

**Southwestern Water Conservation District
Board of Directors Regular Meeting via Zoom
February 10-11, 2021**

- Present:** JR Ford (February 10th-11th) David Guilliams (February 10th-11th)
Rusty Hinger (February 10th-11th) Amy Huff (February 10th-11th)
Monte Naslund (February 10th-11th) Jenny Russell (February 10th-11th)
Don Schwindt (February 10th-11th) Doug Stowe (February 10th)
Charlie Smith (February 10th-11th)
- Absent:** Doug Stowe (February 11th)
- Staff:** Laura Spann, Programs Coordinator (February 10th-11th)
- Consultants:** Christine Arbogast, Kogovsek & Associates (February 11th)
Jacob Bornstein, Wellstone Collaborative Strategies (February 11th)
Elaine Chick, Water Information Program (February 10th-11th)
Carrie Padgett, Harris Water Engineering (February 10th-11th)
Chris Treese, Consultant (February 10th-11th)
Beth Van Vurst, Van Vurst Law (February 10th-11th)
- Guests:** Russ Anderson, Michael Baker International (February 10th-11th)
Orla Bannan, Western Resources Advocates (February 10th-11th)
Jimbo Buickerood, San Juan Citizens Alliance (February 10th)
Peter Butler, Bonita Peak Community Advisory Group (February 10th-11th)
Keith Caddy, Montrose County Commissioner (February 10th)
John Carron, Hydros Consulting (February 10th)
Justin Catalano, Florida Consolidated Ditch Company (February 10th)
Ty Churchwell, Trout Unlimited (February 10th)
John Currier, Colorado River Water Conservation District consultant (February 10th)
Ken Curtis, Dolores Water Conservancy District (February 10th-11th)
Pete Diethrich, Public (February 10th)
Mandy Eskelson, Mountain Studies Institute (February 10th)
Kelly Evans, Aspen Springs Metro District (February 10th)
Peter Fleming, Colorado River Water Conservation District (February 10th)
Pete Foster, Florida Consolidated Ditch Company (February 10th-11th)
Marcel Gaztambide, San Juan Citizens Alliance (February 10th)
Emily Halvorsen, Colorado Attorney General's office (February 11th)
Pete Hayes, Florida Consolidated Ditch Company (February 10th)
Ken Haynes, Town of Ophir (February 10th)
Eric Hjermsstad, Western Weather Consultants (February 11th)
Roy Horvath, Public (February 10th)
Hayley Kwasniewski, Montezuma School to Farm Project (February 10th)
Bonnie Loving, Montezuma County (February 10th)
Blake Mamich, Southern Ute Indian Tribe (February 10th)
Louis Meyer, SGM (February 10th)
Ed Millard, Southwest Basins Roundtable (February 10th-11th)
Andy Mueller, Colorado River Water Conservation District (February 10th)
Mark Oliver, Basin Hydrology (February 10th)
Jayla Poppleton, Water Education Colorado (February 11th)
Gretchen Rank, Mancos Conservation District (February 11th)
Roger Rash, Montrose County Commissioner (February 10th-11th)

Gigi Richard, Four Corners Water Center at Fort Lewis College (February 10th-11th)
Trinette Robichaux, Montezuma School to Farm Project (February 10th)
John Sites, Town of Silverton (February 10th)
Ryan Unterreiner, Colorado Parks & Wildlife (February 10th-11th)
Pam Wallis, Aspen Springs Metro District (February 10th)
Mely Whiting, Trout Unlimited (February 10th)
Scott Williamson, Water Education Colorado (February 11th)
Willie Wilson, Twin Buttes Metro District #1 (February 10th)

Wednesday, February 10, 2021

1.0 Call to Order – Roll Call and Verification of Quorum

Secretary-Treasurer Jenny Russell called the meeting to order at 8:07 a.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:01:30)

Laura Spann recommended adding agenda item 17.2.1, Board Committee Membership for 2021, to allow for follow up discussion from agenda item 5.0. There was unanimous consent to approve the agenda with the proposed revision.

3.0 SWCD Director Appointments: La Plata, Hinsdale, and San Juan Counties *(time: 00:02:40)*

Laura Spann reported that SWCD has received director credentials for the reappointment of David Guilliams to represent Hinsdale County and Charlie Smith to represent San Juan County on the SWCD board of directors. Amy Huff was appointed to represent La Plata County, replacing Bob Wolff whose term had expired. As the newest board member, Amy Huff introduced herself to the board and public.

