

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

March 17, 2011

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District was held on Thursday, February 17, 2011 at 10:18 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

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

DIRECTORS ABSENT AND EXCUSED:

Gary Bostrom, Greg Johnson, Scott Reed, and Shawn Yoxey.

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; Administrative Manager Toni Gonzales; Project Manager Phil Reynolds; Finance Coordinator Tina White; Director of Engineering and Resource Management Bob Hamilton; Conservation Outreach Coordinator Jean Van Pelt; Legal Counsel Steve Leonhardt, Lee Miller, and Alix Joseph; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

Mike Collins, Roy Vaughan, and Carlie Ronca, U.S. Bureau of Reclamation; Mark Carmel, Merrick & Company; Rick Kienitz, Aurora Water; Curtis Mitchell, City of Fountain; Chris Woodka, The Pueblo Chieftain; Steve Witte, Colorado Division of Water Resources-Division 2; Dan Kugler, Black & Veatch; Jerry Peña, MWH; Doris Morgan, Congressman Cory Gardner's office; Dan Henrichs, High Line Canal Company; Jim Baldwin, Otero County; Sean Chambers, Cherokee Metro; Roy Heald, Security Water District and Fountain Valley Authority; Christine Thiebaut, Senator Udall's office; David Mau, U.S. Geological Survey; Bob Hartzman, City of Canon City; Darii McClure-Wohlens; David Vidikan, Jacobs Engineering Group; and Ken Weber.

INTRODUCTION OF VISITORS:

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

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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 February 17, 2011 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegón moved, seconded by Ms. Nichols, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported the financial statements for January and February were posted to the Board website for review. Treasurer Nichols moved, seconded by Mrs. Pinello, for acceptance of the January and February financial statements and payment of the March 2011 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

PRIMER ON THE WINTER WATER STORAGE PROGRAM

Alix Joseph gave a PowerPoint presentation titled, *Winter Water Storage Program*, reviewing the following:

- Development of the Winter Water Storage Program
- Winter Water Storage Program
- Allocation of Winter Water
- Storage of Winter Water in Pueblo Reservoir

Ms. Joseph also provided the Board members with a Memorandum dated August 11, 2010 that explained the Winter Water Storage Program.

ACTION ITEMS:

LEGAL MATTERS

Widefield Water and Sanitation District (Case No. 07CW54-Division 2)

Mr. Leonhardt reported that Case No. 07CW54 is an application filed by Widefield Water and Sanitation District to augment depletions from the seven Venetucci tributary wells in the Widefield Aquifer near Fountain Creek, using its Fountain Mutual shares, Fry-Ark Project allocations and Colorado Springs Return Flow water. The Southeastern District previously stipulated to similar decrees with similar terms involving augmentation of Venetucci wells in cases filed by the City of Fountain (Case No. 07CW68) and Security Water District (Case No. 07CW51).

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Widefield provided a proposed decree a few months ago for review. Legal counsel provided written comments to Widefield's counsel last month, mainly involving revisions in the description of Widefield's rights to purchase and use Project water and return flows, making them similar to the parallel provisions in the previously stipulated decrees in Fountain's and Security's Venetucci wells cases.

Widefield's revised proposed decree was provided to the Board, and it includes all the revisions legal counsel requested. Mr. Leonhardt recommended the Board's approval of settlement with Widefield, consenting to the current proposed decree terms, and recommend the Board authorize legal counsel to execute a standard stipulation, agreeing to entry of this revised proposed decree, to resolve Southeastern District's participation in this case. Howard Miller moved, seconded by Mr. Simpson, to approve Mr. Leonhardt's recommendation. Motion unanimously carried.

Town of Poncha Springs - Friend Ranch Exchange (Case No. 09CW138)

Mr. Leonhardt reported Poncha Springs filed this exchange application to incorporate the use of Project water and return flows into its Friend Ranch development, using exchanges in coordination with the Southeastern District's South Arkansas River exchange decree (Case 97CW160). Poncha Springs also has a pending change case (07CW111) to quantify the historical irrigation use of the Friend Ranch water rights and change those rights for municipal uses, including golf course irrigation and augmentation. The change case is scheduled for an eight-day trial next year, beginning June 5, 2012.

