

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO  
WATER CONSERVANCY  
DISTRICT MINUTES  
April 18, 2024**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, April 18, 2024, 9:34 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors.

President Long asked Margie Medina for a roll call of those connected via ZOOM.

**DIRECTORS PRESENT:**

Alan Hamel	Dallas May	Mark Pifher
Andy Colosimo	Greg Felt	Matt Heimerich
Ann Nichols	Howard "Bub" Miller	Pat Edelmann
Bill Long	Justin DiSanti	Seth Clayton
Curtis Mitchell	Kevin Karney	Tom Goodwin

**DIRECTOR(S) ABSENT AND EXCUSED:**

None

President Long established that a Quorum was present.

**INTRODUCTION OF VISITORS:**

President Long asked all present to introduce themselves and welcomed the visitors to the meeting.

**DISTRICT OFFICIALS:**

Executive Director Leann Noga; General Counsel Lee Miller; Staff Attorney Peter Levish; Senior Policy and Issues Manager Chris Woodka; Water Resources Principal Engineer Garrett Markus; Principal Engineer's Kevin Meador and Mark Scott; Principal Engineer/Operations Coordinator, Gordon Dillon; Finance Manager, Stephanie Shipley; Administrative Support Specialist's Margie Medina and Patty Rivas; H2O Consultant Roy Vaughan; Kogovsek & Associates Christine Arbogast; Curtis Thompson, AECOM; and Jerry Pena, Kennedy Jenks.

**VISITORS PRESENT:**

Abby Ortega, Colorado Springs Utilities; Tom Waters, Arkansas Headwaters Recreation Area; Krystal Brown, USGS; Chane Polo, Colorado Water Congress; and Mitch Downs, Erickson, Brown & Kloster, LLC.

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**VISITORS CONNECTED VIA ZOOM:**

Bobby Bandham and Jeffery DeHerrera, Pueblo West Metro; Cathy Garcia, Congress Woman Lauren Boebert's Office; Lisa Brown, Wilson Water Group; Rick Kienitz, Aurora Water; Jim Baldwin, Otero County Commissioner; Travis White, JHL Construction; and Brent Gardner Smith, Independent Journalist.

**ACTION ITEMS:**

**SWEARING IN OF APPOINTED BOARD MEMBERS**

Mr. Lee Miller asked Mark Pifher, Dallas May, Kevin Karney, Pat Edelmann, and Justin DiSanti to stand. Say their name and repeat the oath. Mr. Lee Miller thanked the Members that have re-applied and welcomed New Member Justin DiSanti to the District.

President Long thanked the reappointed members and welcomed Mr. Justin Disanti to the Board.

**APPROVAL OF MINUTES:**

President Long said the minutes from the March 21, 2024, District Board meeting as well as the April 9, 2024, Special District Board Meeting were posted to OnBoard and the Website for review and asked if there were any corrections or additions. Hearing none, Mr. Pifher moved, seconded by Mr. Colosimo, to approve both minutes. Motion unanimously carried.

**TREASURER REPORT:**

Ms. Nichols reported the financial statements for March 2024, were posted to OnBoard and the Website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the March 2024 financial statements and payment of the April 2024 bills. Motion unanimously carried.

Mr. Hamel suggested "a motion" to recognize President Bill Long for his 22 years of committed service to the District. The Board was unanimous in agreement to pass "the motion." President Long was presented framed storyboard, of his years of service to the District. President Long thanked the Board.

**PRESENTATION ITEMS:**

**2023 ANNUAL AUDIT**

President Long convened the Enterprise Board meeting to order at 9:44 a.m. to be held in conjunction with the District Board meeting to present the 2023 Annual Audit presentation.

Mr. Mitchell Downs from Erickson, Brown & Kolster, Inc, who represents the firm that conducted the 2023 audit, presented the Audit and read the Independent Auditor's Report. This was the first year the District had to report under Government Auditing Standards, due to the Federal Funding received. Mr. Down was quite pleased with how well read the District was in following the procedures to be compliant with all requirements. For an organization reporting this way for their first time, it is not always the case. President Long acknowledged

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all involved in the process.