4.0 Annual Election of Officers

(time: 00:04:00)

Jenny Russell and Chris Treese described the virtual officer election process. Don Schwindt and Jenny Russell were nominated for board president and both directors accepted said nomination. Votes were submitted by secret ballot. Jenny Russell was elected board president.

Don Schwindt was nominated for vice-president and accepted the nomination. Monte Naslund moved to elect by acclamation Don Schwindt as vice-president. Rusty Hinger seconded. The motion passed.

Charlie Smith was nominated for secretary-treasurer and accepted the nomination. David Guilliams moved to elect by acclamation Charlie Smith as secretary-treasurer. Rusty Hinger seconded. The motion passed.

5.0 Board Committee Membership for 2021

(time: 00:13:50)

Jenny Russell directed board members to a one-page summary of the board committees as they were previously structured, the recommended committee structure for 2021, including dissolving the strategic planning committee as the full board will be participating in the strategic planning process guided by consultant Jacob Bornstein and a request that board members text or email Laura with their interest in committee membership. Once Laura receives board responses, the agenda item will be further discussed tomorrow as part of agenda item 17.2.1, Board Committee Membership for 2021.

6.0 SWCD Resolution 2021-01 Honoring Bob Wolff

(time: 00:16:45)

Jenny Russell read the proposed SWCD Resolution 2021-01 honoring former board president Bob Wolff. Monte Naslund moved to adopt SWCD Resolution 21-01 Honoring Bob Wolff. JR Ford seconded. The motion passed. Board members commented on Bob's investment of countless hours in District work over the past two years and his efforts to create opportunities for all water interests to be heard and represented at District meetings.

7.0 Executive Session

(time: 00:21:00)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 7.1, San Miguel River basin water supply planning; agenda item 7.2, Application of Salem Minerals, Inc, et al., for finding of reasonable diligence in case number 20CW3036 in Water Division 7; agenda item 7.3, application of Navajo Development Company, Inc., for an appropriative right of exchange in case number 20CW3016 in Water Division 3; agenda item 7.4, Colorado River Compact, interstate and intra-state negotiation matters, including drought contingency planning and exploration of demand management; and agenda item 7.5, the joint SWCD/Colorado River Water Conservation District ("Colorado River District") agreement with Hydros Consulting for Colorado River basin modeling. 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." Andy Mueller, Peter Fleming, John Currier, and John Carron joined the executive session for agenda item 7.4 per the Colorado River District and SWCD's joint common interest agreement. David Guilliams moved that the board go into executive session. Monte Naslund seconded. The motion passed.

Beth Van Vurst stated that no further record of the executive session need be kept based on her opinion that the discussion will constitute privileged attorney-client communications.

8.0 Summary and Action Items from Executive Session

(time: 00:25:50)

Beth Van Vurst announced that the board was out of executive session at 11:35 a.m. and then took a short break in an effort to keep with the schedule published on the agenda. The time of this report was 11:55 a.m. During the executive session, the board discussed agenda item 7.1, San Miguel River basin water supply planning; agenda item 7.2, Application of Salem Minerals, Inc, et al, for finding of reasonable diligence in case number 20CW3036 in Water Division 7; agenda item 7.3, application of Navajo Development Company, Inc, for an appropriative right of exchange in case number 20CW3016 in Water Division 3; agenda item 7.4, Colorado River Compact, interstate and intra-state negotiation matters, including drought contingency planning and exploration of demand management; and agenda item 7.5, the joint SWCD/Colorado River District agreement with Hydros Consulting for Colorado River basin modeling. No action was taken in executive session.

Beth Van Vurst described the application of Navajo Development Company, Inc., for an appropriative right of exchange in case number 20CW3016 in Water Division 3 that uses a transmountain diversion from the San Juan River basin as its source of substitute of supply. Beth noted that such use could cause injury to water users in the San Juan River basin and result in an unlawful expansion of use of the transmountain water right. Monte Naslund moved to file a statement of opposition in case number 20CW3016, an application by Navajo Development Company, Inc., for an appropriative right of exchange in Water Division 3. David Guilliams seconded. The motion passed.

JR Ford moved to approve the total expenditure of up to \$45,000 for 2021 under the joint Colorado River District-SWCD contract with Hydros Consulting to support preparation for upcoming re-negotiation of the 2007 interim guidelines. Don Schwindt seconded. The motion passed.

