

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

July 16, 2020

A virtual meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, July 16, 2020 at 9:30 a.m. Via ZOOM.

President Bill Long welcomed all in attendance to the virtual meeting. Mr. Long asked Garrett Markus to do a role call. Mr. Long established that a Quorum was present.

DIRECTORS CONNECTED:

Alan Hamel	Curtis Mitchell	Patrick Garcia
Andrew Colosimo	Howard “Bub” Miller	Seth Clayton
Ann Nichols	Kevin Karney	Tom Goodwin
Bill Long	Mark Pifher	
Carl McClure	Pat Edelmann	

DIRECTOR(S) ABSENT AND EXCUSED:

Dallas May, and Greg Felt

DISTRICT OFFICIALS CONNECTED:

Executive Director James Broderick; General Counsel Lee Miller; Principal Engineer Kevin Meador; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Finance Manager Leann Noga; Administrative Manager Toni Gonzales; Administrative Support Specialist Margie Medina; Accounting Specialist Stephanie Shipley; Administrative Support Associate Patty Rivas; and Federal Lobbyist Christine Arbogast.

VISITORS CONNECTED:

Kalsoum Abbasi, Colorado Springs Utilities; Brandon Bernard, Widefield Water & Sanitation; Rachel Duran, State of Kansas Department of Agriculture; Cathy Garcia, Senator Cory Gardner’s Office; Kim Swearingon, Pueblo West Metro District; Brett Gracely, LRE Water; Jerry Pena, Kennedy Jenks.

APPROVAL OF MINUTES:

President Long said the minutes of the May 21, 2020 Board meeting were posted to the Board website for review and asked if there were any corrections or additions. Mr. Hamel moved, seconded by Mr. Pifher to approve the minutes. Motion unanimously carried.

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TREASURER REPORT:

Treasurer Nichols reported the financial statements for May and June 2020, were posted to the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton for acceptance of the May and June 2020 financial statements and payment of the July 2020 bills. Motion unanimously carried.

PRESENTATION:

Mrs. Noga presented a PowerPoint entitled “2020 Mid-Year Financial Report”. In that Mrs. Noga covered:
For the District;

1. Fry-Ark Project & District Operations
2. Fryingpan-Arkansas Project Revenues & Expenditures
3. District Operating Revenues & Expenditures
4. Expenditures related the COVID-19

Mrs. Noga Reported that on May 18, 2020 Governor Polis signed an executive order thru The Cares Act to make available a Corona Relief Fund. This would be provided thru The Colorado Department of Local Affairs. The funding is available to Counties, Municipalities and Special Districts within Colorado for reimbursing costs specifically related to COVID-19. With the permission of President Long, the District has applied for this program and are currently awaiting approval. Mrs. Noga concluded by reviewing Capital Expenditures.

ACTION ITEMS

RATIFY EXECUTIVE COMMITTEE APPROVAL OF STIPULATION IN THE APPLICATION OF THE UPPER ARKANSAS WATER CONSERVANCY DISTRICT, CASE NO. 18CW3076

Mr. Lee Miller presented an action item to move that the District Board of Directors ratify the Executive Committee’s approval for Special Water Counsel to execute a stipulation with Upper Arkansas Water Conservancy District (“UAWCD”) in UAWCD’s augmentation plan application, Case No. 18CW3076.

In Case No. 18CW3076, UAWCD seeks approval of a new regional or umbrella augmentation plan to expand the geographic scope of UAWCD’s augmentation service area to include portions of Custer, Fremont, and El Paso Counties. All of Custer County is located outside of the District’s boundaries, as are significant portions of UAWCD’s expanded service area in Fremont and El Paso counties. UAWCD’s proposed augmentation sources include Project Water and Project Water Return Flows, as well as other changed water rights and water leased from Pueblo Water. UAWCD also proposes to store and release its augmentation supplies from Pueblo Reservoir, Twin Lakes Reservoir, and/or various non-Project reservoirs, either directly or by exchange. The application also includes changes of water rights and exchange claims related to the augmentation plan. UAWCD intends to integrate its accounting and reporting with its previous augmentation decree in Case No. 06CW32.

