jenny Russell seconded. The motion passed.

4.0 Report from Executive Session

(time: 00:05:15)

Beth Van Vurst announced that the board was out of executive session at 10:05 a.m. The board discussed the general manager hiring process, specifically review and consideration of applications received from interested candidates. There was not time to discuss the southwest Colorado wildfire mitigation environmental impact fund authority. That agenda item will be moved to the October 14th executive session.

5.0 Introductions & Zoom Instructions

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

6.0 Questions & Comments from the Audience

(time: 00:08:10)

Elaine Chick, Water Information Program (WIP), solicited local news stories from board members to include in the WIP newsletter. Gigi Richard, Four Corners Water Center at Fort Lewis College, invited the board to the upcoming Water Connections event jointly hosted with SWCD, as well as the Water Professionals Happy Hour on Wednesday, October 21.

7.0 Approve and/or Remove Consent Agenda Item

(time: 00:10:55)

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

8.0 Consent Agenda

8.1 Approval of Minutes (August 4-5; September 9)

8.2 Acceptance of Treasurer's Report (September 2020)

8.3 Proposed 2021 SWCD Meeting & Holiday Schedule

Doug Stowe moved to approve the consent agenda as presented. JR Ford seconded. The motion passed by unanimous consent.

9.0 Reports

9.1 Director Reports

(time: 00:12:30)

Bob Wolff (La Plata County) reported that it has been 30 days since any precipitation, La Plata County is now in exceptional (D4) drought conditions, and Animas River stream flows are at record lows. 2020 is the third driest year on record, along with 2002 and 2018.

JR Ford (Archuleta County) reported that he has recorded only 9 inches of rain at his home northwest of Pagosa Springs. JR met with Brent Turner of COLOTRUST and explained the District's decision to invest in certificates of deposit.

Charlie Smith (San Juan County) reported that it is also dry in Silverton and all the leaves are gone. SWCD has submitted the diligence application for the San Juan County Water Rights.

Don Schwindt (Montezuma County) reported that it has been as dry and warm as he can remember. He irrigated in October for the first time ever. The smoke has been heavy and significantly impacted visibility.

Jenny Russell (San Miguel County) reported that it is also painfully dry in Norwood with no precipitation in the forecast. La Niña is forecasted to bring above average temperatures and below average precipitation this winter.

Rusty Hinger (Mineral County) reported that temperatures have dropped off at his house. He normally receives 14 inches for the summer and has received only 6 inches this year. Colorado Parks and Wildlife is interested in putting in a fish barrier on Fall Creek to assist in improving habitat for the San Juan lineage of Colorado cutthroat trout.

Doug Stowe (Dolores County) reported that yesterday was the first freeze. There was a great late-season harvest.

9.2 Board Committee Reports

Laura Spann directed the board to unofficial notes from the Personnel Committee meetings on August 27th and September 3rd.

9.3 Hydrologic Conditions Update

(time: 00:22:40)

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: 00:25:00)

Laura Spann highlighted several updates from the written office report. Board terms will expire in January 2021 for Bob Wolff (La Plata County), David Guilliams (Hinsdale County), and Charlie Smith (San Juan County). These counties will be notified in late November of these terms expiring and that they will need to make an appointment by January. If not, the director will serve until an appointment is made. More than 185 people have registered for the Water Connections event to be held on October 14th jointly hosted by SWCD and Four Corners Water Center at Fort Lewis College. SWCD received a question, which was subsequently withdrawn, regarding whether federal agencies are “qualified entities” to apply for funding through SWCD grant’s program.

9.4.1 Request that SWCD take a position on Amendment B (Gallagher Amendment Repeal and Property Tax Assessment Rates Measure)

(time: 00:30:00)

Bob Wolff directed the board to a letter from the League of Women Voters which asked for SWCD to take a position in support for Amendment B, a ballot measure before voters this election which would repeal the Gallagher Amendment. Jenny Russell moved that SWCD take a position to support Amendment B, the Gallagher Amendment Repeal and Property Tax Assessment Rates Measure. Don Schwindt seconded. There was discussion. The motion passed unanimously.

The League of Women Voters asked that SWCD “sign on” to social media posts, a letter to the editor, and paid advertising to support passage of Amendment B. There was board consensus not to officially “sign on,” but rather to inform the League of Women Voters of SWCD’s position and educate the public of the board’s position in the WIP newsletter.

10.0 Old Business

10.2 General Manager Hiring Process

10.2.1 Update, Proposed Revisions to Hiring Timeline, and Other Related Matters

(time: 00:38:30)

Beth Van Vurst and Bob Wolff reported on the General Manager hiring process. The board reviewed applications submitted by interested candidates during the morning executive session and will be requesting additional information from applicants. The current General Manager hiring timeline is on the SWCD website, which may need to be revised in the future.

