

**The Southwestern Water Conservation District  
Board of Directors Regular Meeting  
The West Building, 841 E Second Avenue  
Durango, CO 81301  
January 17, 2023, & January 18, 2023 (held via Zoom)**

**Present:** Rusty Hinger JR Ford Amy Huff  
Kenny Heldman Jenny Russell Charlie Smith  
Gerald Koppenhafer David Guilliams (1/17)

**Absent:** Dagan Chadd (1/17 & 1/18)  
David Guilliams(1/18)

**Staff:** Steve Wolff, General Manager

**Consultants:** Beth Van Vurst, General Council, Van Vurst Law  
Carrie Padgett, Consulting Engineer, Harris Water Engineering  
Garin Votherman, State Lobbyist, Colorado Legislative Strategies  
Christine Arbogast, Federal Lobbyist, Kogovsek & Associates, Inc  
Peter Butler, Water Quality Consultant  
Elaine Chick, Water Information Program

**Guests:** Ed Millard (1/17 & 1/18)  
Mely Whiting, Trout Unlimited (1/17 & 1/18)  
Mark Ragsdale (1/18)  
Bob Hurford, Division Engineer for Water Division 4 (1/18)  
Rob Genualdi, Division Engineer for Water Division 7 (1/18)  
Stephani Burditt, San Juan Resource Conservation and Development Council  
Damian Walsh, Fort Lewis College (1/18)  
Kaity Mattos., Fort Lewis College (1/18)  
Darren Rowley, Florida Consolidated Ditch Company (1/18)  
Sensa Wolcott, Mancos Conservation District (1/18)  
Jay Loschert, Montezuma Land Conservancy District (1/18)  
Jake Kurzweil, Mountain Studies Institute (1/18)  
Montana Cohn, RiversEdge West (1/18)  
Adrian Bergere, San Miguel Watershed Coalition (1/18)  
Katelyn Woodman, Mutual Ditch Company (1/18)  
Janice Sheftel, San Juan Basin Archaeological Society (1/18)  
Allan Pfister, San Juan Water Conservancy District

## **Tuesday, January 17th, 2022**

### **1.0 Call to Order – Roll Call, Verification of Quorum**

Jenny Russell called the meeting to order at 12:39 p.m. Roll was taken and a quorum established.

### **2.0 Review and Approve Agenda**

There was unanimous consent to approve the agenda as noticed.

### **3.0 SWCD Board of Director Appointments for Archuleta, Montezuma and San Miguel Counties.**

Beth Van Vurst spoke to receiving notice of reappointment and credentials for Directors JR Ford, Gerald Koppenhafer, and Jenny Russell from Archuleta, Montezuma, and San Miguel Counties, respectively. All the paperwork has been filed and they are officially sworn into the office.

### **4.0 Election of SWCD Board Officers**

Beth Van Vurst explained the process to be used for officer elections over zoom meetings. Nominations can be made publicly or privately to Beth. Beth started with President nominations.

President: JR Ford and Rusty Hinger nominated Jenny Russell. Jenny Russell was the only individual nominated. JR Ford motioned to elect Jenny Russell as President of the Board of Directors. Rusty Hinger seconded the motion. Jenny Russell is elected with unanimous approval.

Vice President: Jenny Russell nominates JR Ford to serve as Vice President of the Board of Directors. JR Ford is the only individual nominated. Rusty Hinger motioned to elect JR Ford as Vice President of the Board of Directors. Jenny Russell seconded the motion. JR Ford is elected as Vice President with unanimous approval.

Treasurer: Jenny Russell nominates Charlie Smith. Charlie Smith is the only individual nominated. Rusty Hinger motions to elect Charlie Smith as Secretary/Treasurer. Kenny Heldman seconds the motion. Charlie Smith is elected as Secretary/Treasurer with unanimous approval.

### **5.0 Executive Session**

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 5.1, Colorado River Compact, interstate and intrastate negotiation matters, including immediate operations and renegotiation of the interim guidelines; agenda item 5.2, Potential Extension of C.R.S. § 37-92-305(3)(c) to Water Users in Division 7. Agenda item 5.3, Application of Rehoboth Land Partners, LLC for Change of Water Rights, Case No. 19CW3045, Division 4; and agenda item 5.4, Update on hiring new Programs Coordinator and consideration of SWCD additional hiring needs.

Pete Foster and Skylar Zilliox of Wright Water Engineers serve as consultants for SWCD on certain Colorado River matters and were asked to join the executive session discussion for agenda item 5.1.

The statutes covering agenda items 5.1 through 5.3 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(1), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

David Guilliams moved that the board go into executive session. Kenny Heldman seconded. The motion passed.

