

March 19, 2009

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**SOUTHEASTERN COLORADO WATER  
CONSERVANCY DISTRICT**

**MINUTES**

**March 19, 2009**

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District was held on Thursday, March 19, 2009 at 8:35 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
Scott Reed	Lee Simpson	Edward Bailey
Reed Dils	Gibson Hazard	Greg Johnson
Lissa Pinello	Howard "Bub" Miller	Carl McClure
Kevin Karney	Vera Ortégón	
Alan Hamel-Advisory Board Member		

**DIRECTOR ABSENT AND EXCUSED:**

Shawn Yoxey

**ENTERPRISE OFFICIALS PRESENT:**

Executive Director James Broderick; Administrative Manager Toni Gonzales; Projects Manager Phil Reynolds; Director of Engineering and Resource Management Bob Hamilton; Engineering Support Specialist Margie Medina; Attorneys Steve Leonhardt, Lee Miller, and Maria Hohn; and Federal Lobbyist Christine Arbogast.

**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:**

Roy Vaughan, U.S. Bureau of Reclamation; Chris Woodka, The Pueblo Chieftain; Pat Edelman, U. S. Geological Survey; Dick Wolfe, State Engineer; Steve Witte and Bill Tyner, Colorado Division of Water Resources- Division 2; Kevin Meador, Black & Veatch; Bill Warmack, Applegate Group; Roy Heald and H.E. Cap Proal, Security Water District and Fountain Valley Authority; Brett Gracely, Colorado Springs Utilities; Dwight L. Gardner, Senator Michael Bennet's office; Curt Thompson, Merrick & Co.; Jay Winner, Lower Arkansas Valley Water Conservancy District; Terry Scanga, Upper

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Arkansas Water Conservancy District; Rick Kienitz, and Tom Simpson, Aurora Water; Rick Thornton, CDM; Ian Narain and Rick Jones, Kleinfelder; Dan Henrichs, High Line Canal Company; Joe Rall, Congressman Lamborn's office; Ron Gasser, Penrose Water District; Curtis Mitchell, Fountain Utilities; and Ken Weber.

**APPROVAL OF MINUTES:**

President Long asked if the members of the Board had received their copy of the minutes of the February 19, 2009 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegón moved, seconded by Mr. Johnson, to approve the minutes. Motion unanimously carried.

**FINANCE COMMITTEE REPORT:**

Treasurer Ann Nichols reported that due to the illness of Chief Financial Officer Kathie Fanning, the financial statements will be approved at the April Board meeting.

**PRESENTATIONS:**

**REPORT FROM THE LOWER DISTRICT**

Jay Winner, General Manager of the Lower Arkansas Valley Water Conservancy District (Lower District), reported the Lower District had reached a settlement with the City of Aurora that seeks to end a federal lawsuit against the Bureau of Reclamation over its contracts with Aurora. Mr. Winner thanked Mr. Long, Mr. Hamel, and Mr. Moore for their participation in the process to resolve this issue.

Mark Pifher, City of Aurora, reported that the City of Aurora's City Council called a special meeting March 18 and unanimously voted to accept the settlement with the Lower District. Mr. Pifher reviewed some of the provisions of the settlement to include:

- Lower District agreed to "park" its federal lawsuit for up to two years to allow Congress time to pass legislation authorizing both the Aurora water contract and an Arkansas Valley Conduit funding mechanism.
- If the legislation passes, Aurora agrees to then pay \$2 million over several years toward additional Lower Ark projects such as the Super Ditch and Fountain Creek upgrades.
- Cooperation in Arkansas River basin water quality studies and support regional planning efforts.
- Restricts Aurora from obtaining new water rights in the valley as long as the Super Ditch is viable and no new pipelines out of the valley are constructed.
- The Lower District agreed not to contest Aurora's ongoing lease agreements with the High Line Canal and the Board of Water Works of Pueblo.
- The Lower District can choose to participate in future Aurora storage projects like Box Creek in Lake County, as well as gain space not being used by Aurora in Lake Henry and Lake Meredith in Crowley County.

**ARKANSAS RIVER IRRIGATION RULES ADVISORY COMMITTEE**

Dick Wolfe, State Engineer, presented a PowerPoint titled, *Irrigation ~~Efficiency~~ Consumption Issues in Water Division 2*, reviewing the following:

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- Article IV D Arkansas River Compact CRS 37-69-101
- Efficiency Facts of Life
- Improved Efficiency/Improved Efficiency and Bypass
- Is the State Really Opposed to Improving Irrigation Efficiencies in the Arkansas River Basin?
- Trying to Inform the Public...
- Re-Drafted the Rules
- Advisory Committee
- Elements of the Proposed Compact Consumption Rules for Division 2

ENGINEERING SUB-COMMITTEE

Bill Tyner from the Division Engineer's office presented a PowerPoint titled, *Irrigation Systems Analysis Model (ISAM)*, reviewing the following:

