

**Southwestern Water Conservation District
Board of Directors Regular Meeting
August 11, 2021**

Present: Dagan Chadd JR Ford David Guilliams (until 10:00am)
Rusty Hinger Amy Huff Monte Naslund
Jenny Russell Don Schwindt Charlie Smith

Staff: Laura Spann, Programs Coordinator
Steve Wolff, General Manager

Consultants: Christine Arbogast, Kogovsek & Associates
Peter Butler, Independent Consultant
Elaine Chick, Water Information Program
Pete Foster, Wright Water Engineers
Carrie Padgett, Harris Water Engineering
Beth Van Vurst, Van Vurst Law, General Counsel

Guests: Russ Anderson, Michael Baker International
Ken Curtis, Dolores Water Conservancy District
Marcel Gaztambide, San Juan Citizens Alliance
Rob Genualdi, Division 7 Engineer, Colorado Division of Water Resources
Emily Halvorsen, Colorado Attorney General's Office
Bob Hurford, Division 4 Engineer, Colorado Division of Water Resources
Gigi Richard, Four Corners Water Center at Fort Lewis College

Note: In-person participation in this SWCD meeting was an option for a few board members and staff. All remaining participation in the meeting was via Zoom.

Wednesday, August 11, 2021

1.0 Call to Order – Roll Call and Verification of Quorum

President Jenny Russell called the meeting to order at 9:02 a.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:00:45)

There was unanimous consent to approve the agenda as noticed.

3.0 Executive Session

(time: 00:01:00)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 3.1, Colorado River Compact, interstate and intra-state negotiation matters and agenda item 3.2, Montezuma Valley Irrigation Company, Case No. 18CW3052 in Water Division 7. The statutes covering this session are § 24-6-402(4)(b), C.R.S., "conferences with an attorney for the district for the purpose of receiving legal advice on specific legal questions," and § 24-6-402(4)(e), C.R.S., "determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators." As a Montezuma Valley Irrigation Company shareholder, Don Schwindt recused himself from discussion of agenda item 3.2. Pete Foster, Wright Water Engineer, joined the executive session for discussion of agenda item 3.2 as an engineering consultant for SWCD. Amy Huff moved that the board go into executive session. Rusty Hinger 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.

4.0 Summary and Action Items from Executive Session

Beth Van Vurst announced that the board was out of executive session at 10:20 a.m. During the executive session, the board discussed agenda item 3.1, Colorado River Compact, interstate and intra-state negotiation matters, and agenda item 3.2, Montezuma Valley Irrigation Company, Case No. 18CW3052 in Water Division 7. No action was taken in executive session.

The board recessed for a short break.

5.0 Approve and/or Remove Consent Agenda Item

(time: 00:05:25)

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

6.0 Consent Agenda

(time: 00:05:45)

6.1 Approval of Minutes (June 9-10, 2021; July 1, 2021)

6.2 Acceptance of Treasurer's Report (June 2021)

Don Schwindt moved to approve the consent agenda as presented. Amy Huff seconded. The motion passed.

7.0 Questions & Comments from Public

(time: 00:07:30)

There were no questions or comments from the public.

8.0 Reports

8.1 Director Reports

(time: 00:07:45)

There were no director reports.

8.2 Staff Report

8.2.1 SWCD's Strategic Plan Update

(time: 00:08:00)

Steve Wolff reported on development of SWCD's strategic plan framework, which includes four priorities based on board interviews and an additional fifth priority for internal operations suggested by Steve. Steve and Jacob Bornstein will draft narratives, five-year goals, and strategies for each priority for further discussion at the October meeting.

8.2.2 Southwest Basins Roundtable Report

(time: 00:09:30)

Laura Spann directed the board to the written Roundtable update in their packet, which summarized activities at the July meeting. The Roundtable re-elected current officers. IBCC representatives are now Ken Curtis and Al Pfister. Steve Wolff was elected to serve as the Roundtable's alternate representative to the IBCC. A principal focus of the July Roundtable meeting was the Basin Implementation Plan update; Volumes I and II as well the Projects List are now under review and comment by the Roundtable. Later this fall, there will be an opportunity for public comment.

8.2.3 SWCD Request for Proposals for Professional Auditing Services (2021-2025)

(time: 00:11:30)

Steve Wolff directed the board to the draft professional auditing services request for proposals (RFP). There was board consensus to direct staff to publish the RFP as drafted, with proposals due on September 20th. It is anticipated that the Board will consider the responses and potentially take action on the potential contract at the October board meeting.

8.2.4 2022 SWCD Board Meeting Format

(time: 00:12:30)

There was board consensus to generally plan for one-day board meetings in 2022 on Zoom or in person.