10.1 Proposed Changes to Employee Health Insurance and Retirement Benefits

(time: 00:40:45)

Beth Van Vurst summarized the board’s consideration of proposed changes to employee retirement benefits. Doug Stowe moved to reduce the District’s matching contribution to employee contributions to the District sponsored 457(b) retirement account from six percent to five percent of employee compensation. Rusty Hinger seconded. The motion passed by unanimous consent.

Beth Van Vurst summarized the Personnel Committee’s recommended changes to the 2021 employee health insurance benefits, as well as her suggested adjustments to those recommendations. There were board questions and discussion. It was determined the board needed a few more questions answered prior to finalizing the health benefits to offer employees. This decision was postponed until the following day.

The board took a recess on Tuesday, October 13th at 11:20 a.m. until Wednesday, October 14th at 8:30 a.m.

Wednesday, October 14, 2020**11.0 Call to Order – Roll Call and Verification of Quorum***(time: 01:20:30)*

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

12.0 Review and Approve Agenda*(time: 01:22:00)*

Beth Van Vurst and Bob Wolff recommended to add agenda item 3.2 (southwest Colorado wildfire mitigation environmental impact fund authority) to executive session, remove agenda item 13.2 (2020-2021 winter season weather modification contracts) from executive session, and add 10.1 (proposed changes to employee health insurance and retirement benefits) to the end of old business. There was unanimous consent to approve the agenda as modified.

13.0 Executive Session*(time: 01:23:35)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the application filed by Montezuma Valley Irrigation Company in case number 18CW3052 (Division 7); Colorado River interstate and intra-state matters, include re-negotiation of the interim guidelines, Lake Powell Pipeline, and exploration of demand management; San Miguel basin water supply planning; and the southwest Colorado wildfire mitigation environmental impact fund authority. 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.” Pete Foster, Wright Water Engineers, joined the executive session for case number 18CW3052. Don Schwindt recused himself from that portion of the executive session. Monte Naslund moved that the board go into executive session. Charlie Smith seconded. The motion passed by unanimous consent but was then subsequently modified by Monte Naslund to add discussion of agenda item 17.1.4, Front Range Water Council State Line Delivery Pilot Reservoir Release, to this morning’s executive session. Charlie Smith seconded. The motion passed by unanimous consent.

14.0 Report from Executive Session*(time: 01:28:40)*

Beth Van Vurst announced that the board was out of executive session at 10:11 a.m. The board discussed the application filed by Montezuma Valley Irrigation Company in case number 18CW3052 (Division 7); Colorado River interstate and intra-state matters, include re-negotiation of the interim guidelines, the Front Range Water Council state line delivery pilot reservoir release, Lake Powell Pipeline, and exploration of demand management; San Miguel basin water supply planning; and the southwest Colorado wildfire mitigation environmental impact fund authority. No action was taken during the executive session.

15.0 Introductions & Zoom Instructions

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

16.0 Questions & Comments from the Audience*(time: 01:30:30)*

There were no questions or comments from the audience.

17.0 Old Business (continued)**17.1 Colorado River matters****17.1.1 Colorado River Water Bank Working Group Update – Presentation of Upper Basin Demand Management Economic Study in Western Colorado***(time: 01:30:45)*

Doug Jeavons, BBC Consulting, presented the basis and results for the Upper Basin Demand Management Economic Study in Western Colorado, which was commissioned by the Colorado River Water Bank Working Group. The study examines the potential adverse impacts and benefits associated with paying agricultural water users on the Western Slope to temporarily fallow fields under two demand management scenarios (moderate and aggressive). More specifically, the study describes the potential on-farm/ranch effects and secondary community effects, including for local jobs, production output, payments, and other areas. Doug answered board questions.

17.1.2 Update on Lake Powell Pipeline*(time: 02:08:10)*

Beth Van Vurst reported on the proposed Lake Powell Pipeline, which involves the diversion of up to 86,000 acre-feet of water from Lake Powell for municipal use in Washington County, Utah. The proposed pipeline raises several legal and operational issues, in large part because it would involve a diversion of water from the Upper Colorado River Basin for use in the Lower Colorado River Basin. Beth Van Vurst summarized the comment letter submitted on behalf of SWCD regarding the proposed Lake Powell Pipeline's Draft Environmental Impact Statement (EIS). The State of Colorado, several Upper Basin states, and the River District submitted comment letters as well. Requests have been made for extending the timeline for finalizing the EIS to provide the seven Colorado River basin states with additional time to collectively come to an agreement on how to address the concerns presented by the proposed project.

17.1.3 Exploration of Demand Management*(time: 02:11:30)*

Beth Van Vurst reported that Colorado Water Conservation Board (CWCB) staff will be proposing to their board a 2021 work plan to guide the agency's further exploration of a demand management program. This plan will be considered at the November CWCB board meeting. It appears the CWCB is not intending to make a determination regarding demand management feasibility until at least December 2021.

The board adjourned for a short break.

