

**Southwestern Water Conservation District
Board of Directors Regular Meeting via Zoom
December 8, 2021**

Present: Dagan Chadd JR Ford (joined at 1 p.m.) Rusty Hinger
Amy Huff Jenny Russell Charlie Smith

Absent: David Guilliams Monte Naslund Don Schwindt

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

Consultants: Christine Arbogast, Kogovsek & Associates
Elaine Chick, Water Information Program
Carrie Padgett, Harris Water Engineering
Beth Van Vurst, Van Vurst Law, General Counsel
Garin Vorthmann, Colorado Legislative Strategies

Guests: Russ Anderson, Michael Baker International
Orla Bannan, Western Resource Advocates
Ken Beegles, Southwest Basins Roundtable
Ken Curtis, Dolores Water Conservancy District
Mandy Eskelson, Mountain Studies Institute
George Gavrielides, Southern Ute Indian Tribe
Marcel Gaztambide, San Juan Citizens Alliance
Rob Genualdi, Colorado Division of Water Resources, Division 7 Engineer
Bob Hurford, Colorado Division of Water Resources, Division 4 Engineer
Blake Mamich, Southern Ute Indian Tribe
Al Pfister, San Juan Water Conservancy District

1.0 Call to Order – Roll Call and Verification of Quorum

President Jenny Russell called the meeting to order at 8:19 a.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:01:00)

There was unanimous consent to approve the adjusted agenda with item 13 to follow executive session.

3.0 Approve and/or Remove Consent Agenda Item

(time: 00:02:00)

There was unanimous consent to remove agenda item 4.4 from the consent agenda for further discussion.

4.0 Consent Agenda

(time: 00:03:00)

4.1 Approval of Minutes (October 4-5, 2021; November 10, 2021)

4.2 Acceptance of Treasurer's Report (October 2021)

4.3 Proposed 2022 SWCD Meeting & Holiday Schedule

Charlie Smith moved to approve consent agenda items 4.1, 4.2, and 4.3. Rusty Hinger seconded. The motion passed.

4.4 Requests for 2021 SWCD Grant Extensions through 2022

Amy Huff moved to approve the 2021 SWCD grant extension requests through 2022, with the condition that Farmers Water Development Company provide a satisfactory progress update prior to the disbursement of grant funds. Rusty Hinger seconded. The motion passed.

(time: 00:08:30)

5.0 Executive Session

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 5.1, San Miguel River basin water supply planning; agenda item 5.2, Colorado River Compact, interstate and intrastate negotiation matters, including re-negotiation of the interim guidelines; agenda item 5.3, use of transmountain water rights originating within the District; agenda item 5.4, closeout of SWCD's loan to Bauer Lake Water Company; and agenda item 5.5, SWCD personnel matters, specifically agenda item 5.5.1, SWCD general manager job description and agenda item 5.5.2, SWCD programs coordinator job description. The statutes covering the discussion of agenda items 5.1 through 5.4 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," The statutes covering the discussion of agenda item 5.5 in executive session are § 24-6-402(4)(b), C.R.S. and § 24-6-402(4)(f)(1), C.R.S., "personnel matters."

Dagan Chadd 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 for agenda items 5.1 through 5.4 need be kept based on her opinion that the discussion will constitute privileged, attorney-client communications.

The board recessed for a short break.

6.0 Summary and Action Items from Executive Session

(time: 00:11:15)

Beth Van Vurst announced that the board was out of executive session at 10:10 a.m. During the executive session, the board discussed agenda item 5.1, San Miguel River basin water supply planning; agenda item 5.2, Colorado River Compact, interstate and intrastate negotiation matters, including re-negotiation of the interim guidelines; agenda item 5.3, use of transmountain water rights originating within the District; and agenda item 5.4, closeout of SWCD's loan to Bauer Lake Water Company. The SWCD board also began, but did not conclude, discussion of agenda item 5.5, SWCD personnel matters, specifically agenda item 5.5.1, SWCD general manager job description and agenda item 5.5.2, SWCD programs coordinator job description. No action was taken during executive session.