The board took a short recess for lunch until 1:00 p.m.

9.0 SWCD Grant Program

9.1 2020 Grant Program Summary Report

(time: 00:31:10)

Laura Spann reported that she has now received all outstanding final grant reports for 2020, which she will review and prepare a final summary for the board to be provided either via email or in the April board packet. Of the \$341,198 in 2020 grants approved, Laura expects the final disbursement to be \$247,016.

9.2 Review of SWCD Grant Program Criteria

Laura Spann referred the board to the 2021 SWCD Grant Program Guidelines and related documents in the board packet. The board reduced the total funds potentially available through the grant program from \$400,000 in 2020 to \$230,000 in 2021 and funding available per category was reduced proportionally. There was more money requested than available in the Water Supply/Watershed Restoration and Public Forums/Studies categories, so staff developed funding recommendations to comply with the guidelines and category funding allocations the board provided.

9.3 2021 SWCD Grant Applications Presentations

(time: 00:37:15)

Laura Spann summarized the grant application review process and expectations for applicant presentations at the meeting.

Emergency Request

Aspen Springs Metro District – Buttercup Water Depot Well Drilling

On behalf of Aspen Springs Metro District, Pam Wallis and Kelly Evans presented the emergency request for \$60,000 to support the rehabilitation of the Buttercup Water Depot after a recent well casing failure. The Buttercup Water Depot is a small treatment facility and water loading station for one of the largest sub-divisions in the United States. The project involves drilling a new well, trenching from the new well location to the existing treatment system, and reconnecting all in-building plumbing.

Water Supply and Watershed Restoration Requests

Florida Consolidated Ditch Company (FCDC) – Florida Canal Diversion Rehab Phase II

On behalf of FCDC, Pete Foster and Justin Catalano presented the request for \$25,000 to support Phase II of the Florida Canal Diversion Rehabilitation. The Florida Canal diversion structure is located nine miles downstream from Lemon Reservoir and delivers pre-compact, irrigation water rights for the irrigation of approximately 6,400 acres on Florida Mesa as well as water to Pastorius Reservoir. The proposed diversion rehabilitation will help provide hydraulic stability, reduce drowning hazard, reduce sedimentation, provide more reliable water for the reservoir, and improve fish passage through a reach of the Florida River that is currently disconnected. SWCD grant funds are being requested to support the final engineering design task of the Project in 2021, with substantial completion of the diversion rehabilitation planned for 2023.

Montezuma County – Phreatophyte Removal Project

On behalf of Montezuma County, Bonnie Loving presented the request for \$18,478.20 to support continuation of the county-wide phreatophyte removal program. By the County's estimate, 7,377 acre-feet/year are consumed by phreatophytes. SWCD's grant funds would support the leasing of an excavator for physical removal of phreatophytes on willing landowners' properties. Bonnie addressed revegetation as part of the County's overall plan to ensure bank stability and spoke to the County's long-term commitment to its phreatophyte removal program, which would be funded either through grants or increased costs to participating landowners.

Town of Ophir – Werner Springs Infiltration System Replacement

On behalf of the Town of Ophir, Ken Haynes presented the request for \$23,500 to support the design and construction of an infiltration gallery for the Werner Springs, which is a redundant supply for the Town. This is the raw water element of a much larger supply project to increase water storage, replace distribution lines, and install water meters. The Town has committed the matching funds by ordinance.

Town of Silverton – Kendall Mountain Well Field Test Drilling Program

On behalf of the Town of Silverton, John Sites presented the request for \$11,752 to support drilling exploratory test wells for a new groundwater supply to supplement the current potable water supply of the Town, which is vulnerable to wildfire impacts, avalanche debris, calls from downstream senior water rights holders, and drought, among other threats.

Twin Buttes Metro District #1 – Lightner Creek Fisheries Enhancement

On behalf of Twin Buttes Metro District #1, Willie Wilson and Mark Oliver presented the request for \$21,212.50 to improve fish habitat on a 550-foot reach of Lightner Creek. The project entails building rock structures in the bed of the creek to create small pools and improved connectivity along the reach.