The District’s objectives in Case No. 18CW3076 are to ensure that (1) UAWCD’s use of Project Water and Project Water Return Flows is consistent with the District’s policies; (2) appropriate terms and conditions for any use of Project facilities are included in the proposed decree; (3) the proposed decree contains appropriate terms for the protection of the Voluntary Flow Management Program (VFMP); (4) the proposed decree addresses UAWCD’s storage of non-Project water in Pueblo Reservoir, and that such

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storage is compatible with UAWCD's contracts and agreements with the District; and (5) UAWCD's augmentation plan operations do not injure the District's water rights and operations, including exchanges and the Winter Water Storage Program (WWSP). Special Water Counsel, General Counsel, and District Staff believe that the June 1, 2020 Proposed Decree satisfies the District's objectives, as follows: UAWCD's proposed decree in Case No. 18CW3076 includes the District's requested Standard Language terms concerning the use of Project Water and Project Water Return Flows in Paragraphs 10.b.i and Paragraph 28.c.i-vi. Paragraph 28.c.v addresses UAWCD's continued compliance with its May 2014 agreement with the District concerning the storage and use of Project Water in non-Project facilities, in a modified version of the District's Standard Language term I.B.9. The proposed decree also includes appropriate terms and conditions to protect the WWSP in Paragraph 28.e.

UAWCD's proposed decree in Case No. 18CW3076 includes the District's requested Standard Language terms for the protection and use of Project facilities in Paragraph 10.b and 28.a. Paragraph 28.b of the proposed decree includes a modification of the District's Standard Language term III.B.5.b, providing for UAWCD's storage of non-Project Water in Pueblo Reservoir for use both inside and outside of the District's boundaries, under separate contracts. This modification is consistent with the District's 2017 Letter Agreement with Terry Scanga (UAWCD), regarding this issue.

UAWCD has included negotiated language concerning the protection of the VFMP in Paragraph 28.d of the proposed decree, which is a variation on the District's Standard Language term V.B that was acceptable to District Staff. This modified term includes language that will protect specified VFMP target flow rates at the Wellsville Gage, while clarifying the manner in which UAWCD must consult with Southeastern prior to making augmentation releases from Pueblo Reservoir (which includes, at a minimum, written notice to the District of its request for such releases). UAWCD proposed a corresponding term in the attached stipulation, providing that UAWCD has agreed to include the negotiated VFMP language in its decree in Case No. 18CW3076, with the understanding that UAWCD will be able to replenish its upstream storage as it has historically done, using its exchanges decreed in Case No 04CW96 and reservoir trades of Project Water into Twin Lakes by agreement with Reclamation. District Staff confirms this is consistent with their understanding.

Mr. Pifher moved, seconded by Mr. Hamel that the Board of Directors ratify the Executive Committee's approval for Special Water Counsel to execute a stipulation in Upper Arkansas Water Conservancy District's Case No. 18CW3076. Mr. Goodwin recused himself from the vote.

RATIFY EXECUTIVE COMMITTEE AUTHORIZATION OF STATEMENTS OF OPPOSITION IN COLORADO SPRINGS UTILITIES AMENDED APPLICATION, CASE NOS. 19CW3052 AND 19CW3053

Mr. Lee Miller presented an action item to recommend that the District Board of Directors ratify the Executive Committee's authorization for Special Water Counsel to file statements of opposition the City of Colorado Springs' ("CS-U") amended applications in Case Nos. 19CW3052 and 19CW3053.

Case No. 19CW3052 is CS-U's application for a plan for augmentation to replace depletions from constructed wetlands on the Clear Springs Ranch and Pinello Ranch, along Fountain Creek, built to

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mitigate impacts to existing wetlands caused by construction of the Southern Delivery System Project. The augmentation plan includes exchanges to the depletion locations. The amended application includes the use of Project Water Return Flows among several sources for augmentation water.

Case No. 19CW3053 is CS-U's application for a plan for augmentation to replace depletions resulting from out-of-priority storage and evaporation from ponds and other storage structures and out-of-priority diversions from undecreed surface diversions located within Colorado Springs's water service territory. The amended application includes the use of Project Water Return Flows as one of several augmentation sources.

Counsel for CS-U provided proposed decrees in both cases, to assist in the District's review. The proposed decrees include some, but not all, of the District's standard terms and conditions for use of Project Water return flows. The proposed decrees include a requirement that Project Water Return Flows will only be used to replace depletions from beneficial use within the District's boundaries, and District staff has confirmed that all of the augmented structures are within the District. However, the proposed decrees omit the standard term, stating that the District retains dominion and control over Project Water Return Flows, and the accounting terms do not require CS-U to maintain daily records of water deliveries and wastewater discharges by source. Special Water Counsel has sent counsel for CS-U a comment letter, provided to the Board, raising these limited concerns.

Mr. Goodwin moved, seconded by Mr. Hamel to ratify the Executive Committee's authorization for Special Water Counsel to file Statements of Opposition to the Amended Applications of the City of Colorado Springs in Case Nos. 19CW3052 and 19CW3053. Mr. Colosimo recused himself from the vote.

