

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

October 16, 2008

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District was held on Thursday, October 16, 2008 at 10:07 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Harold Miskel	Scott Reed
Ann Nichols	Vera Ortegón	Lee Simpson
Gibson Hazard	Greg Johnson	Carl McClure
Lissa Pinello	Reed Dils	Kevin Karney
Shawn Yoxey		
Alan Hamel-Advisory Board Member		

DIRECTORS ABSENT AND EXCUSED:

Edward Bailey and Howard "Bub" Miller.

DISTRICT OFFICIALS PRESENT:

Attorneys Stephen Leonhardt and Lee Miller; Executive Director James Broderick; Administrative Manager Toni Gonzales; Projects Manager Phil Reynolds; Chief Financial Officer Kathie Fanning; Director of Engineering and Resource Management Bob Hamilton.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

VISITORS PRESENT:

Mike Collins and Roy Vaughan, U.S. Bureau of Reclamation; Chris Woodka, The Pueblo Chieftain; Tom Simpson, Aurora Water; Michael Fink, City of Fountain Water Utility; Pat Edelmann, U.S. Geological Survey; Brett Gracely, Colorado Springs Utilities; Bill Stoner, Black & Veatch; Brenda Fillmore, AGUA; Brian McCain, Senator Allard's office; Jace Ratzlaff, Congresswoman Musgrave's office; Dwight Gardner, Senator Salazar's office; Dan Henrichs, High Line Canal Company; Bob Hartzman, City of Canon City; Roy Heald, Security Water District; Steve Howell, Ninyo & Moore; Curt Thompson, Merrick & Co.; Bill Warmack, Applegate Group, Inc.; Jay Winner, Lower Arkansas Valley Water Conservancy District; and Ken Weber.

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APPROVAL OF MINUTES:

President Long asked if the members of the Board had received their copy of the minutes of the September 18, 2008 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Pinello moved, seconded by Mr. Johnson, to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Treasurer Ann Nichols noted, per Chief Financial Officer Kathie Fanning's District Financial Summary, directly related to the economy, specific ownership tax revenues continue to be slightly lower than anticipated.

Treasurer Ann Nichols reported that the financial report for September for the District was mailed to the Board and moved for the acceptance of the financial report for September and payment of the October bills for the District, seconded by Mr. Simpson. Motion unanimously carried.

CONSENT ITEMS:

NONE

ACTION ITEMS:

PUBLIC HEARING FOR THE 2009 PROPOSED BUDGET

Treasurer Ann Nichols reported the Finance Committee recommends setting November 13, 2008 at 10:00 a.m. at the District office for the public hearing for the 2009 Proposed Budget. Treasurer Nichols moved, seconded by Mrs. Pinello, to approve the Finance Committee's recommendation. Motion unanimously carried.

WATER COUR RÉSUMÉS

Mr. Hamilton reported in Water Division 2, there are three (3) cases of interest to the District in the August 2008 Résumé and reviewed the following:

1. Case 08CW61 is an application by the City of Manitou Springs for Conditional Appropriative Right of Exchange. This application is for the exchange of Fry-Ark Project water and Fry-Ark Project water return flows to Manitou Springs Reservoir, which is located outside of the District, but for use entirely within the District. Manitou Springs' legal counsel provided a draft application to District legal counsel in sufficient time for them to comment on the application prior to it being filed. District legal counsel consulted with staff and made recommendations to Manitou's legal counsel, some of which were included in their application. District legal counsel has discussed this matter with Manitou's legal counsel and believes that Southeastern's remaining concerns are best addressed by filing a "friendly" Statement of Opposition to participate constructively in negotiations on a proposed decree.

Mrs. Pinello moved, seconded by Mr. Johnson, to have legal counsel file a "friendly" Statement of Opposition in Case 08CW61 to participate constructively in the case. Motion unanimously carried.

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2. This is a First Amended Application for Approval of Plan for Augmentation in Case No. 07CW87 by the Upper Arkansas Water Conservancy District. Southeastern was not in the original case because it did not involve Fry-Ark Project water. However, Upper Ark has mistakenly included Fry-Ark Project water in the amended application. Upper Ark has assured District legal counsel that they will file a second amended application to remove references to Fry-Ark Project water.

Mr. Dils moved, seconded by Mr. Reed, that District legal counsel be authorized to execute a letter agreement with counsel for the Upper Arkansas Water Conservancy District, providing for prompt filing and republication of a second amended application, satisfactory to staff and District legal counsel, or to file a Statement of Opposition in Case 07CW87 if such a letter agreement is not reached. Motion unanimously carried.

3. Case No. W-116 is a motion to approve a “Restatement of Stipulations” from earlier cases concerning the Widefield Aquifer Management Plan. This motion is included in the August Résumé and is discussed in the Legal Report. The District’s legal counsel has provided comments on the “Restatement of Stipulations”. In response, legal counsel for the Security Water District provided a revised “Restatement of Stipulations” and has provided a Stipulation, by which Southeastern would consent to the “Revised Restatement.”