Public Forums, Studies, Planning, and Workgroups Requests

Four Corners Water Center at Fort Lewis College – Dolores River Adaptive Management, Online Data Repository

On behalf of Fort Lewis College, Dr. Gigi Richard presented the request for \$19,550 to support the development of an online data repository for a five-year Dolores River Adaptive Management Support project with participation

from the College, the Dolores River Native Fish Monitoring and Recommendations Team, The Nature Conservancy, RiversEdge West, Colorado Mesa University, Conservation Legacy, Colorado Parks & Wildlife, BLM, Reclamation, and the USFS. This applicant requested a waiver of the 25% match requirement, proposing a 24% applicant match. The applicant also requested board consideration of grant fund being used towards the College's reduced administration fee of 15%.

San Juan RC&D (Bonita Peak Community Advisory Group) – Animas River Data Collection and Standard Proposal Development

On behalf of the Bonita Peak Community Advisory Group, Peter Butler and Ty Churchwell presented the request for \$15,000 to support continued data collection on the Animas River and development of a standards proposal to the Colorado Water Quality Control Commission outlining the goals for improving water quality at the Bonita Peak Mining District Superfund site.

Trout Unlimited – Upper San Juan Integrated Water Management Plan, Phase II

On behalf of the Upper San Juan Watershed Enhancement Partnership, Mely Whiting presented the request for \$8,897 to support Phase III of the San Juan Integrated Management Plan, the primary goal of which is to facilitate prioritization of proposed cooperative projects or management actions to address water uses and needs in the San Juan River basin.

Educational Requests

Montezuma School to Farm Project – Colorado Water Plan Education Initiative Materials

On behalf of the Montezuma School to Farm Project, Hayley Kwasniewski presented the request for \$5,000 to support develop of Colorado Water Plan education materials for levels K-12 for more than 2,100 students in Montezuma County.

9.4 2021 SWCD Grant Applications Decisions

(time: 02:08:20)

JR Ford moved to approve Aspen Springs Metro District's grant application to support the Buttercup Water Depot Rehabilitation Project in the requested amount up to \$60,000 with the express understanding that the amount of SWCD's grant will be reduced by any other grant funding Aspen Springs Metro District receives for this project. Monte Naslund seconded. Amy Huff recused herself as serving previously as counsel for the Aspen Springs Metro District. The motion passed.

JR Ford moved to approve Florida Consolidated Ditch Company's grant application to support Phase II of the Florida Canal Diversion Structure Rehabilitation Project in the requested amount of \$25,000. Amy Huff seconded. The motion passed.

Don Schwindt moved to approve Montezuma County's grant application to support the Phreatophyte Removal Project in the reduced amount of \$15,000. Montezuma County has committed to provide reports of revegetation and restoration on treated properties as part of the final grant report. Charlie Smith seconded. The motion passed.

Amy Huff moved to approve Town of Ophir's grant application to support the Werner Springs Infiltration System Replacement in the requested amount of \$23,500. Rusty Hinger seconded. The motion passed.

Charlie Smith moved to approve Town of Silverton's grant application to support the Kendall Mountain Well Field Test Drilling Program in the requested amount of \$11,752. Monte Naslund seconded. The motion passed.

Charlie Smith moved to approve Twin Buttes Metro District #1's grant application to support the Lightner Creek Fisheries Enhancement in the reduced amount \$16,748. Amy Huff seconded. There was discussion. The motion failed 3-6.

Amy Huff moved to approve Fort Lewis College's grant application to support development of an online data repository for Dolores River adaptive management support in the reduced amount of \$13,200. Don Schwindt seconded. The motion passed.

JR Ford moved to approve Bonita Peak Community Advisory Group's grant application to support Animas River data collection and development of a standards proposal in the reduced amount of \$13,200. Charlie Smith seconded. The motion passed.

JR Ford moved to approve Trout Unlimited's grant application to support the Upper San Juan Integrated Water Management Plan, Phase III in the reduced amount of \$8,100. Rusty Hinger seconded. The motion passed.

Amy Huff moved to approve Montezuma School to Farm Project's grant application to support Colorado Water Plan Education Initiative Materials in the requested amount of \$5,000. David Guilliams seconded. The motion passed.

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

(time: 02:35:00)

The board reviewed proposed clarifications to the draft 2022 SWCD Grant Program Guidelines. Based on board direction, staff will prepare a final draft for review at the April board meeting.

The board took a recess on Wednesday, February 10th at 11:30 a.m. until Thursday, February 11th at 8:00 a.m.