**ACTION ITEMS (CON'T):**

**APPROVAL OF 2023 ANNUAL AUDIT**

Mrs. Noga presented the Audit to the Board. Mr. Clayton moved seconded by Mr. Bub Miller, the audit of the 2023 financial statement of the District and Enterprise be approved as presented. Motion unanimously carried. Ms. Noga received and addressed questions by the Board.

**APPROVAL OF 2023 FINANCIAL STATEMENTS**

Mrs. Noga presented the 2023 Financial Statements to the Board.

Mr. Bub Miller moved, seconded by Mr. Felt, the 2023 financial statements of the District and Enterprise be approved as audited. Motion unanimously carried.

President Long recessed the Enterprise Board meeting at 9:52 a.m. that was held in conjunction with the District Board meeting.

**PRESENTATION ITEMS (CON'T):**

**RECOVERY OF STORAGE UPDATE**

Mr. Woodka presented a PowerPoint *Recovery of Storage Phase III & Next Steps*

- Summary of previous work, Phase I-III
- USBR – LiDAR & Bathymetric Survey
- Updates to Phase II Analysis
- Sustainability Measures
- Key Tributaries Identified
  1. Example: Red Creek Watershed
    - a. Watershed Characteristics
    - b. Potential Mitigation Projects
    - c. Process for Identifying Sustainability Projects
  2. Sustainability Measures Within Reservoir
    - a. Dam Raise Feasibility
- Next Steps & Recommendations

Questions were asked of Mr. Woodka.

**ACTION ITEMS (CON'T):**

**INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS**

Mr. Markus presented an action item to the Board recommending the Board approve the inclusion of the annexation to the City of Colorado Springs into the Southeastern Colorado Water Conservancy District (District) with the standard terms and conditions. Once approved by the Board of Directors, staff will send the annexation to the Bureau of Reclamation (Reclamation) for assent. The District will submit the inclusion to the District Court for final decree.

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There are three methods of including lands into the District:

1. Annexation by a town or city located in the District.
2. Petition of the property owners.
3. Vote of the property owners.

All three of these methods require assent from the Secretary of Interior, for which Reclamation requires a National Environmental Policy Act (NEPA) review of the lands to be included in the District boundaries. Once the Board approves the inclusion by Resolution, then Secretarial Assent by Reclamation is requested. The inclusion is submitted to the District Court for a decree including the lands within the District.

The Application of Assent has been submitted to the District and will be forwarded to Reclamation for the property.

<b>RESOLUTION NO.</b>	<b>More Commonly Known As</b>	<b>Legal</b>	<b>Acres</b>	<b>County</b>
2024-01D INCL-AX	<b>Oliver Brass Annexation</b>	Section 6 T13SR65	1.82	El Paso
2024-02D INCL-AX	<b>7770 Black Forest Road Subdivision</b>	Section 6 T13SR65	4.122	El Paso
2024-03D INCL-AX	<b>Neagle-Dutcher Family Addition Annexation</b>	Section 26 T13SR66	.226	El Paso
2024-04D IINCL-AX	<b>Rock Creek Mesa Addition No. 1-7</b>	Section 30 T15SR66	109.19	El Paso

Mr. Hamel moved, seconded by Mr. Pifher, that the Board approves, by Resolution, the inclusion of the Oliver Brass Annexation, 7770 Black Forest Road Subdivision, Neagle-Dutcher Family Addition Annexation and the Rock Creek Mesa Addition No. 1-7 annexed by Colorado Springs subject to the following terms and conditions:

1. Approval of these inclusions into the Southeastern Colorado Water Conservancy District will not increase the amount of Fryingpan-Arkansas Project water available to the city. Any Fryingpan-Arkansas Project water used on these included lands will need to come from the water allocated to the city through Fryingpan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingpan-Arkansas Project water on the included lands is subject to the decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, principles, policies, and contractual obligations of the District; and
3. The annexed lands will be subject to ad valorem taxes levied by the District as any

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other similarly situated lands in the District at the time of this inclusion; and  
4. Prior to the District filing a petition for District Court approval of this inclusion, the Municipality, and/or owner(s) of the annexed lands shall have paid all the costs charged by the United States in connection with the contracting officer's assent to this inclusion. Motion unanimously carried.