- Purpose of Developing Spreadsheet Model
- Intended Use of ISAM
- Areas of Applicability
- Required Data from Water Users in the Mainstem Area
- Data Built into ISAM
- ISAM is Intended for Use on Farms with Surface Water or Surface Water Supplemented by Groundwater
- ISAM Calculates Original Condition on Farm
- Tool Calculates Improved Condition by Pro-Rata Acreage
- Data is Summarized for Ten Year Period to Determine Range of Conditions

SOLUTION SUB-COMMITTEE

Steve Witte, Division Engineer-Division 2, presented a PowerPoint presentation titled, *Recommendations of the Solutions Sub-Committee*, reviewing the following:

- Purpose of Solution Sub-Committee
- State Engineer's Role
- Lower Arkansas Valley Water Conservancy District's Role

Mr. Witte said the committee meetings are open to the public.

Steve Leonhardt, Southeastern District's legal counsel, reviewed the Solutions Sub-Committee recommendations to the Arkansas River Irrigation Consumption Rules Advisory Committee.

President Long recessed the meeting at 11:27 a.m. and reconvened at 11:38 a.m.

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COLORADO WATER CONSERVATION BOARD

Reed Dils reported on the Colorado Water Conservation Board's recent board meeting. He said that the Federal Stimulus Package Pertaining to State Revolving Funds for Water Projects was discussed, and reviewed the following:

- Existing mechanisms of the State Revolving Funds Program allocates \$6 billion for capitalization grants, which will be distributed by EPA
- Colorado's share is \$62 million
- Colorado Water Resources and Power Development Authority is the fiscal agent
- 20% of funds must go toward "green initiatives"
- Rules requiring covered entities to have approved conservation plans on file with CWCB

COLORADO WATER RESOURCES & POWER DEVELOPMENT AUTHORITY

Ann Nichols reported on the procedures that will be followed for the Federal Stimulus Package Pertaining to State Revolving Funds for Water Projects. The Colorado Water Resources and Power Development Authority is the fiscal agent for distributing the funds.

Ms. Nichols said that the Colorado Water Resources & Power Development Authority is hiring six additional staff members to review applications for the funds, so that the funds can be distributed as soon as possible.

ARKANSAS BASIN ROUNDTABLE

Lissa Pinello reported on the projects that the Arkansas Basin Roundtable has funded, which include the following:

- Non-consumptive Needs Study
- Upper Arkansas Valley Water Conservancy District Gaging Project

Mrs. Pinello reported there is still money available to loan for projects in the Arkansas basin account.

SNOWPACK REPORT

Bob Hamilton presented a PowerPoint titled, *Snowpack in Fry-Ark Collection System and the Upper Arkansas River Basin*, reviewing the following:

- Upper Colorado River Basin Time Series Snowpack Summary
- Collection Systems Individual Sites
- Collection System Average-Independence Pass, Ivanhoe, Kiln, and Nast Lake
- Arkansas River Basin Time Series Snowpack Summary
- Upper Arkansas Basin Snowpack March 19, 2009

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**MONTHLY REPORTS:**

**U.S. BUREAU OF RECLAMATION REPORT**

Roy Vaughan reported as of March 17, there were 246,196 acre-feet of water stored in Pueblo Reservoir, 140,073 acre-feet of Project water, 43,320 acre-feet of water stored in If & When space, 15,979 acre-feet of Winter water carryover, and 47,285 acre-feet stored in new Winter water.

There is currently 116,876 acre-feet of Project space in Pueblo Reservoir, and 61,000 acre-feet of Project space available in Turquoise and Twin Lakes Reservoirs.

Mr. Vaughan said Reclamation is currently moving 280 c.f.s of Project water from Twin Lakes to Pueblo Reservoir. The total Project diversions for 2008 were 89,960 acre-feet.

Reclamation has moved approximately 32,128 acre-feet from the upper reservoirs to Pueblo Reservoir, and are planning on moving approximately 9,000 acre-feet more.

Mr. Vaughan said the February forecast for Boustead imports is 74,100 acre-feet.

Mr. Vaughan said the Eastern Colorado Area Office Work Plan Estimates-SECWCD and Fry-Ark Work Plan Description Accomplishments, 1<sup>st</sup> Quarter 2009 are available for review in the informational portion of the binders.

Mr. Vaughan reported there was a meeting held to review reservoir operations for non-consumptive uses (fishing and rafting). The meeting was held to communicate how water is run and the priority of the runs. There will be monthly telephone conferences to continue the communication.

**DIVISION ENGINEER'S REPORT**

Steve Witte reviewed the Division Engineer's monthly report for March 19, 2009 and the Arkansas River Daily Report, Ditch and Reservoirs for March 18, 2009. The river call is Catlin 12/03/1884.

Mr. Witte said the grand total at the end of the Winter Water Storage Program 3/15/09 was 140,355 acre-feet, which is 13,000 down from last year.