8.3 Water Information Program Report

(time: 00:14:15)

Steve Wolff directed the board to Elaine Chick's written report on the Water Information Program.

8.4 Engineering Report

Steve Wolff directed the board to Carrie Padgett's written report, which covered updates on the San Juan and Upper Colorado River Basin Recovery Programs, the Basin Implementation Plan update, and the Animas Watershed Partnership. SWCD submitted a letter of support to the Senate Appropriations Committee requesting financial support for the recovery programs.

Staff Report (General)

(time: 00:15:00)

Steve Wolff provided a written summary of his recent meetings and activities. He will also be monitoring the redistricting process to ensure SWCD has an opportunity to comment if appropriate.

Steve Wolff reported that Jenny Russell had received a request from the San Miguel County Board of County Commissioners for a joint meeting between San Miguel BOCC, Dolores County BOCC and the SWCD Board to discuss draft legislation on the proposed Dolores River National Conservation Area. The legislation, sponsored by Senator Bennet, is expected to be released to the public sometime in September. There was board consensus to accept San Miguel County's request for a meeting with the SWCD board to discuss the legislation. Board members were asked to indicate their availability for a meeting via email.

9.0 Old Business

9.1 Proposed 2022 SWCD Grant Program Guidelines

(time: 00:22:00)

Laura Spann summarized proposed updates for the 2022 SWCD Grant Program Guidelines, specifically requirements for municipal and domestic raw water needs and prudent financial reserves and assessments for grant applicants' long-term maintenance needs. Charlie Smith moved to adopt the 2022 SWCD grant program guidelines as proposed. JR Ford seconded. The motion passed.

9.3 Colorado River Basin Hydrologic Conditions

(time: 00:28:45)

Steve Wolff directed the board to the written hydrologic conditions report. Reclamation's 24-month study forecasts that Lake Powell will likely drop below critical elevation 3,525' in early 2022, which has triggered implementation of the Drought Reservoir Operations Agreement (DROA). Per the DROA, by year end 2021, a combined total of 181,000 acre-feet will have been released from the Colorado River Storage Project initial units (Flaming Gorge, Aspinall, and Navajo reservoirs) to increase Lake Powell's elevation by an estimated three feet. There are outstanding questions about how Reclamation is monitoring the delivery of these releases to Lake Powell.

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

(time: 00:34:30)

Bob Hurford, Division 4 Engineer, and Rob Genualdi, Division 7 Engineer, summarized the hydrologic conditions within the District, including stream flows, reservoir levels, summer temperatures, and the impact of recent monsoonal rains. Long Hollow Reservoir is nearly empty, partially to allow the La Plata Water Conservancy District to conduct maintenance. The Colorado Division of Water Resources may file a statement of opposition in two related court cases regarding the Treasure Pass transmountain diversion to the Rio Grande River basin. The San Miguel River will likely be on call from the Highline Canal starting next week.

9.4.1 SWCD Support Letter for Federal Infrastructure Bill

(time: 00:43:15)

SWCD, the Colorado River Water Conservation District, and the Front Water Council sent a joint letter to Senators Bennet and Hickenlooper in support of the proposed infrastructure bill.

9.5 Southern Ute Indian Tribe's Proposed Water Quality Standards

(time: 00:45:00)

SWCD submitted comments on the Southern Ute Indian Tribe's proposed water quality standards which, in large part, asked for clarification on several aspects of the proposal. On August 4th, the Tribe provided a compilation of responses to comments provided by various entities, including SWCD. The Tribe has now initiated the larger public comment process, which will likely include a public hearing in October.

11.0 General Counsel Legal Report

11.1 Ratification of Statement of Opposition filed in Double RL Company, Case No. 21CW3020

(time: 00:50:30)

Beth Van Vurst summarized Double RL Company's diligence application to maintain three conditional water rights, two of which are decreed to divert water from the San Miguel River basin for a variety of use related to a lodge that may be developed in the Uncompahgre River basin. SWCD has concerns, including whether the applicant has satisfied the legal requirements to maintain these water rights and whether the decree that may be obtained through this diligence proceeding is going to be appropriately limited to the scope of the original decree. The deadline for filing statements of opposition occurred between SWCD board meetings, so Beth consulted with Jenny and Steve before filing a statement on SWCD's behalf. Amy Huff moved to ratify the statement of opposition filed in Case No. 21CW3020. Don Schwindt seconded. The motion passed.