Poncha Springs distributed a proposed decree and engineering report in this exchange to objectors last July. Legal counsel provided a comment letter to Poncha Springs' attorneys in September. Their comments mainly involved Poncha's description of its rights to use Fry-Ark Project water and appropriate reference to Southeastern District's storage and exchange agreement executed last year with Poncha Springs. Poncha Springs made the decree revisions requested, and provided a revised draft decree, a revised stipulation and a proposed accounting form for legal counsel and Bob Hamilton's review. Legal counsel provided further comments and Poncha Springs has made all revisions that were requested, in both the proposed decree and the stipulation.

An important point for settlement of this case was that the decree, in providing for Poncha Springs' proposed exchanges, storage and use of Fry-Ark Project water, make references incorporating the agreement that the Southeastern District entered into with Poncha Springs a year ago, to resolve Southeastern District's concerns on those issues. That agreement was approved by the District Board and the Poncha Springs Town Council, and was fully executed in March 2010. The current draft stipulation and proposed decree both recognize that agreement. Paragraph 14 of the decree states:

On March 8, 2010, Applicant and Southeastern District entered into an agreement concerning the exchange, storage and use of Fryingpan-Arkansas Project water (the "97CW160 Exchange Agreement"). The 97CW160 Exchange Agreement establishes terms and conditions for Applicant's utilization of the 97CW160 Exchange, the delivery of Applicant's Fry-Ark Project Water to the Friend Ranch Reservoir, the Henry Ditch

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Reservoir and the South Arkansas Reservoirs, and for Applicant's storage and use of Project water as contemplated under the 97CW160 Exchange.

Friend Ranch is a recent annexation into Poncha Springs, some of which is outside the Southeastern District boundaries and not yet approved by Reclamation for inclusion into the Southeastern District. However, the locations where Project water will be used under Poncha Springs current proposed decree in Case No. 09CW138 are on land that has always been within the Southeastern District. There is currently no timeline for inclusion of the additional lands into the Southeastern District, as Poncha Springs indicates that will require action by the Friend Ranch developer. With Reclamation not having approved inclusion of part of the Town of Poncha Springs into the Southeastern District, the Town's accounting for Project versus non-Project water is very important. Bob Hamilton reviewed Poncha Springs accounting form and has indicated that it satisfactorily accounts for Project water under the proposed exchange decree. At his request, the proposed stipulation retains Southeastern District's right to review future accounting forms that are submitted for approval by the Division Engineer or Water Court.

Mr. Leonhardt said he believes all the Southeastern District's issues in this case have been satisfactorily addressed through negotiations with the Applicant's counsel. Mr. Leonhardt recommended that the Board approve and authorize legal counsel to execute the proposed stipulation, providing the Southeastern District's consent to the revised proposed decree, to resolve Southeastern District's participation in this case. Mr. Dils moved, seconded by Mrs. Pinello, to approve Mr. Leonhardt's recommendation. Motion unanimously carried.

EXTEND THE MAY 1, 2011 DEADLINE OF THE 80/20 RULE

Mr. Hamilton reported at the February Board meeting, Steve Witte explained to the Board that the Pueblo Conservancy District has requested that the flows through the City of Pueblo's Kayak Course be held to a minimum to facilitate repairs to the damaged levee along the course. The Pueblo Conservancy District has requested that the Army Corps of Engineers not begin joint pool use operations until May 15, 2011, instead of April 15, 2011, to allow stored water to be held in Pueblo Reservoir during repair operations, thus minimizing the flow through the river. The Southeastern District has likewise been asked to extend the 80/20 Rule deadline of May 1 for use of stored Ag Project water to May 15, 2011 to facilitate repairs. The Board has previously, at times, waived the 80/20 Rule or extended the deadline for the use of water based upon requests from Ag water users. This action is being requested because of health and safety issues caused by damage to the levees on the Arkansas River through the City of Pueblo that need to be repaired.