Thursday, February 11, 2021

10.0 Call to Order – Roll Call and Verification of Quorum

(time: 03:05:25)

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

11.0 Review and Approve Agenda

(time: 03:06:00)

There was unanimous consent to approve the agenda as noticed.

12.0 Executive Session

(time: 03:06:40)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 12.1, the general manager hiring process, including an update on the general manager hiring process and continued deliberations regarding the same. The statutes covering this discussion in executive 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."

Beth also recommended that the board move into executive session for the purpose of discussing agenda item 12.2, potential consulting services agreement for additional technical services. The statutes covering this discussion in executive 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."

Monte Naslund moved that the board go into executive session. Rusty Hinger seconded. The motion passed.

13.0 Summary and Action Items from Executive Session

(time: 03:08:30)

Beth Van Vurst announced that the board was out of executive session at 9:00 a.m. then took a short break. During executive session, the board discussed agenda item 12.1, the general manager hiring process, including an update on the general manager hiring process and continued deliberations regarding the same; and agenda

item 12.2, potential consulting services agreement for additional technical services. No action was taken during the executive session.

14.0 Approve and/or Remove Consent Agenda Item

(time: 03:09:45)

There was unanimous consent to approve the consent agenda as noticed.

15.0 Consent Agenda

15.1 Approval of Minutes (Dec 8-9; Dec 14; Dec 18; Dec 22; Jan 4; Jan 19)

15.2 Acceptance of Treasurer's Report (Year-end 2020)

15.3 Resolution 2021-02 Designation of Meeting Posting Location

David Guilliams moved to approve the consent agenda as presented. Monte Naslund seconded. The motion passed.

17.0 Reports

17.1 Director Reports

(time: 03:11:25)

Rusty Hinger (Mineral County) reported that there is still just enough snow for cross-country skiers.

Monte Naslund (Montrose County) reported that the Tri-State power plant is being torn down, and it has been very dry.

JR Ford (Archuleta County) reported that the San Juan river is low. Pagosa Spring is generating record sales tax. San Juan Water Conservancy District (District) is considering abandonment of the conditional water rights on the West Fork of the San Juan, which were originally transferred to the District by SWCD. Pagosa Area Water and Sanitation District may receive additional water from a property owner, which will shore up the municipal provider's supply.

David Guilliams (Hinsdale County) reported that after a period of 30 inches of snow, the snowpack has decreased substantially.

Amy Huff (La Plata County) reported that Purgatory Ski Resort reported five inches of snow and another storm is expected over the weekend.

Charlie Smith (San Juan County) reported 80-90% of average snowpack at high elevations with much less snow at lower elevations. The U.S. Environmental Protection Agency (EPA) has proposed remediation projects for the Bonita Peak Mining District, and the Bonita Peak CAG has commented that the EPA's money could be better spent on improving water quality than the projects identified. The Town of Silverton is again seeking a Town Manager.

Don Schwindt (Montezuma County) reported on producers' increasing concerns about water supply for the coming year.

Jenny Russell (San Miguel County) reported that the snow is melting off in Norwood and Telluride. The San Miguel River above Bear Creek is completely dry. The east end of San Miguel County is experiencing a spike in COVID-19 cases due to an influx of second homeowners and tourists.

17.2 Board Committee Reports

(time: 03:20:00)

The Board Finance Committee meeting was held on January 8th and notes from that discussion were provided in the board packet.

17.3 Board Committee Membership for 2021

(time: 03:20:20)

Laura Spann reported back regarding director requests for 2021 board committee membership. Board members made a few adjustments to their committee commitments during the meeting and then finalized 2021 committee membership as follows:

Finance Committee: Charlie Smith, J.R Ford, David Guilliams, Amy Huff
Litigation Committee: Jenny Russell, Amy Huff, Don Schwindt
Outreach Committee: Jenny Russell, Rusty Hinger, Don Schwindt
Personnel Committee: Jenny Russell, JR Ford, Rusty Hinger, Charlie Smith

17.4 Staff Report

17.4.1 Hydrologic Conditions Update

(time: 03:22:20)

Chris Treese referred the board to the staff report in the packet and summarized local and regional reservoir levels, local stream flows, and the Lake Powell operations and inflow forecast. As these drought conditions are forecasted to continue, the prospect of dire shortage scenarios as soon as 2022 are real and concerning. Other Colorado River Storage Project reservoirs are likely to come into play into the next several years, specifically Flaming Gorge.

