

**Southwestern Water Conservation District  
Board of Directors Regular Meeting by Teleconference  
December 8-9, 2020**

**Present:** Bob Wolff (December 8<sup>th</sup>-9<sup>th</sup>)                      JR Ford (December 8<sup>th</sup>-9<sup>th</sup>)  
David Guilliams (December 8<sup>th</sup>-9<sup>th</sup>)                  Rusty Hinger (December 8<sup>th</sup>-9<sup>th</sup>)  
Jenny Russell (December 8<sup>th</sup>-9<sup>th</sup>)                    Don Schwindt (December 8<sup>th</sup>-9<sup>th</sup>)  
Doug Stowe (December 8<sup>th</sup>-9<sup>th</sup>)                    Charlie Smith (December 8<sup>th</sup>-9<sup>th</sup>)

**Absent:** Monte Naslund (December 8<sup>th</sup>-9<sup>th</sup>)

**Staff:** Laura Spann, Programs Coordinator (December 8<sup>th</sup>-9<sup>th</sup>)

**Consultants:** Carrie Padgett, Harris Water Engineering (December 8<sup>th</sup>)  
Chris Treese, Consultant (portion of executive session December 8<sup>th</sup>-9<sup>th</sup>)  
Beth Van Vurst, Van Vurst Law (December 8<sup>th</sup>-9<sup>th</sup>)

**Guests:** Orla Bannan, Western Resources Advocates (December 8<sup>th</sup>-9<sup>th</sup>)  
Ken Curtis, Dolores Water Conservancy District (December 8<sup>th</sup>-9<sup>th</sup>)  
Elaine Chick, Water Information Program (December 8<sup>th</sup>-9<sup>th</sup>)  
Jeffrey Deems, Airborne Snow Observatories, Inc (December 9<sup>th</sup>)  
Jeff Derry, Center for Snow & Avalanche Studies (December 9<sup>th</sup>)  
Marcel Gaztambide, San Juan Citizens Alliance (December 8<sup>th</sup>-9<sup>th</sup>)  
David Gochis, National Center for Atmospheric Research (December 9<sup>th</sup>)  
Emily Halvorsen, Colorado Attorney General's Office (December 8<sup>th</sup>-9<sup>th</sup>)  
Ken Haynes, Town of Ophir (December 8<sup>th</sup>)  
Ed Millard, Southwest Basins Roundtable (December 8<sup>th</sup>-9<sup>th</sup>)  
Greg Peterson, Colorado Ag Water Alliance (December 8<sup>th</sup>)  
Al Pfister, Interbasin Compact Committee (December 8<sup>th</sup>-9<sup>th</sup>)  
Gigi Richard, Four Corners Water Center at Fort Lewis College (December 8<sup>th</sup>-9<sup>th</sup>)  
Erik Skeie, Colorado Water Conservation Board (December 9<sup>th</sup>)

**Tuesday, December 8, 2020**

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

President Bob Wolff called the meeting to order at 8:02 a.m. Roll was taken and a quorum established.

**2.0 Review and Approve Agenda**

*(time: 00:01:30)*

There was unanimous consent to approve the agenda as noticed.

**3.0 Executive Session**

*(time: 00:01:45)*

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 3.1, the general manager hiring process, including to conduct interviews and continue deliberations regarding candidates for the general manager position; agenda item 3.2, San Miguel River basin water supply planning; agenda item 3.3, SWCD's application for finding of diligence and to make absolute in part, case no. 20CW3034 in Division 7; and agenda item 3.4, SWCD's application for finding of diligence, case number 20CW3035 in Division 7. The statutes covering agenda item 3.1 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 agenda items 3.2, 3.3, and 3.4 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 general manager hiring process portion of the executive session. Doug Stowe moved that the board go into executive session. JR Ford seconded. The motion passed.

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

*(time: 00:04:45)*

Beth Van Vurst announced that the board was out of executive session at 9:30 a.m. and then took a short break in an attempt to follow the schedule on the agenda. The time of this report was 10:08 a.m. During the executive session, the board discussed the general manager hiring process, including conducting interviews and continuing deliberations regarding candidates for the general manager position, San Miguel River basin water supply planning, SWCD’s application for finding of diligence and to make absolute in part, case no. 20CW3034 in Division 7; and SWCD’s application for finding of diligence, case number 20CW3035 in Division 7. No action was taken in executive session.