The Pueblo Conservancy District, the agency responsible for the maintenance and repair of the levee system on the Arkansas River through the City of Pueblo has requested that the Corps of Engineers pursue obtaining a deviation from normal operations for the Joint Use Pool of Pueblo Reservoir. This requested deviation would allow an additional 25,000 acre-feet to be stored in the Joint Use Pool from April 15, 2011 until May 1, 2011, reducing to 12,500 acre-feet until May 15, 2011 when the Joint Use Pool must be empty. This action would allow water to be stored in the Pueblo Reservoir Joint Use Pool

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longer than normal, resulting in reduced flows through the City of Pueblo's Kayak Course while the contractor repairs the damage to the levee. The Board of Water Works of Pueblo and Historical Arkansas River Project (HARP) have been very cooperative in re-routing some of the flows through HARP. The District sent a letter of support for the deviation to the Corps of Engineers. There were 1,510.68 acre-feet in the Ag Project water accounts as of February 23, 2011. If the Army Corps of Engineers grants the deviation, then there will be sufficient storage in Pueblo Reservoir until May 15, and an extension of the deadline to May 15 will have no impact on either the Winter Water Storage Program or excess capacity storage. The vote was tabled until after Mr. Vaughan's report, which would provide additional information on this issue.

Mr. Simpson moved, seconded by Mrs. Ortigón, that if the US Army Corps of Engineers grants an Emergency Deviation for Pueblo Reservoir Joint Use Pool Operations until May 15, 2011, the Southeastern Board extend the May 1, 2011 deadline for the use of 2010 Agricultural Fry-Ark Project water as outlined in Paragraph 8 of the District's "Allocation Policy" until May 15, 2011, or the end of the deviation, whichever occurs first, and waive the Carryover Storage Surcharge on Ag Project water carried over past May 1, 2011. Motion unanimously carried.

WATER COURT RÉSUMÉ

Mr. Hamilton reported staff and legal counsel have looked closer at the January 2011 Division 2 cases presented in the February Board Packets as informational items. There are two (2) cases in the Division 2 Water Court Résumé for January 2011 that require Board action. Staff and legal counsel recommend filing Statements of Opposition in these cases to ensure appropriate terms and conditions are in the decree protecting the Winter Water Storage Program (WWSP) water rights and its administration and to ensure that Fry-Ark Project water allocated to the canal companies is used in accordance with the District's Allocation Principles and Policies as they may be amended.

These two cases are very similar, as both involve canals that receive Fry-Ark Project water and are participants in the Winter Water Storage Program. Both applications discuss the WWSP and appear to claim use of WWSP water for augmentation, and the Ft. Lyon shareholders' application discusses Fry-Ark Project water in connection with their claim for augmentation use. Staff has concerns that both the use of Fry-Ark Project water and Winter Water may not be allowed by the District's Allocation Principles or Policies or the WWSP Decree.

Shane et al (Case No. 11CW03)

Mr. Hamilton reported Shane et al. (Case No. 11CW03) seeks to change 1,027.54 shares of the Fort Lyon Canal Company, just over one percent (1.09%) of the outstanding shares, to add augmentation use to these shares for augmentation credit to be used in the Colorado Water Protective & Development Association's (CWPDA) Rule 14 Augmentation Plan. The shares will be released through the Ft. Lyon Canal Company's Augmentation station. The change application appears to include both Fry-Ark Project water allocated to the Ft. Lyon, as well as water stored in the WWSP. Accordingly, District staff recommends filing a statement of opposition to protect the WWSP water rights and administration and

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to ensure that any Fry-Ark Project water used pursuant to this decree is used in accordance with the District's Allocation Principles and Policies as they may be amended.

Mrs. Ortigón moved, seconded by Mrs. Pinello, that legal counsel file a Statement of Opposition in Case No. 11CW03 for the change of 1,027.54 shares of the Ft. Lyon Canal Co. to ensure appropriate terms and conditions are in the decree, including those to ensure the protection of the Winter Water Storage Program (WWSP) water rights and its administration and that the Fry-Ark Project water allocated to the canal companies is used in accordance with the District's Allocation Principles and Policies, as they may be amended. Motion unanimously carried.