Mr. Witte stated that his office is reviewing the augmentation plans, and temporary approval will be granted, subject to water allocation awards in May.

Mr. Witte reported in the Kansas v Colorado case, that the Supreme Court overruled Kansas' exception, and upheld the cost award entered by the Special Master. The Court decided that there was no reason in the case to depart from the limit on expert fees set by Congress for federal cases generally. In its decision the Court approved entry of the Special Master's proposed decree.

Mr. Witte said his office has received the draft for the ten year review of the Trinidad Reservoir.

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U.S. GEOLOGICAL SURVEY REPORT

Pat Edelmann presented a PowerPoint titled, *Summary of Water Conditions in the Arkansas River Basin*, reviewing the following:

- Map of Real-time Streamflow Compared to Historical Streamflow for the Day of the Year
- Colorado Reservoir Storage Graph
- Colorado SNOTEL Snowpack Update with Site Data
- Arkansas River Basin SNOTEL Snow Water Equivalent (inches)
- Colorado SNOTEL May 1 Snowpack Projection Map

**ACTION ITEMS:**

**LEGAL MATTERS**

Cripple Creek Stipulation (Case No. 96CW190)

Mr. Leonhardt reported Cripple Creek filed its application in this case (96CW190) in 1996, seeking to change irrigation water rights on West Fourmile Creek, west of Cripple Creek, for future municipal uses. The case has not yet been decreed. The Southeastern District entered into a stipulation with Cripple Creek in this case 12 years ago, shortly after it was filed. Terms of that stipulation require that excess consumptive use credits obtained in the application be available for direct diversion or storage on West Fourmile Creek only during the historic irrigation season from April through October, and that any use of the excess consumptive use credit requested in Applicant's changes of use, other than for storage in West Fourmile Creek Reservoir and continuation of historic irrigation use at the previously decreed location, would require new applications to the Water Court.

In December 2008, Cripple Creek requested approval of two separate Substitute Water Supply Plans (SWSPs), to allow for quantification, storage, and other uses of these rights in two separate reservoir systems (one on Fourmile Creek, and one on a small tributary). In legal counsel's comments to the State Engineer's Office, they mentioned that the SWSPs appeared to violate Southeastern's stipulation because no application had been made to Water Court for the proposed new uses. In response to this concern, Cripple Creek asked that Southeastern District agree to an amended stipulation, to allow Cripple Creek the right to use the applied-for water in SWSPs, without the need to go back to Water Court. The current statutory authority for SWSPs, which allows interested parties to receive notice and provide comments, was enacted several years after the original stipulation was signed.

Counsel for Cripple Creek provided a draft amended stipulation for Southeastern District's legal counsel to review. They suggested some revisions after consultation with District staff. Counsel for Cripple Creek agreed to these proposed revisions, and signed and provided the an Amended Stipulation for Southeastern District's consideration.

Mr. Leonhardt recommended that the Board authorize legal counsel to execute this Amended Stipulation. Mrs. Pinello moved, seconded by Mr. Hazard, to approve Mr. Leonhardt's recommendation.

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Motion unanimously carried. Following approval of this stipulation, counsel for Cripple Creek intends to submit a final proposed ruling to the Water Referee for this case.

District's Diligence Filing for Collection System

Mr. Leonhardt reported the Southeastern District holds the water rights for the Fryingpan-Arkansas (Fry-Ark) Project West Slope Collection System, some of which remain conditional water rights, because they had not been used when previous decrees were entered. To maintain these conditional water rights, a diligence application must be filed in Division 5 Water Court no later than April 30, 2009. Legal counsel has worked with District staff to prepare a draft application.

Mr. Leonhardt recommended the Board's approval of a resolution concerning this application and Southeastern's intent to maintain and diligently pursue developing its conditional water rights for the Fry-Ark Project West Slope Collection System. This resolution is designed to show Southeastern's intent to fully utilize the collection system to the extent allowed by the principles and decrees that govern the Fry-Ark Project, and to continue diligent activity toward developing the conditional rights. Mr. Hazard moved, seconded by Mr. Dils, to approve Mr. Leonhardt's recommendation. Motion unanimously carried.

**INFORMATIONAL ITEMS:**

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

- OM&R Quarterly Report
- Allocation Committee Update
- Water Court Résumé
- State Legislation
- Legal Matters

**OTHER BUSINESS MATTERS:**

Mr. Broderick said that material was in the Board binders regarding John Root Fetcher, who passed away February 6, 2009. Mr. Fetcher was the founder of the Steamboat Ski area, along with leading construction of Yamcolo and Stagecoach reservoirs and Steamboat Lake, and developing Mount Werner and Upper Yampa water district.

Mr. Broderick announced that the Arkansas River Basin Water Forum is scheduled for March 31-April 1, and if any Board member was planning to represent the District to inform Ms. Gonzales so she can submit registration forms for participation.

SECWCD

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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 11:40 a.m.

Respectfully submitted,

Toni Gonzales  
Administrative Manager

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Secretary

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