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

*(time: 00:05:45)*

There were no questions or comments from the audience.

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

*(time: 00:06:15)*

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

#### **7.0 Consent Agenda**

##### **7.1 Approval of Minutes (October 13-14; November 2; November 11-12; November 18; November 23)**

##### **7.2 Acceptance of Treasurer’s Report (November 2020)**

##### **7.3 2020 Audit Engagement Letter with Haynie and Company**

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

#### **8.0 Reports**

##### **8.1 Director Reports**

*(time: 00:07:45)*

Bob Wolff (La Plata County) reported that La Plata County is in D4 (exceptional) drought conditions and local coronavirus cases have increased dramatically. The Animas basin SNOTEL reported snowpack at 38% of normal. Purgatory has 16” of snow at the base, mostly manmade. Water is now being traded on the Wall Street commodities futures market with call sign NQH2O. As of December 7<sup>th</sup>, water in California was trading at \$486.53/acre-foot.

Doug Stowe (Dolores County) reported it is cold and dry. There are 36 cases and no deaths from COVID-19 in Dolores County.

Charlie Smith (San Juan County) reported that stream flows are low, and it is dry in Silverton. There were no opposers in the application for diligence on the San Juan County conditional water rights. The Town of Silverton applied to the Colorado Water Plan Implementation Grant Program on December 1<sup>st</sup> for funding to support test well drilling for additional town water supply.

Don Schwindt (Montezuma County) reported that it is dry and warm. He irrigated through October 15<sup>th</sup>. Family Farm Alliance and Colorado Water Congress will host virtual conferences in February 2021. Montezuma Valley Irrigation Company will soon be holding its annual shareholder meeting.

Jenny Russell (San Miguel County) reported that San Miguel County is extremely dry with very little snow. The ski areas have not been able to make enough snow and there’s only one run open at Telluride Ski area. The real estate market continues to boom as people leave the cities to live in rural areas. COVID-19 cases have also spiked.

David Guilliams (Hinsdale County) and Rusty Hinger (Mineral County) reported that it is dry in their area as well.

JR Ford (Archuleta County) reported on unusual late-season algae blooms in the reservoirs near Pagosa Springs. San Juan Water Conservancy District is evaluating whether to pursue diligence for their conditional water rights on the West Fork of the San Juan River.

## 8.2 Board Committee Reports

(time: 00:19:40)

The Board Finance Committee meeting was held as part of the November 18<sup>th</sup> special board meeting, so a summary of that discussion is incorporated in the relevant meeting minutes.

## 8.3 Hydrologic Conditions Update

(time: 00:19:50)

Laura Spann referred the board to the hydrologic conditions update in the packet, which includes local and regional reservoir levels, local stream flows, the U.S. drought monitor, and the Lake Powell forecast. As of December 7<sup>th</sup>, snowpack in the San Juan mountains was at 73% of normal. The Animas River continues with record low flows of 110 cfs.

## 8.4 Office Update

(time: 00:21:10)

Laura Spann highlighted several updates from the written office report. Board terms will expire in January 2021 for Bob Wolff (La Plata County), David Williams (Hinsdale County), and Charlie Smith (San Juan County). La Plata County has signed on to help fund a portion of the annual operations of the U.S. Geological Survey's Hermosa Creek near Hermosa stream gage. She directed board members to the survey results from the joint SWCD and Four Corners Water Center at Fort Lewis College virtual event on October 14<sup>th</sup>.