Catlin Canal Company (Case No. 11CW04)

Mr. Hamilton reported, the Catlin Canal Company (Case No. 11CW04), seeks to change 7,500 shares of the Canal Company, about forty percent (40%) of outstanding shares, to add augmentation use to these shares. Like the Ft. Lyon application, Catlin seeks to use these shares, including the winter stored water, in CWPDA's Rule 14 Plan, and pending augmentation plan (Case No. 07CW128). District staff recommends filing a statement of opposition to ensure that Winter Water stored in Pueblo Reservoir is used in accordance with the District's contract and Winter Storage decree.

Mr. Karney moved, seconded by Howard Miller, that legal counsel file a Statement of Opposition in Case No. 11CW04 for the change of 7,500 shares of the Catlin Canal Co. to ensure appropriate terms and conditions are in the decree, including those to protect the Winter Water Storage Program (WWSP) water rights and its administration. Motion unanimously carried.

MONTHLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan presented a PowerPoint presentation reviewing the following:

- As of March 14, there were 263,215 acre-feet stored in Pueblo Reservoir; 165,625 acre-feet of Project water; 46,444 acre-feet of Excess Capacity water; 44,555 acre-feet of new Winter water; 6,683 acre-feet of carryover Winter water. There is 1,461 acre-feet of last year's Ag Project water.
- There is currently 91,324 acre-feet of Project space in Pueblo Reservoir and 70,229 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Project Reservoirs: Turquoise 65%; Twin Lakes 93%; Pueblo 130%.
- Upper Colorado River Basin Time Series Snowpack Summary.
- SNOTEL Graphs for:
 - Fry-Arks Collection System
 - Kiln
 - Ivanhoe
 - Nast Lake
 - Independence Pass

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Mr. Vaughan reported the March 1 forecast for water is 75,300 acre-feet. Reclamation will begin opening up the collection system April 4.

Mr. Vaughan reported the estimated acre-feet over the top of the Conservation Pool is 12,895.

Mr. Vaughan reviewed the Corps of Engineers waiver for the flood pool.

Reclamation's Eastern Colorado Area Manager Mr. Collins, reported that the Southern Delivery System contract is in the comment period.

Mr. Collins said Reclamation is going to begin the process for market rate approach for future storage contracts. He said this approach will close the cost gap of long-term and temporary storage contracts, and will assist in pay offs of projects sooner. He said the process would be:

- Listening Sessions
- Publish a draft in the Federal Register
- Publish the final in the Federal Register

Mr. Collins indicated that Reclamation will honor existing contract rates.

DIVISION ENGINEER'S REPORT

Steve Witte reviewed the preliminary Winter Water Program Report. He said there are 121,294 acre-feet, which is 80 percent of last year and 86 percent of the most recent 5 year average.

Mr. Witte said the Pueblo flood levee repairs were completed March 13.

Mr. Witte reported storage at John Martin Reservoir began on November 1, 2010 and thus far 19,381 acre-feet has been stored in the Winter Compact storage account. He is anticipating a call for release of account water on or before April 1, which will initiate the process of transferring water from Conservation Storage into accounts in John Martin Reservoir.

Mr. Witte said his office is currently in the process of reviewing Rule 14 Plans that have been submitted by well associations pursuant to the Amended Ground Water Use Rules.

Mr. Witte said he is expecting the Lower Arkansas Valley Water Conservancy District to request a variance to the Improvement Rules to allow those who have requested inclusion in the District's Rule 10 Plan to be allowed to utilize their improvements while the Plan is being evaluated.

U.S. GEOLOGICAL SURVEY REPORT

None

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INFORMATIONAL ITEMS:

The Board was provided written material on the following topics, which were posted to the Board website:

- Water Court Résumé
- Arkansas River Basin Water Forum – April 27-28, Colorado Springs

OTHER BUSINESS MATTERS:

President Long said the Allocation Committee will meet at 1:00 p.m. today (March 17).

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:38 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary
