

Southwestern Water Conservation District
Board of Directors Regular Meeting
June 9-10, 2021

Present: Dagan Chadd (June 9th-10th) JR Ford (June 9th-10th)
Rusty Hinger (June 9th-10th) Amy Huff (June 9th-10th)
Jenny Russell (June 9th-10th) Don Schwindt (June 9th-10th)
Charlie Smith (June 9th-10th)

Absent: David Guilliams (June 9th-10th) Monte Naslund (June 9th-10th)

Staff: Laura Spann, Programs Coordinator (June 9th-10th)
Steve Wolff, General Manager (June 9th-10th)

Consultants: Christine Arbogast, Kogovsek & Associates (June 9th)
Peter Butler, Consultant (June 9th-10th)
Elaine Chick, Water Information Program (June 10th)
Carrie Padgett, Harris Water Engineering (June 9th-10th)
Peggy Montano, Trout Raley (June 9th)
Chris Treese, Consultant (June 9th-10th)
Beth Van Vurst, Van Vurst Law, General Counsel (June 9th-10th)

Guests: Orla Bannan, Western Resource Advocates (June 9th-10th)
Ken Beegles, Animas La Plata Water Conservancy District (June 9th-10th)
Ken Curtis, Dolores Water Conservancy District (June 9th-10th)
John Cyran, Western Resource Advocates (June 10th)
Michael Fiebig, American Rivers (June 9th)
Steve Garchar, Dolores County Commissioner (June 10th)
Marcel Gaztambide, San Juan Citizens Alliance (June 9th-10th)
Rob Genualdi, Division 7 Engineer, Colorado Division of Water Resources (June 10th)
Emily Halvorsen, Colorado Attorney General's Office (June 10th)
Garret Hanks, Trout Unlimited (June 9th)
Kyle Howe, Colorado Attorney General's Office (June 10th)
Bob Hurford, Division 4 Engineer, Colorado Division of Water Resources (June 10th)
Hattie Johnson, American Whitewater (June 10th)
Julie Kibel, Dolores County Commissioner (June 10th)
Josh Kuhn, Conservation Colorado (June 10th)
Blake Mamich, Southern Ute Indian Tribe (June 9th-10th)
Aislinn McLaughlin, American Rivers (June 9th-10th)
Ed Millard, Southwest Basins Roundtable (June 9th-10th)
Amanda Pajonk, Haynie and Company (June 10th)
Mark Ragsdale, Colorado Division of Water Resources (June 10th)
Gigi Richard, Four Corners Water Center at Fort Lewis College (June 9th-10th)
Duncan Rose, Trout Unlimited (June 9th)
Carrie Sandstedt, Pew Charitable Trusts (June 9th)
Julie Stowe, Public (June 10th)
Russell Stowe, Public (June 10th)
Adrian Stowe, Public (June 10th)
Ryan Unterreiner, Colorado Parks and Wildlife (June 9th-10th)

Note: In-person participation in this SWCD meeting was an option for board members and a limited number of staff and consultants. Public participation in the meeting was available via Zoom.

Wednesday, June 9, 2021

1.0 Call to Order

President Jenny Russell called the meeting to order at 1:32 p.m.

1.1 SWCD Board of Director Appointment for Dolores County

(time: 00:01:00)

SWCD has received director credentials for the appointment of Dagan Chadd to represent Dolores County on the SWCD board of directors. Dagan will serve out the remainder of Doug Stowe's term, which was vacated upon his passing in April 2021. As the newest board member, Dagan introduced himself to the board and public.

1.2 Roll Call and Verification of Quorum

(time: 00:01:10)

Roll was taken and a quorum established.

2.0 Welcome and Introduction of SWCD's General Manager, Steve Wolff

(time: 00:01:45)

Steve Wolff introduced himself as SWCD's General Manager and directed the public to his letter of introduction in the board packet.

3.0 Review and Approve Agenda

(time: 00:03:15)

There was unanimous consent to approve the agenda as noticed.

4.0 Executive Session

(time: 00:03:45)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 4.1, upcoming diligence for SWCD Water Rights, Case No. 13CW3011, Division 7; agenda item 4.2, Colorado River Compact, interstate and intra-state negotiation matters, including re-negotiation of the interim guidelines; and agenda item 4.3, Southern Ute Indian tribe's proposed water quality standards. 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." Peggy Montano joined the executive session as SWCD's special counsel for agenda item 4.1. Chris Treese joined the executive session as a consultant for SWCD on agenda item 4.2 and 4.3. Peter Butler joined the executive session as a consultant for SWCD on agenda item 4.3. Rusty Hinger moved that the board go into executive session. Amy Huff 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.