MONTHLY/QUARTERLY REPORTS:**U.S. BUREAU OF RECLAMATION REPORT**

Roy Vaughan provided a written report reviewing the following:

As of July 9, 2020

- There were 215,423 acre-feet stored in Pueblo Reservoir; 160,268 acre-feet of Project water; 43,338 acre-feet of Excess Capacity water; 19,261 acre-feet of Winter water
- There is currently 85,105 acre-feet of Project space in Pueblo Reservoir and 19,203 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Charts illustrating storage amounts in Turquoise, Twin Lakes, and Pueblo Reservoir
- Project Reservoirs: Turquoise 103%, Twin Lakes 94%, Pueblo 113% as of July 9, 2020
- First Use Project + PCO Municipal Water
- Total M&I PW in the system is 137,554 as of June 30, 2020
- Boustead Stored Cumulative Imports for 2020

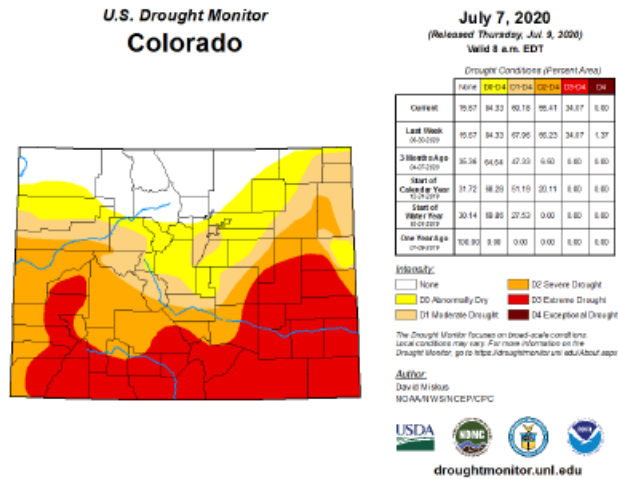
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DIVISION ENGINEER’S REPORT

Mr. Tyner provided a written report reviewing the following:

Arkansas Basin Native Supply

As 2020 has unfolded in the Arkansas Basin the impacts of drought have taken a grip on most of the basin. Unfortunately, the projection for the balance of the irrigation season presumes that the drought conditions will persist.



Projecting streamflows through the end of 2020 using data from comparable dry years would place 2020 as the fifth lowest water supply year since 1950 only surpassed by the drought years of 2012, 2002, 1977 and 1954. This projection would place 2020 as slightly worse than 1963, 1964, 2003, 2013 and 2018 in terms of water supply in the mainstem area.

Agricultural and municipal water users are preserved in a drought year like this if they have access to reservoir stored water. Municipalities have become particularly prepared to stockpile water supplies in storage following the disastrous sequence in 2002 and 2003.

At the start of the Winter Water Storage season in 2002, Pueblo Reservoir storage had fallen to 77,500 acre-feet and fell even lower at the end of the 2003 irrigation season to approximately 66,000 acre-feet. Contrast those conditions with the end of the 2012 and 2013 irrigation seasons when Pueblo Reservoir storage was at 157,500 acre-feet and 130,284 acre-feet respectively. Following the 2018 drought year irrigation season, Pueblo Reservoir storage level was at 187,000 acre-feet. These improvements in stored water supplies are predominantly caused by municipal storage and not agricultural storage, except with respect to unallocated Project water.

As of July 1, 2020, approximately 29,000 acre-feet of allocated agricultural Project Water remained in Pueblo Reservoir with a presumption that most of this water would have to be delivered to complete the 2020 irrigation season. Remaining Winter Water totaled approximately 21,000 acre-feet in Pueblo Reservoir as of July 1, 2020 and presumably much of this water may yet be delivered during this irrigation season.

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It is likely that because of the valuable stored water supply that mainstem ditches will end up achieving nearly average or slightly below average diversions for 2020, despite the growing drought conditions. The problematic situation will be if drought conditions persist in the basin on into 2021.

In order to characterize potential drought impacts to mainstem ditches in the second year of a drought, I compiled diversion data for four ditches between Pueblo Reservoir and John Martin Reservoir (Bessemer, Catlin, Highline and Fort Lyon) and three ditches below John Martin Reservoir (Amity, Lamar and Buffalo) for each pair of drought years described above.

I found the results a bit surprising in that diversions for irrigation in the second year of a drought recovered in most cases and sometimes substantially, but for most ditches were well below average. The table below shows those results.