Mr. Johnson moved, seconded by Mrs. Ortégón, that the Board authorize District legal counsel to execute a Stipulation in Case No.W-116 with the participants of the Widefield Aquifer Management Plan, providing for a revised Restatement of Stipulations that addresses Southeastern’s comments; or if District legal counsel does not obtain an acceptable stipulation, authorize District legal counsel to file an appropriate response to the participants’ motion. Motion unanimously carried.

ALLOCATION COMMITTEE REPORT – 80/20 RULE

Mr. Hamilton reported the 80/20 Rule (which is paragraph 8 of the District’s “Water Allocation Policy”) states “Eighty percent (80%) of any allocation of Project water purchased for agriculture must be used by November 1 of the current year. The remaining twenty percent (20%) must be used by May 1 of the following year.”

The Allocation Committee received letters from the Highline Canal Company, the Colorado Canal Company, the Fort Lyon Canal Company, the Arkansas Valley Ditch Association, and The Excelsior Irrigating Co., all requesting that the 80/20 Rule be either waived, changed, or totally rescinded.

The Allocation Committee met at the District offices on October 14, 2008. Representatives of the entities submitting letters were present during the discussions about the pros and cons of rescinding or changing the 80/20 Rule.

Staff was directed to work with District legal counsel to draft a report to the Allocation Committee addressing the issues involved in changing and/or rescinding the 80/20 Rule.

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The Committee then voted to recommend that the Board change the date by which 80 percent of agricultural 2008 Project water purchased must be used from November 1, 2008 to November 15, 2008, to correspond with the beginning of the Winter Water Storage Program.

Mr. McClure moved, seconded by Mrs. Yoxey, that the date by which the first 80 percent of 2008 agricultural Project water purchased must be used, be changed from November 1, 2008 to November 15, 2008. Motion unanimously carried.

AMENDMENT 52

Mr. Broderick reported that Amendment 52 will create a constitutional requirement diverting monies from the funds that address statewide water projects to unspecified transportation projects. Mr. Broderick recommended supporting the Resolution that the Colorado Water Conservation Board (CWCB) approved at their September 16, 2008 meeting.

Mr. Dils moved, seconded by Mrs. Ortégón, to support the Resolution the CWCB approved at their September 16, 2008 meeting regarding Amendment 52. Motion unanimously carried.

Mr. Broderick said a letter will be prepared in support of the CWCB Resolution on Amendment 52.

MONTHLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan reported as of October 14, there was 175,890 acre-feet of water stored in Pueblo Reservoir, 117,656 acre-feet of Project water, 39,739 acre-feet of water stored in If & When space, and 18,693 acre-feet of Winter water.

There is currently 139,293 acre-feet of Project space in Pueblo Reservoir, and 25,751 acre-feet of Project space available in Turquoise and Twin Lakes Reservoirs.

Mr. Vaughan reported the total Boustead Tunnel imports for 2008 was 89,960 acre-feet. The reservoir status is as follows:

- Turquoise Reservoir: 108% of average
- Twin Lakes Reservoir: 106% of average
- Pueblo Reservoir: 142% of average

DIVISION ENGINEER'S REPORT

No representative was present

U.S. GEOLOGICAL SURVEY REPORT

Mr. Edelmann did not have a report to present. Mr. Broderick thanked Mr. Edelmann for the time he spent with District staff reviewing the cooperative programs the District is involved in with USGS, and water quality studies being done in the basin. Mr. Edelmann said he will present a report to the Engineering and Planning Committee on November 5.

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PRESENTATION:

Mr. Broderick provided the Board members a copy of a report titled, *Considerations for Agriculture to Urban Water Transfers If You're Going to do it, How to do it Right*. This report was presented to the Arkansas Basin Roundtable by the Arkansas Basin Roundtable Water Transfer Guidelines Committee.

INFORMATIONAL ITEMS:

Written material was provided to the Board on the following topics:

- Water Court Résumés
- Zebra Mussel Update
- Climate Change in Colorado Report
- Legal Matters

Mr. Broderick said under the informational items the Executive Summary of the Climate Change in Colorado report was provided for their review.

Mr. Broderick reported the Roundtable officers and IBCC representative and alternate are as follows:

- Chairman Gary Barber
- Vice Chairs Jim Broderick and SeEtta Moss
- Recorder Jay Winner
- IBCC Representative Jay Winner
- IBCC Alternate Jim Broderick

There will be a joint meeting of the CWCB and IBCC on October 29. Mr. Broderick thanked Mr. Hamel for his continued support while serving on the Roundtable as the IBCC representative.

Mr. Leonhardt gave updates on settlement of the following legal cases in Water Division 2:

- Tri-State Generation and Transmission Association, Inc. (07CW74)
- City of Salida-Tenassee Ditch Change (04CW125)

OTHER BUSINESS MATTERS:

Mr. Broderick reported that the District is in the process of changing phone services, and at times it is difficult to get through on the phone. Also, faxes are not being received at this time.

As a reminder the November meeting will be held on **November 13** and the December meeting will be **December 4**.

Mr. Broderick said that each committee will meet prior to the end of 2008. Scheduled meetings to date are as follows:

- Finance Committee October 30
- Allocation Committee November 3
- Resources & Engineering Planning Committee November 5

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President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 10:44 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