5.0 Summary and Action Items from Executive Session

(time: 00:07:45)

Beth Van Vurst announced that the board was out of executive session at 3:10 p.m. The board took a short break until 3:20 p.m. During the executive session, the board discussed agenda item 4.1, upcoming diligence for SWCD Water Rights, Case No. 13CW3011; Division 7; agenda item 4.2, Colorado River Compact, interstate and intra-state negotiation matters, including re-negotiation of the interim guidelines; and agenda item 4.3, Southern Ute Indian tribe's proposed water quality standards. No action was taken in executive session.

Charlie Smith moved to direct general counsel and consultants to prepare and submit SWCD's comments on the Southern Ute Indian Tribe's proposed water quality standards. JR Ford seconded. The motion passed.

6.0 Outstanding Waters Overview and Candidate Streams in SW Colorado (time: 00:09:30)

Garrett Hanks (Trout Unlimited), Mike Fiebig (American Rivers), Carrie Sandstedt (Pew Charitable Trusts), Orla Bannan (Western Resources Advocates), Duncan Rose (Trout Unlimited), Marcel Gaztambide (San Juan Citizens Alliance) presented the key criteria for the designation of Outstanding Waters (OW) in Colorado, the process for OW consideration, how an OW designation affects water use and permit acquisition, and an overview of the reaches of rivers their organizations may ask the Colorado Water Quality Control Commission to consider for OW designations in southwestern Colorado.

7.0 Federal Legislative Update (time: 00:53:45)

Christine Arbogast directed the board to her written report and highlighted several developments, including recent efforts to implement emergency drought authorities in Montezuma and Dolores Counties to benefit water users and the Ute Mountain Ute Tribe, opportunities for input on HR 803 (Protecting America's Wilderness and Public Lands Act), the possibility of a western water infrastructure bill, a significant increase in funding for the U.S. Bureau of Reclamation, and Tanya Trujillo's expected Senate confirmation for U.S. Department of the Interior, Assistant Secretary for Water and Science.

The board adjourned for a recess until Thursday, June 10, 2021 at 8:30 a.m.

Thursday, June 10, 2021

8.0 Call to Order – Roll Call and Verification of Quorum (time: 01:12:30)

President Jenny Russell reconvened the meeting at 8:33 a.m. Roll was taken and a quorum established.

9.0 Review and Approve Agenda (time: 01:13:10)

There was unanimous consent to approve the agenda as noticed.

10.0 Approve and/or Remove Consent Agenda Item (time: 01:13:30)

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

11.0 Consent Agenda (time: 01:13:40)

11.1 Approval of Minutes (March 25; April 1-2; April 8; April 21; April 28; May 6; May 13; May 20)

11.2 Acceptance of Treasurer's Report (April 2021)

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

12.0 SWCD Resolution 2021-03 Honoring Doug Stowe (time: 01:14:15)

Jenny Russell read the proposed SWCD Resolution 2021-03 honoring former director Doug Stowe. Rusty Hinger moved to adopt SWCD Resolution 21-03 Honoring Doug Stowe. Don Schwindt seconded. The motion passed.

Board members and Dolores County Commissioners commented on Doug's commitment to southwest Colorado's water future and expressed their condolences to Doug's family, who joined the meeting by Zoom.

13.0 Questions & Comments from Public (time: 01:20:40)

There were no questions or comments from the public.

14.0 Reports

14.1 Director Reports (time: 01:21:45)

Charlie Smith (San Juan County) reported that the Animas River may peak June 10th or 11th in Silverton. At a recent San Juan County Commissioner meeting, the commissioners expressed support for Outstanding Waters designations for Bear Creek and Boulder Creek, as they would provide additional protections for the Town of Silverton's source water. They expressed support for prioritizing water quality and streamflow protections in SWCD's strategic plan. The Commissioners also thanked SWCD for recent work in maintaining the San Juan County conditional water rights (originally decreed under case number 05CW88).

Rusty Hinger (Mineral County) reported that peak flows in the Upper San Juan basin occurred closer to average dates than in 2020. Summer tourism has taken off and the high mountain snow is melting fast.

Amy Huff (La Plata County) reported that the Animas River is peaking along with summer tourism. After cancellation in 2020, Animas River Days were held the first weekend of June. Chuck Stevens, La Plata County Manager, is interested in learning more about demand management and plans to organize a work session with the La Plata County Commissioners on the topic.