Beth stated that no further record of the executive session discussion of agenda items 5.1 through 5.3 need to be kept based on her opinion that the discussion will constitute privileged, attorney-client communications. A confidential recording of the executive session discussion pertaining to agenda item 5.4 will be kept for 90 days since it pertains to a personnel matter.

#### **6.0 Summary and Action Items from Executive Session**

Beth Van Vurst announced that the board was out of executive session at 3:21 p.m. during the executive session, the board discussed agenda items 5.1-5.4. No action was taken in executive session.

Beth noted that the Board discussed a potential offer of settlement to Rehoboth Land Partners in Case No. 19CW3045 in executive session and recommended the Board authorize her to enter into a settlement on those terms, assuming such terms are ultimately accepted by Rehoboth Land Partners. Amy Huff moves to approve the recommended terms of settlement in this case. seconded the motion. The motion passes unanimously.

#### **7.0 Adjourn from Regular Board Meeting**

Jenny Russell adjourned the regular board meeting at 3:22 pm.

*The board recessed for 10-minute break.*

#### **Public Comment**

Mark Ragsdale asked for clarification regarding the Rehoboth Land Partners, LLC case.

Mely Whiting and Mark Ragsdale made comments about the System Conservation Pilot Program (SCPP) and Division 7 Exemption.

#### **8.0 SWCD Board Work Session and Public Comment**

A work session was held where the board and public could talk through various issues, activities, and studies. The main conversation focused on the Supplemental Environmental Impact Statement (SEIS) and the SCPP. They also talked about what is commonly referred to as the "Division 7 exemption". There was no action taken by the board.

Director Updates:

Charlie Smith, San Juan County: It's snowy everywhere, but he doesn't think it is the storm of the century.

David Guilliams, Hinsdale County: They have pretty close to 30 inches of snow, happy he doesn't have to go mess with it like Rusty.

Gerald Koppenhafer, Montezuma County: Stated they were getting lots of snow with water in it. And that they were going to have the annual Montezuma Valley Irrigation company meeting for shareholders next weekend. There are several different issues coming up including raising assessments.

J.R. Ford, Archuleta County: Same as everyone else, lots of snow, wet snow, and it snowing right now. They have the proposal submitted for the grant for Phase II of the San Juan River project.

Amy Huff, La Plata County: Snowed in, no school today. Met with the county to discuss SPCP and the Division 7 exemption. The county is very concerned about what could be happening around here and want to communicate more frequently with Amy. The county may be interested in working with SWCD on some informative community sessions.

Rusty Hinger, Mineral County: Lots of snow - he is a little cautious, the temperature is up to 39 - which may not hold water as long as they need it. Mostly he is plowing a lot of snow.

Kenny Heldman, Montrose County: Wishes they had some of that snow depth - making him question the amount of runoff later. The ditch meeting for the Colorado Cooperative is this week. Thankful they have water to talk about.

Jenny Russell, San Miguel County: Same as other folks. She will be attending the Colorado Water Congress conference next week.

*The Board adjourned at 4:00 pm until 8:30 am Wednesday, January 18, 2023*

### **Wednesday, January 18, 2023**

#### **9.0 Call to Order**

Jenny Russell called the meeting to order at 8:30 am. Roll was taken and a quorum was established.

#### **10.0 Review and Approve Agenda**

Steve Wolff notified the board of the following proposed agenda changes: 1) delete item 12.3 - Proposed assignment of a portion of the previous year's fund balance – from the consent agenda, since we do not have final expenditures for 2022; and 2) we will need an Executive Session, as listed on the agenda under item 17.0, to continue our discussion of agenda item 5.1 from yesterday.

#### **11.0 Questions and Comments from the Public**

No public was present at the meeting at this time.

#### **12.0 Approve and/or Remove Consent Agenda Items**

- 12.1 Resolution 2023-1 Designation of Meeting Posting Location
- 12.2 Acceptance of Treasurer's Report
- 12.3 Proposed assignment of a portion of the previous year's fund balance

Rusty Hinger moves to approve the consent agenda. Charlie Smith seconded the motion. The motion passes unanimously.

#### **13.0 SWCD Grant Program**

Carrie Padgett gave an overview of the grant applications. Refer to her memo in the meeting packet for more information. The board discussed questions about the 5-year limit and avoiding paying for the same grants annually.

Each grant applicant gave a short presentation on their request. Following each presentation, Board members asked questions and provided comments.

The board decided to approve grant applications within each of the following categories: Water Supply/Watershed Restoration; Public Forums, Studies, Planning, Workgroups; and Educational Seminars, Workshops, and Programming.

