

The Southwestern Water Conservation District
Board of Directors Regular Meeting
The West Building, 841 E Second Avenue
Durango, CO 81301
December 7, 2022

Present: Dagan Chadd Kenny Heldman Gerald Koppenhafer
JR Ford Amy Huff Charlie Smith
Jenny Russell (Remote)

Absent: Rusty Hinger David Guilliams

Staff: Steve Wolff, General Manager

Consultants: Beth Van Vurst, General Counsel
Garin Vorthmann, State Legislative Lobbyist
Elaine Chick, Water Information Program

Guests: Mely Whiting, Trout Unlimited
Ed Millard
Mark Ragsdale, Division of Water Resources
Clarence Fullard, Bureau of Reclamation

1.0 Call to Order – Roll Call, Verification of Quorum

Jenny Russell called the meeting to order at 8:30 a.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 Executive Session

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 intrastate negotiation matters, including renegotiation of the interim guidelines; agenda item 3.2, Application of Rehoboth Land Partners, LLC for Change of Water Rights, Case No. 19CW3045, Division 4; agenda Item 3.3, October Water Court Resume for Water Divisions 3 and 7; and agenda item 3.4, Personnel Matters, including proposed changes to General Manager Job Description and Draft Job Description for New Employee, and Programs Coordinator Applications and Hiring Process.

Dagan Chadd Motions to move into executive session. Kenny Heldman Seconds. The motion passes.

The statutes covering the discussion of agenda items 3.1 through 3.3 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(4)(e)(I), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.”

The statutes covering a discussion of agenda item 3.4 in executive session are § 24-6-402(4)(b), C.R.S. and § 24-6-402(4)(f)(I), C.R.S. as personnel matters.

Beth Van Vurst stated that no further record of the executive session discussion of agenda items 3.1 through 3.4 need to 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 10:08 a.m. during the executive session, the board discussed agenda items 3.1-3.4. No action was taken during executive session.

The board recessed for a short break.

5.0 General Counsel Legal Report

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

Beth Van Vurst summarized the review of the water court applications for divisions 3, 4, and 7 October resumes. The Division 3 and 7 resumes were discussed in the executive session. There are no applications in the resumes that Beth believes warrant the filing of a state of opposition.

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

Beth reported that Rehoboth Land Partners, LLC filed an application to change the type and place of use of several water rights, some of which are transbasin water rights. SWCD filed a statement of opposition to ensure the changes requested by the Applicant do not increase the amount of water historically exported from the San Miguel Basin. SWCD continues to actively work towards settlement, but there are still some additional issues to work through. Beth is planning on coming back to the board in the January meeting for consideration of a specific settlement proposal.

5.3 Proposed 2023 Water Information Program Independent Contractor Agreement

Elaine Chick runs the WIP program and serves as the event logistics coordinator for SWCD's annual seminar – Elaine's contract expires at the end of this year and a new agreement needs to be approved for 2023. A draft agreement was given to the Board, which calls for the scope of work to be performed at a flat rate of \$60,000. Language has been added regarding office space being limited, the level of detail required to support each of the monthly invoices, and the amount of time that each task is anticipated to take over the course of the year. Steve, Elaine, and Beth are all comfortable with the draft contract.

Charlie Smith moves to approve the 2023 Water Information Program Independent Contractor Agreement, second by Kenny Heldman. Motion is approved.

5.4 Proposed Updates to the SWCD's Employee Leave Policies

Last board meeting – SWCD moved to fully opt-out of the State of Colorado's paid Family and Medical Leave Insurance (FAMLI) Program. Since then staff and General Counsel have worked with Michelle Magruder, SWCD's special counsel for employment law matters, to notify the State and SWCD's employees of the Board's decision, as required by the FAMLI Act. The last step in this process is to update Employee Leave Policies to reflect the Board's decision to fully opt-out of the FAMLI Program. Beth walked the Board through the proposed updates to the Employee Leave Policies and recommended the Board adopt those updates at this meeting.