Copies of the Resolutions were provided to the Board.

STATEMENT OF OPPOSITION IN THE APPLICATION OF TRIVIEW METROPOLITAN DISTRICT, CASE NO. 24CW3008 (WATER DIVISION 2)

Mr. Levish presented to the Board an action item that authorizes the filing of a statement of opposition by Special Water Counsel in the Application of Triview Metropolitan District, Case No. 24CW3008.

Triview Metropolitan District ("Triview") seeks a decree allowing for storage and subsequent beneficial use of their fully consumable water rights and supplies and reusable return flows in the Stonewall Springs Reservoir Complex, the Big Johnson Reservoir, and Pueblo Reservoir. This application seeks storage entitlements for 500 FMIC Shares which were changed in Case No. 18CW3016 (decreed on January 2, 2022). The storage includes project facilities including Triview's 999-acre-foot, 40-year storage contract with the Bureau of Reclamation in Pueblo Reservoir.

Among the objectives that the District will have in this case are:

1. Ensure appropriate terms and conditions for any use of Project Facilities Water and Project Return Flows is in accordance with the District's Policies.
2. Ensure that Triview's proposed decree contains appropriate terms and conditions for the use of Pueblo Reservoir.
3. Ensure that all historic return flows are replaced in a manner that avoids injury to the District's rights and operations.

Mr. Clayton moved, seconded by Mr. Bub Miller, that the District Board authorize the filing of a statement of opposition by Special Water Counsel in the Application of Triview Metropolitan District, Case No. 24CW3008. Motion carried unanimously.

APPROVAL OF STIPULATION IN THE APPLICATION OF TRIVIEW METROPOLITAN DISTRICT, CASE NO. 21CW3058, WATER DIVISION 2

Mr. Levish presented an action item recommending the Board authorize Special Water Counsel to execute a stipulation with Triview Metropolitan District ("Triview") in Case No. 21CW3058, Water Division 2, consenting to entry of a decree that is no less restrictive on Triview and no less protective of the District's water rights than the proposed decree dated February 27, 2024 ("Proposed Decree").

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On December 9, 2021, the Board authorized Special Water Counsel to file a statement of opposition to Triview's application for appropriative rights of exchange.

Special Water Counsel, General Counsel, and District staff believe that the February 27, 2024 Proposed Decree satisfies the District's objectives, as follows:

Triview's Proposed Decree includes appropriate terms addressing Triview's use of Project facilities, including Pueblo Reservoir. Paragraph 9.2.1.2 describes Triview's long-term contract with Reclamation to store up to 999 acre-feet of water in Pueblo Reservoir for use outside of the District's boundaries. Paragraph 9.2.1.3 describes Triview's contract with Colorado Springs Utilities ("CS-U") that provides for CS-U's conveyance of Triview's water stored in Pueblo Reservoir through CS-U's infrastructure (including the Southern Delivery System pipeline) and delivery of that water to Triview's municipal system. Paragraphs 9.11.1.1 through 9.11.1.4 include the District's Standard Language addressing Triview's use of and storage of water in Pueblo Reservoir. Paragraph 9.11.1.5 includes appropriate language to protect the District's releases of stored Project water from Pueblo Reservoir for hydropower purposes.