### 8.4.1 Direction to Finance Committee re. Certificates of Deposit Maturing January 2021

(time: 00:26:05)

Laura Spann reported that SWCD holds two certificates of deposits (CDs) with 1<sup>st</sup> Southwest Bank currently totaling \$517,554 that will mature on Sunday, January 3<sup>rd</sup>, 2021. Following that date, SWCD has a 10-day grace period during which the CDs can be cashed out or rolled over. Given rapidly changing economic conditions, Laura recommended that the board authorize the Finance Committee to decide the best course of action related to these two CDs during that 10-day grace period. Don Schwindt moved to authorize the Board Finance Committee to make decisions regarding SWCD's two certificates of deposit maturing on January 3, 2021. Doug Stowe seconded. The motion passed by unanimous consent. There was consensus to hold a Board Finance Committee on Friday, January 8<sup>th</sup> at 1:00 p.m.

### 8.4.2 Review of Cumulative Staff Time Allocation October 2019-October 2020

(time: 00:29:50)

Laura Spann directed the board to her cumulative staff time allocation report for the full year of work from October 2019 to October 2020. There was board consensus to direct Laura to continue timekeeping and provide the next report in six months (for the June 2021 board meeting) and then again for the full year (at the December 2021 meeting).

### 8.4.3 2021 CSD Property and Liability Coverage and Premiums

(time: 00:32:40)

Charlie Smith moved that SWCD increase its crime coverage from \$5,000 to \$250,000 as part of its overall 2021 policy with Colorado Special District's Property and Liability Pool. Doug Stowe seconded. The motion passed by unanimous consent.

### 8.4.4 Requests for SWCD Grant Extensions through 2021

(time: 00:35:30)

Laura Spann directed the board to a written memo that summarized the four grant extension requests and relayed her recommendations, which included further discussion of the Town of Ophir's request. Ken Haynes, Ophir Town Manager, presented his request and answered questions. Charlie Smith moved to approve grant extension requests from Redmesa Reservoir & Ditch Company, High Desert Conservation District, and La Plata Conservancy District because those projects are underway and deny Town of Ophir's grant extension request and instead encourage the Town to reapply in the 2021 grant cycle. Don Schwindt seconded. The motion passed by unanimous consent. There was board consensus to revisit the total available 2021 grant program funding during the December 9<sup>th</sup> budget discussion.

## 9.0 Old Business

### 9.1 Update on General Manager Hiring Process

(time: 00:57:10)

Beth Van Vurst and Bob Wolff reported that the General Manager hiring process is still underway and a finalist will not be selected at the December 8<sup>th</sup>-9<sup>th</sup> board meeting. The hiring timeline published on SWCD's website will be updated to state that the board will be selecting a finalist for the General Manager position at a special meeting in late December or early January. Any offer of employment would occur no sooner than 14 days after the finalist is selected.

### 9.2 2021 Proposed WIP Independent Contractor Agreement

(time: 00:58:45)

Beth directed the board to the proposed 2021 Water Information Program (WIP) independent contractor agreement. Small changes were made to the scope of services, some of which are to allow for more event planning flexibility in the context of the pandemic. The WIP steering committee has reviewed the proposed scope of services. Jenny Russell moved to approve the proposed 2021 WIP Independent Contractor Agreement. Doug Stowe seconded. The motion passed by unanimous consent. Elaine Chick thanked the board, announced the virtual "Water Law in a Nutshell" course on January 21<sup>st</sup>, and solicited newsletter stories from board members. Elaine confirmed she would be sending out a December newsletter.

### 9.3 Colorado River matters - interstate and intrastate matters, including exploration of demand management

(time: 01:02:45)

Beth Van Vurst directed the board to two documents included in their packet. First, the Colorado Water Conservation Board released its 2021 workplan for their demand management feasibility investigation, which explains that the project management team, in coordination with consultants, will develop a draft "strawman" program. Feedback on this initial draft program will be solicited from demand management workgroup members, tribal representatives, the Interbasin Compact Committee, and other stakeholders. Second, several non-governmental organizations sent a joint letter to the State Engineer in support of the intent of the Front Range Water Council's Homestake Reservoir Release pilot project. The Colorado Division of Water Resources has yet to release their report on the pilot reservoir release. There was board discussion regarding the importance of staying actively engaged in Colorado River matters, including the demand management feasibility investigation, despite the limitations of virtual meetings, and potentially providing comments on the CWCB's current workplan if appropriate.