11.2 June & July Water Court Resume Review (Divisions 3, 4, 7)

11.2.1 BLM's Application for Change of Water Right and Appropriative Right of Exchange, Case No. 21CW3014, Water Division 3

11.2.2 BLM's Application for Junior Water Right and Appropriative Right of Exchange, Case No. 21CW3029, Water Division 7

(time: 00:52:30)

Beth Van Vurst summarized the BLM's application to change the only decreed water right for the Treasure Pass ditch transmountain diversion. The BLM is also seeking to appropriate a new 13 cfs water right to divert out of the Treasure Pass ditch as a transmountain diversion for various uses in the Rio Grande River basin. Both applications also include related claims to confirm appropriative rights of exchange. Beth Van Vurst recommended filing statements of opposition in both cases to ensure that any decree entered in these cases contains terms and conditions that adequately protect water users in the San Juan basin from injury. Rusty Hinger moved to direct general counsel to file statements of opposition in case numbers 21CW3029 and 21CW3014. JR Ford seconded. The motion passed.

11.3 Proposed Revisions to 2021-22 Weather Modification Program Contracts

(time: 00:56:30)

Beth Van Vurst described two proposed revisions to the three weather modification program contracts. Amy Huff moved to approve the revised 2021-22 weather modification program contracts. Rusty Hinger seconded. The motion passed.

10.0 New Business

10.1 Colorado State Engineer's Initiation of Rulemaking Process for Development of Measurement Rules in Water Divisions 4, 5, 6, & 7

(time: 01:01:00)

Beth Van Vurst reported that the State Engineer will be initiating a rulemaking process for development of measurement rules for water rights within the District and across the western Slope. Steve and Beth will be following this process very closely over the next year. The rulemaking webinar will be noticed to the southwest Colorado stakeholders, SWCD board members, and constituents.

10.2 Proposed Downscaled Modeling of Phase III Risk Study for Southwest Colorado

(time: 01:03:45)

Steve Wolff summarized the opportunity to pursue downscaled modeling for sub-basins in southwestern Colorado as follow up to the Phase III West Slope Risk Study. SWCD will be coordinating with stakeholders to consider which basins and what information would be pursued for further study. The proposed modeling costs and scope of work with Hydros Consulting will be clarified in the coming months.

10.3 Potential SWCD Property Tax Revenue Impacts of SB293 and Ballot Initiative 27

(time: 01:06:30)

Steve Wolff summarized Chris Treese's memo in which he concluded that Senate Bill 293 may result in a temporary two percent reduction in SWCD's property tax revenues. Should it pass, the proposed ballot initiative 27 may result in a permanent estimated ten percent reduction in SWCD's property tax revenue.

10.4 Proposal for SWCD's State Legislative Representation

Steve Wolff summarized Chris Treese' memo in which he recommends that SWCD contract with a Denver-based state lobbyist for representation during the upcoming legislative session. There was board consensus to follow Treese' recommendation to conduct a limited distribution of a short Request for Proposals followed by candidate interviews with a small group of SWCD representatives at the Colorado Water Congress summer conference.

10.5 Proposed FY2022 SWCD Budget Goals & Priorities

(time: 01:11:00)

Steve Wolff summarized the SWCD board's budget process and suggested posting the draft FY2022 on the website. He highlighted budget-related discussion items for board consideration, including aligning the budget with SWCD's strategic plan priorities, financial goals regarding the SWCD Water Defense and SWCD Water Development, opportunities for SWCD to support water user compliance with the proposed measurement rules, and the value of an investment policy. Charlie Smith offered to assist with the budget. Monte Naslund moved to appoint Steve Wolff as SWCD's Budget Officer. Rusty Hinger seconded. The motion passed.

9.0 Old Business (continued)

9.4 Federal Affairs Update (Summary of Federal Water Infrastructure Legislation)

(time: 01:20:45)

Christine Arbogast described the proposed federal infrastructure bill recently passed by the U.S. Senate, which includes proposed \$8.3 billion for Bureau of Reclamation western water infrastructure for fiscal years 2022-2026. She detailed the proposed allocation of water infrastructure funding to various needs, including aging infrastructure, water storage, rural water projects, Colorado River Drought Contingency Plan implementation, and the Colorado River endangered species recovery programs. Christine also reported that as part of the Dolores Project drought relief effort, Reclamation is going to conduct and pay for reservoir dredging. Camile Calimlim Touton continues to serve as acting Reclamation Commissioner until her likely Senate confirmation in September.


There was board consensus to utilize the Board Finance Committee as part of the FY2022 budget process.

12.0 Executive Session (if needed)

There was no need for this executive session.

13.0 Adjournment

President Jenny Russell adjourned the meeting at 12:05 p.m.



Jenny Russell, President