The Proposed Decree also includes appropriate terms and conditions protecting the WWSP by prohibiting Triview's exchanges to Pueblo Reservoir during the winter season (Paragraph 9.11.5). Though Triview is not a party to the May 2004 Regional Intergovernmental Agreement among the District, CS-U, Pueblo Water, and the Cities of Pueblo, Fountain, and Aurora ("2004 IGA"), which established the Pueblo Flow Management Program, Triview has included terms and conditions in its Proposed Decree to protect that Program (Paragraph 9.11.2).

A copy of the Proposed Decree was provided to the Board.

Mr. Pifher moved, seconded by Mr. Felt, to authorize Special Water Counsel to enter a stipulation with Triview consenting to entry of a decree in Case No. 21CW3058 that is no less restrictive on Triview and no less protective of the District's water rights than the proposed decree dated February 27, 2024. Motion carried unanimously.

#### FINANCE RATE MODEL

Mrs. Noga presented to the Board an action item to recommend moving forward with action on the recommendation of the Finance Committee.

In 2023, the Board of Directors took action to restructure the Water and Storage Rates. There are many edits that need to be accomplished to reflect the new rate restructuring. Staff reached out to Wilson Water Group, it was suggested to simplify the model and start new. The scope of this project is to create a fully functioning Finance Model using the adopted 2023 Water and Storage Rate Restructure.

In March 2024, the Finance Committee asked for a comparison of pricing and requested two additional firms to submit an estimate and also provide Wilson Water with an opportunity to revise costs and resubmit.

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The following four quotes were received to complete a new rate model. All four options have committed to a completion date of July 31, 2024.

Wilson Original: \$36,160

\*Excel based Financial Model with 10-year forecasting, 20-year Capital Improvement Model, three scenario planning options, in-person project planning, output summary for presentation, and technical documentation for usability and control.

Wilson Revised: \$27,270

\*Excel based Financial Model with 10-year forecasting, 20-year Capital Improvement Model, a single planning option, virtual project planning, output summary for presentation, and technical documentation for usability and control.

Harvey Economics: \$38,480

\*Excel based Financial Model with 10-year forecasting, 20-year Capital Improvement Model, a single planning option, virtual project planning, output summary for presentation, and technical documentation for usability and control.

Raftelis: \$49,781

\*Excel based Financial Model with 10-year forecasting, 20-year Capital Improvement Model, three scenario planning options, virtual project planning, output summary for presentation, and technical documentation for usability and control. Recommendations from the Finance Committee will be provided during this action report.

Mr. May moved, seconded by Mr. Clayton, that the Board of Directors approve to move forward, Wilson Water Group, for the scope of work to redesign the Finance Rate Model. Motion carried unanimously.

**MONTHLY/QUARTERLY REPORTS:**

USBR

Mr. Mike Holmberg provided a written report to the Board.

**STATE LEGISLATION UPDATE**

Mr. Lee Miller provided a State Legislation update. As of the April Board Meeting there will be three weeks left in the second regular session of the 74th General Assembly. Bills of significance to the District were reviewed.

A bill resulting from the efforts of the Colorado River Drought Task Force, SB24-197, was introduced by Senator Dylan Roberts. A summary of the bill is as follows:

- **Section 2** of the bill allows the owner of a decreed storage water right to loan water to the Colorado water conservation board (board) for a stream reach for which the board does not hold a decreed instream flow water right.
- Current law requires the board to establish an agricultural water protection program for

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water divisions 1 and 2. **Section 3** changes current law by requiring the board to establish an agricultural water protection program in each water division.

- Current law allows periods of nonuse of a water right to be tolled in certain circumstances for the purposes of determining whether a water right is abandoned. **Section 4** changes current law by allowing a water right to be tolled for the duration that an electric utility that owns a water right in water division 6 decreases use of, or does not use, the water right if the decrease in use or nonuse occurs during the period beginning January 1, 2020, and ending December 31, 2050, and if the water right is owned by the electric utility since January 1, 2019.