Don Schwindt (Montezuma County) directed the board to the drought press release and news coverage in the packet. It's evident that water is a priority for the Montezuma County Commissioners, who have spent a lot of time learning about the topic at recent meetings.

Dagan Chadd (Dolores County) reported that a portion of the Town of Dove Creek's source water is from McPhee Reservoir from which they are expecting a short water supply this summer. The Town wants to build a storage reservoir to hold their project supply longer and is pursuing grant funding to support construction.

Jenny Russell (San Miguel County) also reported that there is not enough water and a lot of tourists. At a recent water meeting in Norwood, it was said that ranching may not have a viable future in San Miguel County because of the diminishing and unreliable water supplies.

14.2 Board Committee Reports

(time: 01:31:00)

There have been no SWCD board committee meetings since SWCD's last regular board meeting.

14.3 Water Information Program Report

(time: 01:31:15)

Elaine Chick reported that Water Cycle Drawing Contest winners were selected and contacted. The Water Information Program and Four Corners Water Center at Fort Lewis College held their first Level 2 Water Law for Realtors course for 35 attendees. Two fall water law courses are planned for September 17th and October 22nd. Elaine has also submitted the Southwest Basins Roundtable's "Education Action Plan" for the coming year, which outlines tasks for next year including the creation of a standalone SW Roundtable website, a Roundtable handbook, and public outreach for the Basin Implementation Plan (BIP) update. The Forests to Faucets Teacher Training Program will be held in August in the Dolores Basin.

14.4 Southwest Basins Roundtable Report

(time: 01:34:50)

Amy Huff reported that the Southwest Basins Roundtable adopted Section 3 of the CWCB's Code of Conduct. The Roundtable has opened another round of Water Supply Reserve Fund grant applications, with the deadline set for October 15th. The Colorado Water Conservation Board (CWCB) is holding a webinar entitled "Evaluating Conserved Consumptive Use in the Upper Colorado River Basin" on June 24th. The Roundtable will soon be setting up a standalone website, and in-person meetings will resume in late July. The CWCB has established new grant review criteria, which authorizes the CWCB Director to approve grant request for up to \$50,000 without board review. Grant requests from \$50,000-\$99,000 will be put on the CWCB's consent agenda and \$100,000 and above will receive board consideration as part of the regular meeting agenda. The next Interbasin Compact Committee meeting is scheduled for October 21st. Carrie Padgett reported that the BIP update is split into Volume I and II both of which will be available for public comment in October.

14.5 Hydrologic Conditions, including updates from Division Engineers (4 and 7)

(time: 01:39:15)

Bob Hurford, Division 4 Engineer, and Rob Genualdi, Division 7 Engineer, summarized area reservoir and streamflow conditions as well as water administration across southwestern Colorado. They described two transmountain diversions from Division 7 into Division 3, the La Plata River Compact, as well as current administration in the upper San Juan river and lower San Miguel river basins.

14.6 Staff Report

14.6.1 Colorado River Basin Hydrologic Conditions

(time: 02:01:00)

Steve Wolff directed the board to the written staff report, which includes hydrologic conditions from across southwest Colorado and the Colorado River basin. Steve emphasized how reservoir conditions and inflow forecasts have declined drastically and quickly during this water year. Reclamation's 24-month study (which projects reservoir elevations) has a high probability of Lake Powell dropping to or below critical elevation 3,525 feet in water year 2022. Potential strategies for the Upper Basin states include re-operation of Lake Powell, moving water from other CRSP reservoirs to Lake Powell, and other alternatives. In water year 2022, Lower Basin states will face a Tier I shortage, with the largest supply cuts going to Arizona. In water year 2023, there's a possibility of a Tier II shortage. Steve referred to the Upper Colorado River Commission's press release regarding the concerning elevation projections for Lake Powell.

14.6.2 Authorize Cashing Out of Certificate of Deposit Maturing July 16, 2021

(time: 02:05:30)

Laura Spann reported on one of SWCD's certificate of deposit (CD) with a balance of \$504,000 to mature on July 16, 2021. Given that interest rates are expected to rise this year, Laura recommended that SWCD authorize the signers to cash out this CD in July and deposit the balance in its Bank of Colorado checking account temporarily until rate increases make seeking another CD opportunity worthwhile. Public funds in SWCD's checking account are protected by the Federal Deposit Insurance Corporation (FDIC) and the Public Deposit Protection Act (PDPA). Charlie Smith moved to authorize SWCD signers to cash out the \$504,000 CD on or after July 16th and transfer the funds to SWCD's checking. Rusty Hinger seconded. The motion passed.