### 9.4 Southwest Basins Implementation Plan Update

(time: 01:10:00)

Carrie Padgett reported on the Roundtable's effort to update the Southwest Basin Implementation Plan (BIP). The Roundtable has formed a subcommittee which is working to revise documents for public review in June 2021. Carrie described the state water planning process, which first works to summarize water demands by basin, then identify gaps in water supply. Based on this information, the Roundtable is then reviewing goals and measurable outcomes to address gaps in water supply as needed. The Roundtable is also updating the Identified Projects and Processes (IPP) list, which includes outstanding water projects across southwestern Colorado. At a future meeting, Carrie will provide a BIP update summary for the SWCD board.

### 9.5 2021 CWCB Instream Flow Program Recommendations

(time: 01:14:00)

Beth Van Vurst reported on a few 2021 CWCB's instream flow program recommendations for southwestern Colorado and summarized the instream flow appropriations process. CWCB continues to update and further refine the list of potential instream flow appropriations that may be recommended at their board's January 2021 meeting. Beth will continue to track these recommendations and communicate with CWCB staff.

## 10.0 New Business

### 10.1 Colorado Ag Water Alliance Update – Regulation 85 & the Water Plan

(time: 01:16:50)

Greg Peterson, Colorado Ag Water Alliance, described Regulation 85, which in 2012 launched more stringent regulation of point source nutrient dischargers such as wastewater treatment plants and encouraged nonpoint sources such as agricultural producers to adopt best management practices. Regulation 85 sets a deadline of 2022

for evaluating this voluntary approach to reducing nutrient pollution. Nonpoint source contributions to nutrient pollution will be evaluated at that time. Additional regulations may be considered based on the success of voluntary efforts. Greg described the endeavors by producers statewide to gather additional data regarding how voluntary best management practices are reducing nutrient loading.

## **11.0 Engineering Report**

### **11.1 Upper Colorado & San Juan River Basin Recovery Implementation Programs** (time: 01:27:45)

Tom Wesche has announced his December 2020 retirement as the Water Development Committee's representative to the Biology Committee of the San Juan River Basin Recovery Implementation Program. The Water Development Committee has established a small group to develop a request for proposals to attract a new independent contractor to replace Tom Wesche. Bob Wolff noted that this transition has highlighted the need for SWCD to revisit the Water Development Committee agreement and relevant contracts. Carrie Padgett is the alternate representative to the Biology Committee and will attend meetings until Tom Wesche is replaced. The Biology Committee will hold a three-day webinar in mid-December. Several recovery program studies were impacted by the closure of the Navajo reservation due to the pandemic. The recovery program's annual hydrology meeting will take place in January and Carrie will provide a report out on at the February meeting.

The Colorado River Water Bank working group will meet in mid-December to discuss next steps. Reclamation has not yet released the Paradox Valley Salinity Unit Final Environmental Impact Statement. The Animas Watershed Partnership is working to collect data and support producers in reducing nutrient loading on the Florida River.

## **12.0 General Counsel Legal Report**

### **12.1 October Water Court Resume Review (Divisions 3, 4, 7)** (time: 01:38:20)

Beth Van Vurst reported that no applications in the October Water Court resume for Divisions 3, 4, and 7 warrant further discussion or consideration by the board.

*The board took a recess on Tuesday, December 8<sup>th</sup> at 11:30 a.m. until Wednesday, December 9<sup>th</sup> at 8:00 a.m.*

## **Wednesday, December 9, 2020**

### **13.0 Call to Order – Roll Call and Verification of Quorum** (time: 01:39:15)

President Bob Wolff reconvened the meeting at 8:00 a.m. Roll was taken and a quorum established.

### **14.0 Review and Approve Agenda** (time: 01:40:30)

There was unanimous consent to approve the agenda as noticed.

## **15.0 New Business (continued)**

### **15.1 FY2021 Budget Hearing and Adoption**

#### **15.1.1 Discussion of Proposed FY2021 Budget** (time: 01:41:10)

Bob Wolff and Laura Spann presented the proposed 2021 budget, which included the final property tax revenue based on final assessed valuations from all nine counties. The board reviewed and discussed several proposed updates to the 2021 budget.