17.4.2 Proposed SWCD Account Signatories (Bank of Colorado, COLOTRUST)

(time: 03:29:30)

JR Ford moved to designate Jenny Russell, Don Schwindt, Charlie Smith and Amy Huff as signatories for SWCD's accounts with Bank of Colorado and COLOTRUST. Monte Naslund seconded. The motion passed.

17.4.3 Proposed Consolidation of SWCD's COLOTRUST Accounts

(time: 03:32:30)

Rusty Hinger moved to consolidate SWCD's three COLOTRUST accounts into one account. JR Ford seconded. The motion passed.

17.4.4 Proposed Virtual 2021 SWCD Annual Water Seminar

(time: 03:35:00)

Laura Spann proposed that the 2021 SWCD Annual Water Seminar be held virtually and postponed to a date to be determined. The board provided comments and feedback. The board president directed Laura to pursue potential partnerships with Colorado River District and/or Four Corners Water Center at Fort Lewis College for a virtual event to be held late summer/early fall and develop a proposal for an event in concept for board consideration at the April meeting.

18.0 Old Business

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

(time: 03:48:00)

Laura Spann described the table provided in the board packet and highlighted revisions to the original recommendation regarding assignment of a portion of the projected 2020 year-end fund balance, which were developed in consultation with general counsel and Fredrick Zink and Associates.

Don Schwindt moved to adopt staff's recommendation and assign a portion of the FY2020 year-end fund balance as follows: SWCD Water Defense- \$1,760,000, SWCD Water Development - \$1,140,000, the Water Information Program - \$122,000, and the San Juan River Basin Recovery Implementation Program (SJRBRIP) Water Development Committee - \$21,000. Monte Naslund seconded. The motion passed.

19.0 New Business

19.1 SWCD Interim Appointment to Southwest Basins Roundtable

(time: 03:58:50)

David Guilliams moved to appoint Amy Huff to represent SWCD on the Southwest Basins Roundtable until a new general manager is hired. Charlie Smith seconded. The motion passed.

19.2 Proposed Alternative to 2021 Annual Children's Water Festival

(time: 04:01:40)

Elaine Chick recommended canceling the in-person 2021 Annual Children's Water Festival as all children water festivals are cancelled statewide due to the pandemic. In lieu of the festival, Elaine confirmed with the board that SWCD will host a District-wide Water Cycle Drawing Contest for fifth graders with cash prizes. She will also provide Project Wet curriculum activities to the teachers.

20.0 Engineering Report

20.1 Upper Colorado & San Juan River Basin Recovery Implementation Programs

(time: 04:12:30)

Carrie Padgett reported that the annual technical meeting will be held in mid-February, at which data are presented and work plans are reviewed for 2021. Carrie will attend this meeting as the alternative representative to the Biology Committee on behalf of the Water Development Committee.

20.1.1 Potential Transfer of SWCD's Fiscal and Contracting Responsibility for Water Development Committee

(time: 04:14:30)

Carrie Padgett described how the Water Development Committee appoints and pays for a representative to the Biology Committee and a representative to the Coordination Committee to ensure water development interests in the basin are considered as the San Juan River Basin Recovery Implementation Program continues its efforts to recover the endangered Colorado pikeminnow and razorback sucker.

SWCD has provided financial management and acted as the fiscal agent for the Water Development Committee for at least a decade. SWCD also serves as the contracting entity with the two consultants who represent the Water Development Committee. Laura Spann proposed that SWCD consider discussing with San Juan Water Commission their willingness to resume these responsibilities, as was the practice initially when the committee was formed in the 1990s. SWCD would continue to have a strong role in the Committee as Colorado's voice in this interstate partnership through SWCD's appointee to the Water Development Committee (currently Carrie Padgett) and SWCD's general manager.

The board directed staff and consultants to continue discussions with the San Juan Water Commission regarding potential transfer of fiscal and contracting responsibility.

21.1 Paradox Salinity Unit Final Environmental Impact Statement

(time: 04:25:00)

Carrie Padgett reported that the Paradox Salinity Unit Final Environmental Statement was released in mid-December 2020 and describes Reclamation's selection of the "no-action alternative" once the injection wells are no longer in use.

Carrie also noted she will be raising her hourly rate to \$110 starting in March 2021.