14.6.3 August SWCD Regular Board Meeting and Tour Logistics

(time: 02:09:00)

Board members, staff, and consultants discussed August SWCD board meeting and tour logistics. There was board consensus to hold the August meeting at the Durango office along with a board tour of the Lower Animas River basin (to include the La Plata, Florida, and Pine if possible).

The board adjourned for a short break.

15.0 Old Business

15.1 Colorado River Matters

15.1.1 Discussion of guiding principles for SWCD's exploration and consideration of demand management

(time: 02:17:44)

Chris Treese summarized revisions to the draft SWCD "guiding principles" regarding demand management and for engaging with CWCB's exploration of demand management feasibility. Rusty Hinger moved to adopt the proposed SWCD guiding principles regarding demand management with the understanding that it is a living document that may be adapted to constituent input, board changes as the state's feasibility investigation continues, and other revisions. Don Schwindt seconded. There was board discussion. The motion passed.

15.2 State Legislative Update

(time: 02:32:30)

Chris Treese directed the board to his June 2nd memo regarding state legislation and highlighted developments that occurred since that memo was sent. The Colorado General Assembly adjourned on June 8th. The Interim Water Resources Review Committee is expected to meet during the summer. There were 623 bills introduced during the 2021 session, of which about 25 were water-related and tracked by SWCD. The 2021 session was also marked by the drastic change from a contracted budget in January to \$3.8 billion in federal relief to the state by June. SWCD opposed SB21-087 (Agricultural Workers' Rights), which passed and is awaiting the governor's signature. Under SB 087, minimum wage laws will apply to agricultural workers, who are now also allowed to unionize. HB21-1260 (General Fund Transfer Implement State Water Plan) passed, which will direct \$20 million to support water plan funding through the CWCB. Wildfire or forest health was in the title of or referenced in 59 bills this session. As a result of SB 293, special districts are going to see a 18-20% reduction in property tax revenues in 2022 and 2023. Finally, Chris Treese will send a letter to the five state legislators representing all or parts of southwestern Colorado introducing Steve Wolff and thanking them for their attention to water.

15.3 Southern Ute Indian Tribe's Proposed Water Quality Standards

Beth Van Vurst reported that the Southern Ute Indian Tribe is currently in the process of considering adoption of surface water quality standards. There was board consensus that legal counsel, staff and consultants to submit written comments by the deadline of June 15th. It is possible that the standards may impact fee land within the tribal boundaries and lands outside the reservation.

15.4 Proposed Instream Flow Appropriation on Rincon La Vaca Creek in Water Division 7 (time: 02:53:40)

Beth Van Vurst reminded the board that SWCD filed a Notice to Contest the proposed instream flow appropriation on Rincon La Vaca Creek in Water Division 7. The proposed instream flows range from 1.2-2.8 cfs. The entire instream flow reach is within Forest Service boundaries above Vallecito Reservoir. SWCD has been working with CWCB and CPW to address the concerns outlined in the Notice to Contest, which focused on how the instream flow and CPW's proposed bypass will be administered, operated and accounted for.

15.5 SWCD Personnel Matters

15.5.1 Staff Timekeeping Report – Programs Coordinator

(time: 02:59:15)

Laura Spann directed the board to her staff timekeeping report, which summarized Programs Coordinator hours by category from October 2020 to present. Chris Treese summarized proposed changes to the staff timekeeping policy. Rusty Hinger moved to adopt Chris' staff time tracking recommendations to 1) add HFWA Sick Leave and PHE Sick Leave to the timesheet starting January 1, 2022, 2) track time in thirty-minute increments instead of fifteen-minute increments and 3) rename, add, and remove several of the categories being tracked. Amy Huff seconded. The motion passed.

15.5.1 Proposed Updates to SWCD Personnel Policies

(time: 03:05:50)

Chris Treese and Beth Van Vurst summarized proposed updates to SWCD's personnel policies addressing employee leave, recording hours worked, and other situations. There was board discussion and a few suggested changes to the proposed language.

The board took a short recess due to an internet outage.

Charlie Smith moved to adopt the proposed SWCD personnel policies with the adjustments suggested by the board at the meeting, specifically Employee Leave Policies, Policy Concerning Recording All Hours Worked, and Policy Regarding Office Hours, Hours Worked, Travel, Overtime, Pay Practices and Confidentiality. Rusty Hinger seconded. The motion passed.