#### **15.1.2 Proposed 2021 Budget Message**

This agenda item was addressed as part of agenda item 15.1.4.

#### **15.1.3 Budget Hearing & Public Comment** (time: 02:12:30)

Bob Wolff opened the budget hearing and solicited public comment. Al Pfister, San Juan Water Conservancy District, described efforts to re-establish streamgages in the Upper San Juan River basin and invited the SWCD board to consider providing financial support for this streamgage once a location and funding partners have been identified. Hearing no other public comments, Bob Wolff closed the public budget hearing.

**15.1.4 Resolutions to Adopt Budget, Appropriate Sums of Money, and Set Mill Levy** (time: 02:15:45)

Jenny Russell moved to approve Resolution 2020-02 to adopt the 2021 budget, including the budget message, with the adjustments made by the board at today's meeting. Charlie Smith seconded. The motion passed by unanimous consent.

Jenny Russell moved to approve Resolution 2020-03 to appropriate funds in the amount of \$1,866,879 to be spent in 2021 as adjusted by the board at today's meeting. Doug Stowe seconded. The motion passed by unanimous consent.

Jenny Russell moved to approve Resolution 2020-04 to certify a mill levy of .407 on the assessed valuation of \$3,903,809,235 to generate revenue of \$1,588,850 in 2021. JR Ford seconded. The motion passed by unanimous consent.

The mill levy will be certified to all nine counties before the December 15<sup>th</sup> deadline, and the adopted budget will be submitted to the state by the January 31<sup>st</sup> deadline. Adopted budgets are accessible via a link on the SWCD website to the Department of Local Affairs, where all public budgets are available and archived.

*The board adjourned for a short break.*

**16.0 Executive Session**

(time: 02:24:00)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing the general manager hiring process, including conducting interviews and continuing deliberations regarding candidates for the general manager position. The statutes covering this session are § 24-6-402(3.5), § 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. JR Ford seconded. The motion passed by unanimous consent.

**17.0 Report from Executive Session**

(time: 02:26:15)

Beth Van Vurst announced that the board was out of executive session at 11:45 a.m. then took a short break. The time of this report was 12:00 p.m. The board discussed the general manager hiring process, including conducting interviews and continuing deliberations regarding candidates for the general manager position. No action was taken during the executive session. A special board meeting is scheduled for Monday, December 14, 2020 at 4:00pm to further discuss the general manager hiring process.

**18.0 Questions & Comments from the Audience**

(time: 02:27:45)

There were no questions or comments from the audience.

**19.0 New Business (continued)****19.1 Prioritization of 2021 Aerial Snowpack Monitoring in Southwestern Colorado**

(time: 02:29:15)

Erik Skeie (Colorado Water Conservation Board), Jeff Deems (Airborne Snow Observatories, Inc), and David Gochis (National Center for Atmospheric Research) presented on an effort to launch aerial snowpack monitoring in southwestern Colorado which will be incorporated into improved forecasting products for water managers and others. The group answered questions from the audience.

**15.2 Proposed Assignment of a Portion of the FY2020 Year-End Fund Balance**

(time: 03:01:30)

Laura Spann summarized the recommendations regarding the proposed assignment of a portion of the FY2020 year-end fund balance. It was recommended that the final amounts for this assignment be considered by the board at their February 2021 meeting.

JR Ford moved to rename the two portions of the assigned fund balance and clarify their purposes as follows:

- "SWCD Water Defense," to defend the water resources of the District, and
- "SWCD Water Development," to develop and maintain the water resources of the District.

Don Schwindt seconded. The motion passed by unanimous consent.

Doug Stowe moved to pro-rate category allocations for the 2021 grant program as follows: \$92,000 for water supply and watershed restoration, \$92,000 for emergencies, \$34,500 for public forums and studies, and \$11,500 for education. JR Ford seconded. The motion passed by unanimous consent.

## **21.0 Adjournment**

President Bob Wolff adjourned the meeting at 12:50 p.m.

  
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Jenny Russell, Secretary-Treasurer (2020)