16.0 Questions & Comments from the Audience

(time: 04:26:40)

There were no questions or comments from the audience.

21.0 General Counsel Legal Report

21.1 December Water Court Resume Review (Divisions 3, 4, 7)

(time: 04:27:45)

Beth Van Vurst reported that no applications in the December Water Court resume for Divisions 4 and 7 warrant further discussion or consideration by the board. Earlier in the meeting, the board authorized general counsel to file a statement of opposition in case number 20CW3016, an application by Navajo Development Company, Inc., for an appropriative right of exchange in Water Division 3.

The board took a short recess until 10:45 a.m.

18.0 Old Business (continued)

18.1 Colorado River Matters

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

(time: 04:29:00)

Chris Treese, consultant, reported that the Upper Colorado River Commission and the Colorado Water Conservation Board (CWCB) are advancing their efforts to investigate the feasibility of a demand management program. CWCB is developing a demand management “framework” for implementation, which they will use to evaluate the achievability, worth, and advisability of demand management in Colorado likely by the March CWCB board meeting.

Chris recommended that SWCD commit to developing positions or policy statements regarding demand management, which would include the elements jointly outlined by the Colorado River District and SWCD. The CWCB-adopted elements include that any demand management program must be voluntary, temporary, and compensated. Chris added that it should also be equitable. The board directed that Chris develop a proposed SWCD policy statement or positions regarding demand management for consideration at the April meeting. He welcomed individual board and public input in the drafting of the policy or position statement prior to the April consideration.

18.1.2 Colorado River Water Bank Working Group

(time: 04:43:25)

Carrie Padgett reported that after the Secondary Impacts study and related outreach was completed, the Colorado River Water Bank Working Group plans to meet on an ad-hoc, semi-annual basis to share partner updates and remain open to pursuing additional work as needed. No costs are budgeted for 2021.

18.3 SWCD Strategic Planning Update

(time: 04:45:45)

Jacob Bornstein, Wellstone Collaborative Strategies, described the proposed SWCD strategic planning process and aggressive timeline for progress in the next several months. After individual interviews with the board, staff, and consultants regarding SWCD’s needs and opportunities, its long-term desired impact, and other operational needs, Jacob plans to present the themes that emerged in approximately one month. Then, the board would meet to develop a short strategic plan summary along with an adaptive implementation plan template. There was board consensus to move forward with the strategic planning process as proposed.

18.3 State Legislative Update

(time: 04:54:30)

Chris Treese described HJR21-1002 (Water Projects Eligibility List), which provides the required approval of the projects’ eligibility lists for the Colorado Water Resources & Power Development Authority, many of which are within the District. Monte moved that SWCD support HJR21-1002 (Water Projects Eligibility Lists). Don Schwindt seconded. The motion passed.

Chris summarized the current state leadership, the temporary adjournment of the Colorado General Assembly from January 16th through February 16th due to the pandemic, and several proposed legislative concepts.

Advocates for the proposed Southwest Wildfire Infrastructure Fund (SWIF) have drafted legislation that they believe largely clarifies the authority of several governmental entities, including SWCD and the Colorado River District, to participate financially in forest health plans. While both Districts already possess this authority, there was board consensus to support Chris’ recommendation that SWCD support the legislation in concept, with the clarifying language that it would not affect any existing authorities the District has to participate in forest health plans.

Chris reported on proposed legislative efforts to extend protections to Division 7 for water rights owners that temporarily reduce or eliminate diversions for environmental purposes via C.R.S. § 37-92-305(3)(c) from reduction

of historical consumptive use calculations for up to five in any consecutive ten years' if participating in an approved conservation program. Chris described the Colorado River District's experience in authorizing such water conservation plans and the conversations around this statute's relationship to any statewide demand management program. Beth Van Vurst added that SWCD had previously tabled further discussion of Division 7 inclusion until all stakeholder perspectives could be heard at an in-person meeting.

There was general board consensus to seek public input on any proposed legislative concept if the proponents indicate at the upcoming SWCD special board meeting on February 24, 2021 that they are ready to move forward this session. There was public comment requesting further SWCD board discussion regarding the purpose of the enabling statute, whether the statute enables demand management, alternative transfer methods, fallowing, deficit irrigation or crop-switching programs, and whether the protections provided by C.R.S. 37-92-305(3)(c) were required to participate in the System Conservation Pilot Programs in other water divisions. Montezuma County will be amending their initial letter of opposition which will detail their concerns.