16.0 New Business

16.3 Review and Acceptance of FY2020 Audit Report

(time: 03:49:00)

Amanda Pajonk, Haynie and Company, detailed the 2020 audit. There were no audit disagreements, and all requested documentation was supplied. No audit issues arose, and SWCD received a clean opinion for the 2020 audit. Rusty Hinger moved to accept the final 2020 audit as presented for submittal to the State by the July 31 deadline. Amy Huff seconded. The motion passed.

16.2 Enhancing River Recreation, Potential Legislation regarding Recreation Water Rights (time: 03:54:30)

Hattie Johnson (American Whitewater), John Cyran (Western Resource Advocates), and Josh Kuhn (Conservation Colorado) explained river recreation's economic, cultural, social, and educational value to Colorado, its vulnerabilities under existing water law, and opportunities to create greater legal protection for river flows for river recreation. In southwestern Colorado, river recreation is estimated to generate \$700 million in economic output with more than 544,000 participants.

16.1 Southwest Colorado Drought – SWCD Education & Outreach Opportunities

(time: 04:51:45)

Laura Spann solicited ideas and discussion from the board regarding education and outreach opportunities for SWCD to further contextualize and regionalize the acute impacts of extreme drought for irrigators, fish, recreation, and municipalities. Ideas included requesting a July "Special Drought Edition" of the Water Information Program

newsletter, which is distributed to 1,300 people statewide, and adding a drought impacts page to the SWCD website to summarize news reports and other drought information. Ken Curtis reported on the Dolores Water Conservancy District's and Ute Mountain Ute Tribe's efforts to generate statewide and federal attention on the extreme drought impacts in Montezuma and Dolores Counties. He also highlighted the national news coverage of "future" potential shortages in Arizona in contrast to the lack of news coverage of current and frequent shortages in Western Colorado.

16.4 Proposed 2022 SWCD Grant Program Guidelines

(time: 05:00:00)

Laura Spann summarized proposed updates for the 2022 SWCD Grant Program Guidelines. The board discussed further clarifying the guidelines regarding drinking water projects and applicants' reserve funding practices. Staff will bring these additional revisions for consideration at the August special board meeting along with proposed 2022 grant category funding.

17.0 Engineering Report

17.1 Upper Colorado & San Juan River Basin Recovery Implementation Programs

(time: 05:29:30)

Carrie Padgett reported that most meetings with Congressional staff regarding the San Juan River Basin Recovery Program have been completed, with the exception of Senator Hickenlooper's whose staff meeting is scheduled for June 23rd.

17.2 CWCB Instream Flow Investigations (Goat Creek and Spring Creek, Division 4)

(time: 05:29:45)

Carrie Padgett reported on a recent site visit with the CWCB, U.S. Bureau of Land Management, Colorado Division of Water Resources, and water users to discuss proposed instream flow reaches on Goat Creek and Spring Creek in Division 4. She reported that the visits were valuable in providing education about what an instream flow appropriation would mean for administration along the two reaches. There was board consensus to direct Carrie to provide occasional assistance to constituents in developing pond maps or other similar information to document historic undecreed water use within or upstream of the proposed instream flow reaches.

18.0 General Counsel Legal Report

18.1 April and May Water Court Resume Review (Divisions 3, 4, 7)

(time: 05:34:30)

Beth Van Vurst is currently reviewing one application from the April Division 4 Water Court resume that may warrant further discussion and consideration by the board.

18.2 Durango Urban Renewal Authority, Proposed Tax Increment Financing Agreement

(time: 05:35:15)

Beth Van Vurst reported that the Durango Urban Renewal Authority recently adopted the "Midtown Urban Renewal Area Plan" that encompasses about 50 acres within Durango. The City plans to fund identified renewal projects through tax increment financing, which allows for the City to dedicate all increased property tax revenues from a defined area toward this economic development project. The City of Durango has sent a proposed tax increment financing agreement to SWCD that would exempt SWCD from diversion of its property taxes and allow SWCD to continue collecting its full, future property tax revenue. Beth is currently reviewing the agreement and setting up a meeting with the City.

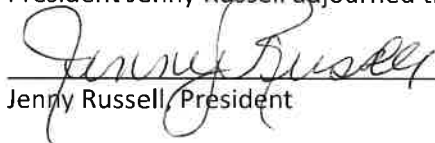
There was board consensus to schedule a special board meeting on Thursday, July 1st at 9:00 a.m.

19.0 Executive Session (if needed)

There was no need for this executive session.

20.0 Adjournment

President Jenny Russell adjourned the meeting at 1:40 p.m.



Jenny Russell, President