J.R. Ford discussed the issue of grants being used to pay salaries. Staff commented that they felt that salaries necessary to hire folks to complete projects were acceptable, but not any regular staff. JR recommended that we accept this one as the staff recommended, but that we have a conversation at a future meeting about funding staff positions and multiple-year projects/programs.

J.R. Ford made a motion to accept the Water Supply/Watershed Restoration Grant recommendations from staff, totaling \$116,886. Amy Huff seconded. The motion passed unanimously. The grant breakdown was as follows:

- Florida Consolidated Ditch Company - \$45,000
- Summit Reservoir and Irrigation Company - \$15,500
- RiversEdge West - \$19,386
- Trout Unlimited - \$ 17,000
- Mountain Studies Institute - \$ 20,000

Kenny Heldman made a motion to accept the Public Forums, Studies, Planning, and Workgroups Grants totaling \$38,100 per the staff recommendation. Rusty Hinger seconded the motion. The motion passed unanimously. The grant breakdown was as follows:

- San Miguel Watershed Coalition - \$20,000
- Mancos Conservation District - \$8,500
- SJCRDC: Bonita Peak - \$9,600

Amy Huff made a motion to accept the staff recommendation for the Education Seminars, Workshops, and Programming Category, totaling \$13,000. Kenny Heldman seconded the motion. The motion passed unanimously. The grant breakdown was as follows:

- Fort Lewis College/KSUT Public Radio - \$5,000
- SJ Basin Archaeological Society - \$3,000
- Montezuma Land Conservancy - \$5,000

*The board took a 15-minute break*

#### **14.0 Legislative Affairs**

Christine Arbogast gave an update on federal affairs. Please review the board packet for Christine's full memo.

Garin Vorthmann gave an update on State Legislation and the position on bills. Please review the board packet for Garin's full memo.

## **15.0 Reports**

### **15.1 Hydrologic Hydrologic Conditions, updates from the Division Engineers for Water Divisions 4 and 7 – Bob Hurford and Rob Genualdi**

Bob Hurford gave a presentation on where we are at with snowpack in Division 4. Most basins are above average. Rob Genualdi gave a presentation on where we are at with snowpack in Division 7. SWE and Snotel data both show high numbers. Please refer to the board packet for more information.

### **15.2 Water Information Program Report - Elaine**

Elaine Chick gave an update on the WIP and all that was done in 2022, mentioning that a record amount of outreach had been done. Sent letters to long-term contributors to request they consider increasing their donations next year.

Elaine asked if the board wanted to offer the Southwest Water Seminar as in person only event, or hybrid. The general consensus was to keep it in person.

### **15.3 Upper Colorado & San Juan River Basin Recovery Implementation Programs - Carrie**

Carrie Padgett gave an update on the Upper Colorado and San Juan River Basin Recovery Implementation Program. The group wants to pursue a structural decision-making workshop. Steve Wolff added that both groups have been writing the new legislation and they were wrapping up that discussion this morning.

### **15.4 Update on Water Quality Matters – Peter Butler**

Peter Butler gave an update on water quality standards and the new nutrient standards being proposed by CDPHE. Peter also gave a brief update on ongoings with the Bonita Peak CAG.

## **16.0 General Counsel Legal Report**

### **Application of Rehoboth Land Partners for Change of Water Rights, Case No. 19CW3045, Water Division 4**

Beth Van Vurst stated that after the executive session, the board approved a settlement offer in this case. Beth will reach out to the Applicant after this meeting regarding the terms of the proposed settlement.

## **17.0 Executive Session**

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 5.1, Colorado River Compact, interstate and intrastate negotiation matters, including immediate operations and renegotiation of the interim guidelines.

The statutes covering agenda item 5.1 in executive session are CRS§ 24-6-402(4)(b), “conferences with an attorney for the [district] for the purpose of receiving legal advice on specific legal questions,” and § 24-6-402(e)(I), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.”

Amy Huff made a motion to move the board into executive session. Kenny Heldman seconded the motion. The motion passed unanimously.

Beth Van Vurst stated that no further record of the executive session discussion of agenda item 5.1 need to be kept based on her opinion that the discussion will constitute privileged, attorney-client communications.

**Summary and Action Items from Executive Session**

*(Time:00:16:30)*

Beth Van Vurst announced that the board was out of executive session at 12:25 p.m. During the executive session, the board discussed agenda item 5.1. No action was taken during the executive session.

**18.0 Adjournment**

Jenny Russell adjourned the board meeting at 12:55 P.M.



---

Jenny Russell, President