- Current law requires an owner of a conditional water right to obtain a finding of reasonable diligence or the conditional water right is considered abandoned. **Section 5** allows the water judge, in considering a finding of reasonable diligence for a conditional water right that is owned by an electric utility in water division 6 since January 2019, to consider the following as supporting evidence:

- The conditional water right may be used to support a specific project or potential future generation technologies or concepts that have the potential to advance progress toward Colorado's clean energy and greenhouse gas emission reduction goals; and

- The electric utility or another entity has made efforts to investigate or research the viability of future generation technologies that have the potential to advance progress toward Colorado's clean energy and greenhouse gas emission reduction goals.

- In determining the amount of historical consumptive use for a water right, a water judge is prohibited from considering certain specified uses. **Section 6** prohibits the water judge from considering the decrease in use or nonuse of a water right owned by an electric utility in division 6 since January 1, 2019, which decrease in use or nonuse occurs during the period beginning January 1, 2019, and ending December 31, 2050, in determining the amount of historical consumptive use. If the water right is leased by the electric utility to a third party, the water right is not entitled to historical consumptive use protection for the period the water right is subject to the lease.

- Current law allows the board to approve certain grants related to water conservation and requires the board to establish criteria to require the grant applicant to provide matching funds of at least 25%. **Section 7** allows the board to reduce or waive fund matching requirements in the case of a grant to the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe.

The provisions in Section 4, 5 and 6 were not recommended by the Drought Task Force; in fact, they were rejected by the Drought Task Force initially, and later included as a “narrative” item after a vote to reconsider the earlier vote rejecting the proposal.

There are two legislative proposals to regulate “dredge and fill activities” in state waters in response to recent federal court action. One bill, SB24-127, introduced by Senator Barbara Kirkmeyer, passed by a 4-3 in the Senate Agriculture and Natural Resources Committee on April 11, 2024, and has been referred to the Senate Finance Committee. The Colorado Water



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Congress State Affairs Committee (CWC) voted to support this bill. A copy of the CWC talking points were provided to the Board.

The second dredge and fill bill is HB24-1379 and is sponsored by House Speaker Julie McCluskie and supported by the Colorado Department of Public Health and Environment. This bill has been under discussion for more than a year before introduction on March 8, 2024, and as currently drafted is opposed by the CWC.

On April 8, 2024, the House Agriculture, Water & Natural Resources Committee referred this bill with Amendments to the House Finance Committee.

HB24-1435, the annual Colorado Water Conservation Board Projects bill was introduced on April 1, 2024 and passed unamended by the House Agriculture, Water & Natural Resources Committee on April 8, 2024. The bill now awaits action in the House Appropriations Committee.

On April 1, 2024, HB24-1436 was introduced. The bill refers a ballot issue to the voters at the November 2024 statewide election to allow the state to keep and spend all revenue from the existing tax on the net proceeds of licensed sports betting (sports betting tax), including revenue in excess of the \$29 million fiscal year estimate included in the 2019 ballot question.

Questions and comments were made to Mr. Miller.

**INFORMATIONAL ITEMS:**

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

- Water Court Resume
- NWRA Western Water Seminar, July 23-25
- CWC Summer Conference, August 19-22

**EXECUTIVE SESSION:**

It was determined that an Executive Session was not necessary.

President Long asked if there were any other matters to come before the Board, hearing none, Mr. Long adjourned the District Meeting at 10:53 a.m.

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**Respectfully submitted,**

**Patty Rivas**  
**Administrative Support Specialist**

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**Seth Clayton – Secretary**

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**Bill Long – President**

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**Howard “Bub” Miller**

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**Curtis Mitchell – Vice President**

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**Justin Disanti**

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**Ann Nichols – Treasurer**

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**Kevin Karney**

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**Alan Hamel**

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**Mark Pifher**

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**Andy Colosimo**

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**Matt Heimerich**

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**Dallas May**

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**Pat Edelmann**

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**Greg Felt**

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**Tom Goodwin**