Ditch/Irrigation Year	Irrigation Diversions in AF				
	2002	2003	2012	2013	Average
Bessemer	37,040	49,634	48,610	46,295	62,233
Highline	42,781	57,442	49,844	54,904	79,706
Catlin	29,228	41,274	40,859	64,858	86,298
Fort Lyon	57,073	129,483	59,486	137,287	223,156
Ditch/Irrigation Year	Irrigation Diversions in AF				
	2002	2003	2012	2013	Average
Amity	19,948	33,333	14,115	46,971	86,064
Lamar	25,415	19,587	10,469	24,753	38,199
Buffalo	28,003	23,385	17,482	26,466	20,614

It cannot be overstated that the ability to rely on some level of stored water is immensely helpful to both municipal and irrigation interests in the basin. It is also important to note that the supplemental supply from the Fryingpan-Arkansas Project is very helpful to eligible ditches within the Project boundaries.

U.S. GEOLOGICAL SURVEY REPORT

Krystal Brown provided a written report reviewing the following:

- Arkansas River Streamflow Conditions
- Historical Perspectives on:
 1. Arkansas River nr Nathrop, CO
 2. Arkansas River at Parkdale, CO
 3. Arkansas River nr Avondale CO
 4. Arkansas River at Las Animas, CO
 5. Arkansas River nr Coolidge, KS

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STATE LEGISLATION UPDATE

Mr. Lee Miller provided a written report on the following: The Colorado General Assembly returned from its COVID-19 suspended session on May 26, 2020. Despite having roughly 30 days remaining on the legislative calendar, the General Assembly adjourned on June 15, 2020, making it both one of the longest and shortest sessions in recent memory. Adding to the drama of reconvening, protests about the George Floyd killing were ongoing, resulting in damage to the Capitol and personal property of some legislators. Upon returning from the suspension, the General Assembly's number one priority was to complete the work of financing the Colorado government before the new fiscal year beginning July 1, 2020. Making this effort more challenging was the estimated \$3.3 billion shortfall from the revenues projected earlier in the session. In addition, there are shortfalls in the current fiscal year revenues.

Because of this new fiscal reality and the short remaining time before the beginning of the state's fiscal year, most water bills that had not been passed prior to the session being suspended were postponed indefinitely, which ended consideration of those bills.

Of primary interest to the District was a bill that had not yet been introduced prior to reconvening of the session: the Colorado Water Conservation Board (CWCB) construction fund bill. Although the CWCB construction fund bill, which was introduced as HB20-1420, was a must-pass bill because of its role in the state budget, we followed it very closely because of the \$100 million funding package for the Arkansas Valley Conduit included in the CWCB's package approval. That bill was ultimately passed and signed by the Governor with the entire \$100 million funding package intact.

Several other funds did have money transferred to balance the General Fund shortfall, as well as shortfalls in revenues, such as those funds from oil and gas severance taxes.

In the short-term, the most significant action aside from the CWCB construction fund is the decision that none of the legislative interim committees, including the Water Resource Review Committee, will meet this year.

One proposal, which was ultimately not introduced, which will occupy a great deal of time during the interim, regardless of the suspension of interim committee meetings is a proposal by the Colorado Department of Public Health and Environment (CDPHE) to establish a "waters of the state protection program." A CDPHE paper in support of the proposal is attached, the Board was provided a copy of, as is the Colorado Water Congress' letter requesting that the General Assembly not act upon the proposal this past session.

COLORADO RIVER ISSUES STATUS

Mr. Lee Miller provided a written report on the following: The Colorado Water Conservation Board (CWCB) adopted the 2019 Work Plan to help guide the initial stage of the Demand Management feasibility investigation, to take place in Fiscal Year 2019-2020. The Work Plan had three primary components:

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1. establish workgroups comprised of subject-matter experts and key Colorado River stakeholders, which were directed to meet publicly at least four times in Fiscal Year 2019-20, and to identify key threshold issues for board consideration;
2. regional workshops designed to facilitate the public discussion around Demand Management and provide opportunities for CWCB staff updates on the feasibility investigation; and
3. continued education and outreach. In addition, the Board directed staff to facilitate a literature review, currently underway by consultants hired following a Request for Proposal process.

The Board was provided copy of a CWCB staff report providing an update of work done pursuant to the 2019 Work Plan. This report will assist the CWCB in considering the key threshold issues associated with a potential Demand Management program. The purpose of the report is not to provide guidance on next steps of the feasibility investigation. However, it may help shape the discussions and decision-making about the next phases of Colorado’s feasibility investigation.

This CWCB staff report is scheduled as an information item during the CWCB meeting July 15, 2020.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- NWRA Virtual Western Water Table Talk Series
- Colorado water Congress Summer Conference , later Christine Arbogast advised this has now been changed to a Virtual Meeting.

President Long asked if there were any other matters to come before the meeting. Hearing none, President Long adjourned the meeting at 9:53 a.m.

Respectfully submitted,

Patty Rivas
Administrative Support Associate

Secretary

SECWCD
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