
RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

February 19, 2009

The regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (SECWAE) was held on Thursday, February 19, 2009 at 9:37 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

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

DIRECTORS ABSENT AND EXCUSED:

Edward Bailey, Scott Reed, and Lee Simpson.

ENTERPRISE OFFICIALS PRESENT:

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; Administrative Associate Leann Noga; Attorneys Steve Leonhardt and Lee Miller; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

Roy Vaughan, U.S. Bureau of Reclamation; Chris Woodka, The Pueblo Chieftain; Pat Edelman, U. S. Geological Survey; Steve Witte, Colorado Division of Water Resources- Division 2; Kevin Meador and Bill Stoner, Black & Veatch; Bill Warmack, Applegate Group; Larry Patterson and Curtis Mitchell, Fountain Utilities; Bob Hartzman, City of Canon City; Roy Heald, Security Water District and Fountain Valley Authority; Wayne Vanderschuere and Carol Baker, Colorado Springs Utilities; Rick Stevens, Fountain Valley Authority; Dwight L. Gardner, Senator Michael Bennet's office; Mark Scott, Merrick & Co.; Jay Winner, Lower Arkansas Valley Water Conservancy District.

APPROVAL OF MINUTES:

President Long asked if the members of the Board had received their copy of the minutes of December 4, 2008, and whether there were any corrections or additions. Hearing none, Mr. Johnson moved, seconded by Mrs. Ortegón, to approve the minutes. Motion unanimously carried.

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FINANCIAL REPORT:

Treasurer Ann Nichols reported that the financial reports for the months of November, December, and January for the Enterprise was mailed to the Board and moved for the acceptance of the financial reports for November, December, and January and payment of the February bills for the Enterprise, seconded by Mr. Hazard. Motion unanimously carried.

Chief Financial Officer Kathie Fanning summarized the 2008 budget and then gave an update of the 2009 budget. The 2009 Budget will be revised sometime during the year to reflect unexpected expenses and revenues that have a significant impact due to the economy.

CONSENT ITEMS:

None

ACTION ITEM:

Mr. Hamilton reported on December 22, 2008, District staff was notified by the Division Engineer's Office that there was a potential shortfall of about 1,887 acre-feet in agricultural Fry-Ark return flows. This shortfall is due primarily because some of the Ditch companies had not used 80 percent of their allocation by the November 15, 2008 deadline.

At the January 6, 2009 Allocation Committee meeting staff proposed that the shortfall be corrected by using up to 1,877 acre-feet of Enterprise Project water. The Allocation Committee voted to recommend to the Board that staff be authorized to use up to 1,900 acre-feet of Enterprise water to cover the shortfall and that staff would notify the Division Engineer's Office that in the future Project water and Project water return flow allocations would probably be done in two separate allocations.

The entities that received an allocation of agricultural Fry-Ark Project water return flows will be billed \$1.75 per acre-foot pro-rata based upon their allocation of return flows. The sale of the Enterprise Project water was not calculated in the 2009 Budget.

Chairman of the Allocation Committee Carl McClure moved that the Enterprise staff be authorized to use up to 1,900 acre-feet of Enterprise Project water to make up the estimated 1,877 acre-feet shortfall in the agricultural Project water return flow allocation, and that staff work with the Division Engineer's Office to develop procedures to eliminate future shortfalls, seconded by Mrs. Yoxey. Motion unanimously carried.

Mr. Broderick said the Allocation Committee will need to look at the return flow allocation procedure, what needs to be changed, and what contracts are made. The Board has the authority to set the costs for return flows. The Enterprise should not be the entity to hold the risk for return flow shortfalls in the future.

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PRESENTATIONS:

FEDERAL LEGISLATION

Arkansas Valley Conduit

Christine Arbogast said it had been hoped that she would have been able to report that the Congress had passed the Omnibus Resources bill, of which our project is a part. However, House action has been delayed until after the President's Day recess, which concludes Tuesday, February 24.