Amy Huff motions to approve changes in the Employee Leave Policy and Dagan Chadd seconds. The motion is approved.

6.0 Approve and/or Remove Consent Agenda Items

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

7.0 Consent Agenda

- 7.1 Approval of Minutes (October 12, 2022)**
- 7.2 Acceptance of Treasurer's Report (October 2022)**
- 7.3 Proposed 2023 SWCD Meeting & Holiday Schedule**
- 7.4 Board Action authorizing change of email contact for financials**
- 7.5 Proposal to Cash out Two Certificates of Deposit in January 2023**

8.0 Discussion on Water Conservation in SW Colorado

8.1 2023 System Conservation Pilot Program in Upper Basin

Steve Wolff postponed a further conversation until January waiting for the full information on the 2023 proposed System Conservation Pilot Program to be released.

8.2 Water Rights Protection under Conservation Programs – Division 7 Exemption

Beth Van Vurst explained what is commonly referred to as the “Division 7 Exemption” and its history relative to SWCD. The board may decide to take action relative to support or opposing any changes to the Division 7 Exemption at the January Meeting.

9.0 Questions and Comments from the Public

Mely Whiting, Ed Millard, and Mark Ragsdale provided short public comments about the SPP and Division 7 Exemption.

Board again stated they would revisit the topic in January.

10.0 Reports

10.1 Colorado River Basin Update

Steve Wolff updated the Board on ongoing actions. The Bureau of Reclamation (BOR) is changing operations at Lake Powell to protect certain elevations and thereby protect infrastructure, reducing deliveries between December and April by 523,000 acre feet. BOR is also drafting the supplemental EIS (SEIS) on short-term operations. The District will be providing comments during the current scoping process.

10.2 Director Updates & Concerns

Dagan Chadd (Dolores County)– nothing to report.

J.R. Ford (Archuleta County)– excited about the little snow and rain they have been getting, more rain and snow seen in December than in the past.

Charlie Smith (San Juan County) – reported talking to Stacey Beagh, who is working on the front end of the Animas River Steam Management Plan. It looks like the way the stream management plan is going to work it will be better to focus on the Lower Animas rather than Silverton because of all the work that is going on with the EPA– Charlie had some meetings with the EPA about the use of the treated water from Gladstone. Also reported on the lower basin tour.

Amy Huff (La Plata County) – Amy reported on participating for La Plata County for the Animas River Water Stream Management Plan – the county commissioners asked very good questions, they are still in the initial stages of that process, and Amy thinks the county understands the various rights and interests of the county. Amy also joined Steve Wolff, Charlie Smith, and Kenny Heldman on the Lower Basin Tour. The county has had 9 inches of snowfall at Purgatory.

Kenny Heldman (Montrose County) – reported on doing their final pond runs – noted that it seems extremely dry with a lack of snow. Kenny also reported on the Lower Basin Tour, mentioning how passionate the LB is to keep and use their water.

Gerald Koppenhafer (Montezuma County) – Gerald reported on finishing their project of putting a guard gate in at Groundhog Reservoir with funding from Montezuma Valley Irrigation Company. The gates have been shut and the Reservoir is currently refilling. Saved money over the last few years. Montezuma County is thankful for the moisture they are getting.

David Guilliams (Hinsdale County) – reported that they are thankful for the moisture they are getting.

Jenny Russell (San Miguel County) reported that Telluride Lizard-head SNOTEL site is at 80% median snowfall and Lone Cone is at 116% of median, they did get a little snow out of the last storm and some of the lifts are open.

Red Mesa Reservoir – NRCS Co-Sponsor Form

Steve Wolff provided an update on the NRCS Co-Sponsorship for the Red Mesa Reservoir project. They are just finishing up the first stages of the project and are about to move into phase 2, where the permitting, planning, and pre-engineering takes place. A draft co-sponsorship form is in your packet for review. Steve Wolff and Beth Van Vurst have completed the form and are comfortable with it as provided. Beth Van Vurst requested general approval from the board – Jenny Russell confirmed that the board was comfortable submitting the form.