17.1.4 Front Range Water Council State Line Delivery Pilot Reservoir Release*(time: 02:15:00)*

Beth Van Vurst reported that in late August, the Front Range Water Council submitted a written request to the State Engineer requesting approval for the release of up to 1,800 acre-feet of water previously stored for municipal purposes under transmountain water rights in Homestake Reservoir. This release would be shepherded by the State Engineer to the Utah/Colorado state line. The State Engineer approved the request several days later to evaluate the efficacy of current administration practices. Both SWCD and the River District have submitted written comments summarizing concerns with the approval of this release. Beth also discussed SWCD's concerns with State Engineer Kevin Rein. A summary report on the pilot reservoir release will be made publicly available.

17.2 2021 CWCB Instream Flow Program Recommendations*(time: 02:24:00)*

Beth Van Vurst provided background on the CWCB's process for reviewing stakeholder recommendations for instream flow appropriations. The CWCB and stakeholders are likely to continue data collection through 2021 for proposed instream flow appropriations on Big A Creek, Kelly Creek, Naturita Creek, and Red Canyon Creek. CWCB is conducting landowner outreach regarding the Spring Creek recommendation. CWCB staff may move forward in 2021 with the recommendation to appropriate an instream flow on Rincon La Vaca Creek.

17.3 Review of SWCD's Proposed FY2021 Budget*(time: 02:27:45)*

Laura Spann summarized the SWCD budget process. By October 15th, a notice will be published in each of the nine counties announcing the draft budget's availability for inspection at the office and the public hearing on December 9th. JR Ford moved to appoint Jenny Russell as Budget Officer. Charlie Smith seconded. The motion passed by unanimous consent.

Bob Wolff and Laura Spann met with Fredrick Zink and Associates' governmental audit specialist. He reviewed the draft SWCD budget and recommended not budgeting for investments in the Project Reserve Fund and Emergency Reserve Fund. Instead, the specialist suggested the board consider a resolution to commit funds to those two reserves each year. There was board consensus to follow this recommendation. The board provided several suggestions and further questions for the audit specialist regarding these investments and the December resolution for consideration.

The board reviewed updates to the draft FY2021 budget since the September 9th budget workshop. Several changes were proposed to the draft budget during the meeting and there was additional discussion of various line items.

Bob proposed a reorganization of SWCD's draft 2021 budget to align with the SWCD organizational diagram that he developed. Jenny Russell moved to adopt the new organization of SWCD's draft 2021 budget. Monte Naslund seconded. The motion passed by unanimous consent.

10.1 Proposed Changes to Employee Health Insurance and Retirement Benefits *(time: 03:12:40)*

Beth Van Vurst summarized the 2021 employee health insurance benefit recommendation. SWCD will continue to offer its full-time employees and their dependents the opportunity to participate in medical, dental, vision and life insurance. Those plans will continue to be offered by Colorado Employer Benefit Trust. Beth explained the details of the recommendation, including the specific plans to be offered as well as the structure and amount of SWCD's health insurance benefit allowance. Jenny Russell moved to adopt the 2021 employee health insurance benefit as recommended. Monte Naslund seconded. The motion passed by unanimous consent.

18.0 New Business

18.1 Proposed 2021 Winter Season Weather Modification Contracts *(time: 03:26:45)*

Beth Van Vurst will continue to work with Dolores Water Conservancy District's legal counsel to revise these contracts for future years. Ken Curtis will move forward with executing the current contracts for winter season 2020-2021.

19.0 Engineering Report

19.1 Upper Colorado & San Juan River Basin Recovery Implementation Program *(time: 03:27:30)*

Carrie Padgett directed the board to her written memo. Tom Wesche will be retiring as the Water Development Committee's representative to the Biology Committee of the San Juan River Basin Recovery Implementation Program. Tom recommended that Carrie, current alternate Biology Committee representative, take over upon his retirement. The Water Development Committee will be forming a Selection Committee to go through the process of selecting Tom's replacement. Should Carrie be selected, she recommended that the new general manager represent SWCD on the Water Development Committee.

20.0 General Counsel Legal Report

20.1 August Water Court Resume Review (Divisions 3, 4, 7) *(time: 03:33:40)*

Beth Van Vurst reported that there were no applications in the August water court resumes for Divisions 3 and 4 that warrant further discussion or action by SWCD. Beth recommended that SWCD file what she anticipates will amount to a "friendly" statement of opposition in case number 20CW3036, an application filed jointly by Salem Minerals Corp, Todd Hennis, and San Juan Corporation in Division 7 to maintain diligence on a small portion of a conditional water right decreed to the Gladstone diversion in Case No. 05CW88.

Charlie Smith moved to file a statement of opposition in case number 20CW3036. Monte Naslund seconded. The motion passed by unanimous consent.

There was board consensus to schedule meetings on November 2nd at 8:30 a.m. and November 11th at 8:30 a.m.

21.0 Adjournment

President Bob Wolff adjourned the meeting at 12:30 p.m.



Robert Wolff, President