There was discussion regarding the roles of SWCD and the Roundtable in reviewing and discussing proposed legislation and other water policy matters.

18.4 Federal Legislative Update

(time: 05:29:15)

Christine Arbogast summarized the status of water-related cabinet nominations and relevant subcommittee assignments for the Colorado Congressional delegation. She also reported on the possibility of a comprehensive legislative infrastructure stimulus package, potential regulatory changes related to the proposed Waters of the United States rule under the Clean Water Act, and the lifting of a ban on legislative earmarks up to eight percent of a bill's total funding allocation.

18.5 CWCB Instream Flow Recommendations

(time: 05:46:00)

Chris Treese, consultant, reported that the CWCB has confirmed their intent to appropriate an instream flow on a segment of Rincon La Vaca in the Piedra River basin in Water Division 7, which is the only 2021 instream flow recommendation within the District for 2021. Chris, Beth and Carrie will continue to monitor this proposed appropriation and inform the board if there are any concerns.

BLM recommended that CWCB consider an instream flow appropriation on Goat Creek in Division 4 for 2022. There is a structure within the proposed instream flow reach that sweeps Goat Creek in all but highest flows. Several other proposed instream flows within the District have been postponed until 2022 and will continue to be monitored by SWCD.

18.6 Anti-Speculation Committee Update

(time: 05:53:15)

Beth Van Vurst reported on the workgroup created by the legislature in 2020 to explore ways to strengthen the current anti-speculation law. The workgroup has been working on a draft memo summarizing their examination of the current laws in place addressing water speculation and will begin discussing potential ways of protecting against speculative water rights acquisitions. Adam Reeves (Maynes, Bradford, Shipps, Sheftel) is participating and has offered to report on the workgroup's progress at the April board meeting.

18.7 Southwest Basins Implementation Plan Update

(time: 05:56:30)

Carrie Padgett reported that the 2015 Basin Implementation Plan (BIP) is currently being updated. The Roundtable formed a subcommittee dedicated to this update, and that the Roundtable has scheduled a series of special meetings focused on the BIP. Current efforts are focused on updating the BIP principles, goals and strategies applying to topics including drought, climate change, watershed health, and agriculture needs. Ken Curtis commented that CWCB has a much more prescribed process for the 2021 BIP development. For the 2015 BIP, SWCD was the source of the Roundtable's compact-related goals. Roundtable members have been discussing the relationship between the Roundtable and SWCD at recent meetings.

19.0 New Business (continued)

19.3 Update regarding Statewide Education Action Plan (SWEAP)

(time: 06:02:15)

Scott Williamson and Jayla Poppleton presented a summary of the Statewide Water Education Action Plan (SWEAP), which organizations and individual educators can use to realize the “Outreach, Education and Public

Education” goals set forth in the Colorado Water Plan. The SWEAP framework features 10 key outcomes, related strategies, and examples of actions local entities can take to reach their unique audiences. Jayla and Scott also thanked SWCD for its longtime support of water education and specifically Water Education Colorado.

21.0 General Counsel Legal Report (continued)

21.2 Water Quality Control Commission’s Regulation No. 93 Rulemaking Hearing

(time: 06:23:15)

Beth Van Vurst reported that the Colorado Water Quality Control Commission recently issued public notice for its Regulation 93 rulemaking hearing regarding retaining, adding, or removing stream segments from the 303(d) list of impaired and threatened waters and the related monitoring and evaluation list. That hearing will occur in May 2021 and party status must be filed by March 3, 2021. Pete Foster and Ben Van Vurst proposed a limited scope of work to develop a map to summarize potentially affected reaches within the District. This proposed map could be shared on the SWCD website and with relevant stakeholders within the District.

Amy Huff moved to authorize the proposed scope of work to develop a map of waters in southwestern Colorado that are addressed in the proposed 303(d) list and the monitoring and evaluation list. The motion failed for lack of a second. There was board consensus not to file party status for the May 2021 hearing regarding Regulation 93 and direct Beth not to monitor the Regulation 93 hearing.


Peter Butler suggested that a more effective and efficient point of engagement may be the criteria for developing the 303(d) list, which is reviewed periodically.

22.0 Executive Session (if needed)

There was no need for this executive session.

23.0 Adjournment

President Jenny Russell adjourned the meeting at 12:50 p.m.



Jenny Russell, President