10.3 Water Information Program Update

Elaine Chick provided an overview of her written report (full report in packet). Water in a Nutshell course sold-out in advance, getting \$9,300 in revenue. Has an online course coming out on January 19th, already sold 40 tickets. Five Fort Lewis College students received \$400 for the water scholarship. Elaine will be asking for an increase in funding from supporters. Christine Arbogast asked Elaine to present at the upcoming water congress. The children's water festival is in full swing with invites out to each of the schools. It will be held May 10th up at Fort Lewis College.

10.4 SWCD Southwest Water Seminar Update

Elaine Chick confirmed that the Seminar will take place on March 31st at the Sky Ute Casino in Ignacio. The proposed agenda has been put together and sent out to potential presenters. Elaine asked if a decision was made on having it in person only or hybrid – the board discussed the in-person experience. The board decided to see how the sales go and go from there, starting with in-person only.

10.5 Upper Colorado & San Juan River Basin Recovery Implementation Programs

Steve updated that the States have finally agreed to a 15-year funding package with the Feds and referenced the memo (in the packet) from Carrie Paget. The short-term reauthorization, which needs to be approved this year, is stuck in the omnibus funding package that is expected to pass by the end of the year.

The board recessed for lunch.

11 FY2023 Budget Hearing & Adoption

Steve Wolff gave a briefing of the proposed 2023 budget, pointing out that only two changes since October have been made. These include WIP expenditure changes and paying off the printer lease. Dagan Chadd motions to approve the budget message from 12/05/22 and Kenny Heldman seconds. The motion passes by unanimous vote.

11.1 Discussion of Proposed FY2023 Budget, including any potential changes

11.2 Proposed 2023 Budget Message

11.3 FY2023 Budget Hearing & Public Comment

Jenny Russell formally opened the budget hearing at 1:03 pm and invites the public to make any comments. Jenny Russell moves to close the hearing.

11.4 Resolutions to Adopt FY2023 Budget, Appropriate Sums of Money & Set Mill Levy
Jenny Russell requests a motion to approve resolution 20.22.03 to adopt FY2023 budget as proposed. Charlie Smith motions to approve and Gerald Koppenhafer seconds. The budget resolution passes unanimously.

Jenny Russell request a motion to approve resolution 20.22.04 – appropriating funds in the amount of \$1,899,326. J.R. Motions for approval for 20.22.04 and Amy Huff seconds. The resolution passes unanimously.

Jenny Russell requests a motion to approve resolution 20.22.05 – certifying a mill levy of .407 on the assessed valuation of \$4,046,417,004 to generate revenue of \$1,646,829 in the year 2023 or as recalculated as needed. J.R. Ford seconds. The resolution is approved unanimously.

Board recesses for a quick break

12 Legislative Affairs

12.1.1 State Legislative Update

Garin Vorthmann gave an update on the house and senate. More information can be found in the memo Garin included in the board packet.

12.1.2 Federal Affairs Update

Steve noted the brief report in the packet provided by Christine Arbogast

13 Partner Updates

13.1 Glen Canyon Adaptive Management Program – Clarence Fullard, Bureau of Reclamation

Clarence Fullard presented on the Glen Canyon Adaptive Management Program. Slides are included in the meeting packet.

14 Executive Session (If needed)

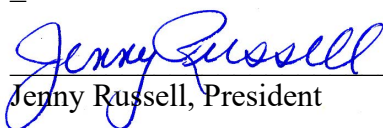
There was no need for an afternoon executive session.

15 Adjournment

Jenny Russell adjourns the meeting at 2:40 PM

Proposed Upcoming Meetings

January 17-18, 2022	SWCD Regular Board Meeting
February 2, 2022	SWCD Special Board Meeting
February 16, 2022	SWCD Special Board Meeting



Jenny Russell, President