5.0 Executive Session (continued)

(time: 00:13:00)

Beth Van Vurst recommended that the board move back into executive session to finish its discussion of agenda item 5.5, SWCD personnel matters, specifically agenda item 5.5.1, SWCD general manager job description and agenda item 5.5.2, SWCD programs coordinator job description. The statutes covering this session are § 24-6-402(4)(b), C.R.S., and § 24-6-402(4)(f)(1), C.R.S., "personnel matters." Rusty Hinger moved that the board go into executive session. Dagan Chadd seconded. The motion passed.

6.0 Summary and Action Items from Executive Session (continued)

(time: 00:14:20)

Beth Van Vurst announced that the board was out of executive session at 10:37 a.m. During the executive session, the board discussed agenda item 5.5, SWCD personnel matters, specifically agenda item 5.5.1, SWCD general manager job description and agenda item 5.5.2, SWCD programs coordinator job description. No action was taken during executive session. Beth will provide proposed updates to both employee job descriptions for board consideration and possible action at the February meeting.

13.0 General Counsel Legal Report

13.1 October Water Court Resume Review (Divisions 3, 4, 7)

(time: 00:16:30)

Beth Van Vurst reported that there were no applications in the October water court resumes for Divisions 3, 4 and 7 that warrant further discussion or action by SWCD.

13.2 2022 Proposed Water Information Program Independent Contractor Agreement

(time: 00:16:55)

Beth Van Vurst summarized potential changes to the proposed 2022 Water Information Program independent contractor agreement, the most significant of which is to remove development and distribution of the bimonthly newsletter, add logistics and coordination of SWCD's annual water seminar, and increase the total contract amount

to \$60,000. Beth and Steve Wolff recommended the proposed agreement for approval. Amy Huff moved to approve the 2022 Water Information Program independent contractor agreement as proposed. Rusty Hinger seconded. The motion passed.

13.3 Proposed Updates to SWCD's Employee Job Descriptions

(time: 00:19:30)

Beth Van Vurst will prepare proposed revisions to the employee job descriptions for board consideration at the February 2022 meeting.

13.4 Closeout of SWCD Loan to Bauer Lake Water Company

(time: 00:19:55)

Beth Van Vurst provided background on the 2012 SWCD loan of up to \$50,000 to Bauer Lakes Water Company to perform infrastructure repairs. In exchange for the loan, Bauer Lakes Water Company agreed to pay back the loan over ten years and provide SWCD with two sources of collateral to secure the loan, including a deed of trust encumbering a portion of their water rights and a pledge of certain revenue. SWCD staff has confirmed timely and full payment of the loan. Rusty Hinger moved general counsel's recommendation that SWCD request that the Montezuma County Public Trustee release the deed of trust and send a letter to Bauer Lake Water Company confirming that the loan has been fully paid off and SWCD is hereby releasing any and all right, title, and interest to any collateral that was encumbered as part of this loan agreement. Dagan Chadd seconded. The motion passed.

7.0 Questions & Comments from Public

(time: 00:21:55)

There were no questions or comments from the public.

8.0 Reports

8.1 Director Reports

(time: 00:22:15)

Rusty Hinger (Mineral County) reported that he has traveled across Colorado, Kansas, Texas, and Oklahoma, and the region is exceptionally dry. Colorado is not alone in looking toward new solutions to address regional drought.

Amy Huff (La Plata County) reported that the La Plata County Commissioners are going to be discussing their water priorities in January. Amy plans to attend that meeting and report back.

Dagan Chadd (Dolores County) reported on his involvement in considering proposed legislation to establish a Dolores River National Conservation Area (NCA), which he hopes will move forward.

Charlie Smith (San Juan County) reported that San Juan County is excited about the application to the Colorado Water Quality Division to change the classification on a reach of Mineral Creek as supporting aquatic life.

Jenny Russell (San Miguel County) reported that the ski area is still making snow. The San Miguel County Commissioners continues to follow the proposed Dolores NCA legislation.

8.2 Water Information Program Report

(time: 00:25:45)

Elaine Chick reported on the fifth 2021 virtual water law course on December 17th with 32 people registered and 26 signed up to receive continuing education credits. Whether the 2022 SWCD Children's Water Festival will go forward in 2022 is still to be determined. Elaine attended the November 29th meeting among statewide festival coordinators and plans are still unclear, with discussion of virtual options as well. She is also reaching out to fifth grade teachers to gauge their interest and capacity for other water education activities in the classroom. Elaine has joined the Southwest Environment and Education Leadership Council, which develops coordinated strategies between teachers and natural resources education providers. The Water Information Program is engaged in the development of a Junior River Ranger Stewardship Project for southwest Colorado.