Opponents of the bill, including some members of the National Rifle Association and a group of private property rights advocates, threatened to derail the bill. House leadership now hopes to bring the bill up under suspension of the rules sometime after the recess. However, should the opponents call for a recorded vote, which they undoubtedly will, two thirds in favor will be required for passage. Several members of the Colorado delegation are working with their colleagues very diligently to obtain the two thirds majority. Congressman Salazar and Congresswoman Markey are among them.

Appropriations and Stimulus

Mrs. Arbogast reported the massive stimulus package has been passed and signed into law by President Obama. The Board was provided copies of documents outlining provisions for the Bureau of Reclamation under this bill. Mrs. Arbogast and District staff are continuing to work on obtaining stimulus funds for early activity on the Conduit, including site surveying. In addition, funds for tamarisk projects will be sought. The strategy for obtaining stimulus funds will include regular contact with the Bureau of Reclamation, obtaining letters of support from the State of Colorado, our congressional delegation, state legislators and local officials from the participant area. Using a dual-track plan, the District staff is also working on submitting appropriations requests for FY 2010 on these same projects.

Further direct lobbying by the District will take place during the National Water Resources Association conference in Washington, beginning March 30.

Oberstar Clean Water Restoration Act meetings

District federal lobbyists and District staff continue to work to facilitate discussions regarding Congressman Oberstar's proposed Clean Water Restoration Act. The Colorado group was the very first to seek a meeting with his staff to discuss a possible compromise, and the Oberstar staff greatly appreciated the outreach. Opposing groups have simply taken an opposing position.

As a result, Congressman Oberstar has not yet reintroduced his bill this Congress. Mr. Broderick has been a participant in these discussions, informally representing more rural interests.

President Long read an article that was published in The Pueblo Chieftain, recognizing that Ray Kogovsek is being inducted to the Pueblo Community College Hall of Fame. Mr. Kogovsek said he is honored to be among all that have been inducted and recognized in the past.

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EXCESS CAPACITY UPDATE

Chairman of the PSOP Committee Harold Miskel reported that on December 8, 2008, a meeting was held of the entities that have signed a Memorandum of Agreement (MOA) to participate in Excess Capacity, as well as entities that have recently expressed an interest in obtaining a long-term storage contract by participating in the Excess Capacity process. Lee Miller provided a historical recap of the Excess Capacity process. The committee had several discussions regarding the MOA's that have been signed, how to handle changes in the amount of storage requested since the process began, and how to handle those that now want to join the process. Four issues were agreed to in an effort to move the process along without harming any entity that has been paying into the process since the beginning. The four items agreed to were:

- 1) The committee is willing to allow movement of requested storage space among participants that fit within spill priority #4;
- 2) The committee is willing to allow new participants that have Project carryover space into the process;
- 3) The committee is willing to allow new participants that don't have Project carryover space into the process, and;
- 4) The committee is willing to allow the entities that have moved on their own to try and obtain long-term excess capacity storage contracts to have their original requests modified so long as the commitment to pay for a total of 38,425 acre-feet is maintained.

The committee directed staff to work on various scenarios that comply with the above noted agreements and bring them back to the committee in early February. Mr. Miskel will be scheduling a meeting in the near future. Once a compilation of requesting entities and the storage space needed is complete, staff will proceed to the next step of requesting a Master Contract with the Bureau of Reclamation.

Mr. Broderick reported Senate Bill 07-122 authorized a Colorado Water Conservation Board (CWCB) Water Project Loan for the Arkansas Valley Conduit project. In a footnote, the bill requires that District, as the project sponsor, enter into a loan contract with CWCB within two years after the effective date of the bill. The District has not entered into that loan contract because the federal legislation authorizing the change in the local cost-share for the project has not yet been enacted into law. Legal counsel has been working with District staff on authorizing a two-year extension of this deadline in the upcoming CWCB Construction Fund bill, Senate Bill 09-125. The Senate Agriculture and Natural Resources Committee held a hearing on this bill February 12, at which Mr. Broderick testified.

INFORMATIONAL ITEMS:

The Board was provided written reports on the following:

- Excess Capacity Committee Report
- Legal Matters

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OTHER BUSINESS MATTERS:

None

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 10:34 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