Elaine also serves as the Public Education, Outreach and Participation Liaison to the Southwest Basins Roundtable, and in that role is leading an effort to establish a standalone website for the Roundtable in 2022. She has also participated actively in the Basin Implementation Plan Update subcommittee. She thanked the board for renewal of her contract for 2022.

8.3 Engineering Report

8.3.1 Upper Colorado & San Juan River Basin Recovery Implementation Programs *(time: 00:30:30)*

Carrie Padgett reported on the three-day Biology Committee meeting for the San Juan River Basin Recovery Implementation Program, at which Tom Chart was formally approved for representation to the Biology Committee. Carrie Padgett served as the Biology Committee representative in 2021.

8.3.2 Highlights and Themes: 2021 Southwest Basins Implementation Plan *(time: 00:32:45)*

Carrie Padgett summarized the Southwest Basins Implementation Plan (BIP) update. The Southwest Basins Roundtable will consider final adoption of the updated BIP at their January 20th meeting. The BIP is part of the Statewide Water Supply Planning process led by the Colorado Water Conservation Board (CWCB) to evaluate water demands, available water supply, gaps between demand and supply, and potential strategies and projects to meet water needs statewide. The Southwest BIP incorporates seven local goals, which included improving forest health, water quality, supporting tribal water use, addressing risk, and reducing conflict. The Roundtable has updated the Project list for southwest Colorado to include 150 local projects. The Colorado Water Plan also includes future planning scenarios based on economic and climate drivers. Carrie Padgett suggested useful data, project information, and other strategies from the BIP that could support achieving SWCD's proposed strategic plan priorities.

8.4 Hydrologic Conditions, including updates from Division 4 and 7 Engineers *(time: 00:52:00)*

Bob Hurford, Division 4 Engineer, reported that monsoon rains have dramatically improved stream flows and soil moisture in the San Miguel River basin. There was not a call on the San Miguel River mainstem, thanks to the fortunate timing of heavy rains throughout the summer and fall. The State of Colorado has approved the repair plan presented by Farmers Water Development Company to address slope failure on Gurley Reservoir which has restricted storage. Construction is scheduled for completion prior to the 2022 irrigation season. Buckeye Reservoir is essentially empty and may remain so without increased runoff in 2022.

Rob Genualdi, Division 7 Engineer, summarized the decennial abandonment list review currently underway and summarized area stream flows, reservoir levels, and other water supply data. He announced two part-time water commissioner positions currently open for the Upper San Juan river basin.

9.0 General Manager's Report

9.1 Colorado River Basin Hydrologic Conditions *(time: 01:03:00)*

Steve Wolff summarized local and Colorado River basin hydrologic conditions. He flagged that Reclamation uses a thirty-year average, which recently shifted from 1981-2011 to 1991-2021 and now incorporates many more dry years and excludes wet years in the 1980s. As demonstrated by the 2021 Drought Reservoir Operation Agreement releases, Reclamation is making every effort to keep Lake Powell above the defined critical elevation of 3,525 feet.

9.2 2022 CWCB Proposed Instream Flow Program Recommendations *(time: 01:06:35)*

9.2.1 Spring Creek, Division 4

Steve Wolff reported on the 2022 CWCB proposed instream flow recommendation for Spring Creek (tributary to the San Miguel River), which is the only such proposal for 2022 within the District. The proposed instream flow is for 1.1 cfs from March 15th through May 31st on a seven-mile reach of Spring Creek. This Bureau of Land Management recommendation is unique in that it seeks to support a riparian community, as opposed to aquatic species or habitat. Carrie Padgett participated in a 2020 site visit during which they learned that five water users might be impacted within the proposed instream flow reach.

9.3 State and Division Engineers' Draft Measurement Rules for Division 6 *(time: 01:12:00)*

Steve Wolff reported that the State Engineer has initiated the process to establish water measurement rules for Division 6. Specifically, diversions in Division 6 may soon require a measurement device and potentially reporting devices as well. The Colorado Division of Water Resources has conducted several public meetings and released

draft rules. Steve and Beth are monitoring the process, as it may foretell similar rulemaking within the District and prelude any state compact administration rules that the State may wish to pursue.

9.5 SWCD Strategic Plan Discussion

(time: 01:15:30)

Steve Wolff summarized revisions to the draft SWCD strategic plan based on board comment and input, including changes to the order of strategic priorities and specific goals, overall shortening of the document, inclusion of the importance of data collection as a new strategic priority, and the recommendation to include implementation strategies and other specific tasks in an "Annual Action Plan." There was board consensus to provide comments on the draft SWCD strategic plan to staff by January 18th prior to the February board meeting, at which the board may consider adoption.

9.6 Proposed Virtual Meeting Protocol (Draft)

(time: 01:21:15)

Steve Wolff directed the board to a draft description of possible protocol for responding to a "Zoom bombing" or lost internet connection during an SWCD board meeting. Staff will continue to test meeting software that best protects board and public safety.

9.7 Lower Basin Tour Update

(time: 01:22:20)

Steve Wolff updated the board on the joint River District-SWCD Lower Basin Tour scheduled for February 9th-11th. Board members are to RSVP by December 20th. SWCD has invited tribal representatives to participate.

9.8 Recommendation regarding Certificate of Deposit Maturing January 2022

(time: 01:24:30)

Laura Spann reported that one of SWCD's certificates of deposit (CDs) will mature in early January 2022. Given that SWCD's checking account currently offers a higher interest rate than local CDs or COLOTRUST, staff recommended that the board cash out this CD and deposit it in SWCD's checking account temporarily until the Board Finance Committee can further evaluate District investments considering the current low interest rate climate. Rusty Hinger moved to authorize the signers to cash out the 1st Southwest Bank Certificate of Deposit after January 3, 2022 and deposit it in SWCD's checking account. Amy Huff seconded. The motion passed.

9.4 Southwest Basins Roundtable Report

(time: 01:28:15)

Laura Spann directed the board to the written Southwest Basins Roundtable update in their packet. Colorado Department of Natural Resources Director Dan Gibbs was appointed to replace Russ George as Interbasin Compact Committee Director. The CWCB has restructured its Water Supply Reserve Fund (WSRF) to seek additional financial stability given its dependence on volatile severance tax revenues, with a \$300,000 annual distribution limit and a \$750,000 annual carryover limit on WSRF basin accounts. In addition, the WSRF statewide account will no longer consider requests and instead serve as a backfill for the basin accounts. The next Southwest Basins Roundtable meeting is January 20th.

9.9 General Manager Activities

(time: 01:33:00)

Steve Wolff directed board members to the written board report summarizing his activities and meetings since the last update, including several letters of support that SWCD provided for local and statewide efforts. Chuck Cullom has been hired as the new Executive Director for Upper Basin River Commission. Steve Wolff will be presenting on Upper Basin shortages at the Colorado River Water Users Association Annual Conference in Las Vegas, as well as participating in a Western State Water Council workshop on western state water rights and water use data and building interoperable data connections with federal data services.

There was board consensus to add Director Chadd to the Board Litigation and Outreach Committees.

Director terms expire in January 2022 for Rusty Hinger (Mineral County), Dagan Chadd (Dolores County), and Monte Naslund (Montrose County). The counties have been notified to consider reappointments or new appointments at their first meeting in January 2022.

11.0 Legislative Affairs

(time: 01:37:35)

11.1 Congressional Redistricting

Steve Wolff reported that the Colorado Independent Congressional Redistricting Commission released the final maps for the 2023 congressional, state house, and state senate districts. Starting in 2023, the District will be represented by State Senator Cleave Simpson and current State Senator Don Coram will no longer hold his seat.

The board recessed for lunch.

10.0 FY2022 Budget Hearing & Adoption

10.1 Discussion of Proposed FY2022 Budget

(time: 01:40:40)

Steve Wolff and Laura Spann summarized proposed revisions to the FY2022 budget, including the final property tax revenue for 2022 and increases to estimated legal and engineering costs.

10.2 Proposed 2022 Budget Message

(time: 02:00:00)

Steve Wolff summarized revisions to the proposed 2022 budget message.

10.3 Budget Hearing and Public Comment

(time: 02:03:45)

President Russell opened the budget hearing and solicited public comment. Hearing no public comments, President Russell closed the public budget hearing.

10.4 Resolutions to Adopt Budget, Appropriate Sums of Money & Set Mill Levy

(time: 02:04:45)

Charlie Smith moved to approve Resolution 2021-04 to adopt the 2022 budget with the adjustments made by the board at today's meeting. JR Ford seconded. The motion passed unanimously.

Rusty Hinger moved to approve Resolution 2021-05 to appropriate funds in the amount of \$2,002,751 to be spent in 2022, as adjusted at today's meeting. Amy Huff seconded. The motion passed unanimously.

Rusty Hinger moved to approve Resolution 2021-06 to certify a mill levy of .407 on the assessed valuation of \$3,871,453,415 to generate revenue of \$1,575,682 in 2022. Dagan Chadd seconded. The motion passed unanimously.

Rusty Hinger moved to approve the proposed 2022 SWCD budget message with adjustments made at today's meeting. Dagan Chadd seconded. The motion passed unanimously.

Staff noted the upcoming budget deadlines and process for filing the 2022 budget with the State of Colorado. Staff will provide proposed yearend 2021 assignments to SWCD Water Defense and SWCD Water Development for board consideration at the February 2022 meeting.

11.0 Legislative Affairs

11.2 Federal Affairs Update

(time: 02:18:30)

Christine Arbogast, Kogovsek & Associates, reported on numerous federal water issues, including water-related funding expected for Colorado from the Bipartisan Infrastructure Law, the Senate confirmation of Reclamation Commissioner Camille Touton and Regional U.S. Environmental Protection Agency Administrator KC Becker, the proposed CORE act introduced by Senator Bennet, and federal legislative trends to expect in 2022. She noted the U.S. Bureau of Reclamation's fast drought response in support of the Dolores Water Conservancy District and the Ute Mountain Ute Tribe over the summer. Steve Wolff updated the board on small group meetings to review proposed revisions to the draft Dolores River NCA legislation, which has seen lots of progress in resolving concerns. Dagan Chadd has also participated on behalf of Dolores County.

11.3 State Legislative Matters: Introduction of SWCD's New Lobbying Services from Colorado Legislative Strategies

(time: 02:35:45)

11.3 State Legislative Matters: Introduction of SWCD's New Lobbying Services from Colorado

Legislative Strategies

(time: 02:35:45)

Steve introduced Garin Vorthmann, state lobbyist with Colorado Legislative Strategies who has contracted with SWCD for 2022. Garin provided a summary of proposed water legislation for the 2022 session, which begins on January 12th and continues through May 11th. Three proposed bills emerged from the Interim Water Resources Review Committee, including one to limit investment water speculation. There may be legislation introduced to expand recreational in-channel diversions (RICDs) water rights for use with natural stream features. 2022 is an election year and Democrats hold strong majorities in both the State House and State Senate. Garin will present at SWCD's biweekly special meetings every other Thursday at noon during session.

12.0 Partner Updates & Presentations

12.1 Update: Upper San Juan Watershed Enhancement Partnership

(time: 02:48:30)

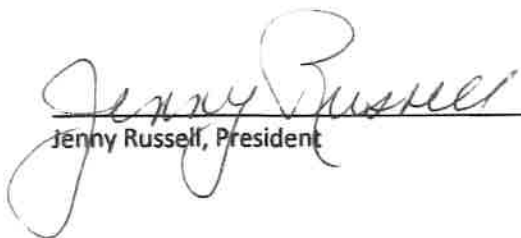
Mandy Eskelson, Mountain Studies Institute, provided an update on the Upper San Juan Watershed Enhancement Partnership (WEP), a three-phased integrated stream management planning process for the Upper San Juan, Blanco, and Navajo river basins. In Phase I, WEP built a stakeholder group and scope of work for a watershed-wide needs assessment. In Phase II, WEP contracted with Lotic Hydrologic to develop a report that summarizes the watershed's environmental, recreational, agricultural, and infrastructure needs. Now in Phase III, WEP is developing a local water plan and identifying community projects to address those needs. Among these efforts, WEP is working with San Juan Conservation District to evaluate local agricultural infrastructure opportunities. WEP is also proposing several pilot projects along the San Juan to support habitat restoration, flow protection, and recreation. Public meetings continue to evaluate these projects and seek potential partners.

14.0 Executive Session (as needed)

There was no need for an additional executive session.

15.0 Adjournment

President Russell adjourned the meeting at 3:00 p.m.



Jenny Russell, President