

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER CONSERVANCY
DISTRICT
MINUTES**

May 19, 2022

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, May 19, 2022, at 9:30 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado. The ZOOM platform was also made available for Board members and visitors.

DIRECTORS PRESENT:

Alan Hamel	Dallas May (remote)	Matt Heimerich
Andy Colosimo	Greg Felt	Pat Edelmann
Ann Nichols	Howard Miller	Patrick Garcia
Bill Long	Kevin Karney	Seth Clayton
Curtis Mitchell (remote)	Mark Pifher	Tom Goodwin

DIRECTOR(S) ABSENT AND EXCUSED:

None

President Long established that a quorum was present.

President Long asked all present to introduce themselves. Margie Medina provided a roll call for all connected remotely.

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller and Peter Levis; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Principal Engineers Kevin Meador and Mark Scott; Administrator of Finance and Administration Leann Noga; Accountant Stephanie Shipley; Accounting Specialist Lynette Holt (remote); Administrative Support Specialist's Margie Medina and Patty Rivas(remote); Steve Leonhardt, Burns Figa and Will (remote); Christine Arbogast, Kogovsek & Associates; and Roy Vaughan, H2O Consultants.

VISITORS PRESENT:

Krystal Brown and Brandon Forbes, USGS; Mike Holmberg and Jeff Rieker, Bureau of Reclamation; Robert Wahl and Traves White, JHL Constructors; Kortney Kelly and Sage Church, Colorado Springs Utilities/Fountain Valley Authority; and Rick Kienitz, Aurora Water.

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VISITORS CONNECTED REMOTELY:

Abba Ahmed, Aurora Water; Barbara Crockett, Jacobs; Bobby Banham, Jeffery DeHerrera, and Kim Swearington, Pueblo West Metro District; Cathy Garcia, Congress-woman Lauren Boebert's Office; Curtis Thompson, AECOM; Jerry Pena, Kennedy Jenks; Joe Stone, Heart of the Rockies News; Luke Mecklenburg, Assistant Attorney's Office, Water Unit; Rachel Duran Kansas City Dept of Ag; Roy Heald, Security Water and Sanitation; Scott Lorenz, Colorado Springs Utilities.

APPROVAL OF MINUTES:

President Long said the minutes of the April 21, 2022, District Board meeting were posted to OnBoard and the Board website for review and asked if there were any corrections or additions. Mr. Hamel moved, seconded by Mr. Garcia to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Ann Nichols reported the financial statements for April 2022 were posted to OnBoard and the Board website for review. Ms. Nichols moved, seconded by Mr. Clayton for acceptance of the April 2022 financial statements and payment of the May 2022 bills. Motion unanimously carried.

PRESENTATION ITEMS:

PUEBLO RESERVOIR RECOVERY OF STORAGE UPDATE

Mr. Woodka provided the Board with a Presentation reviewing the History of the project, as well as the future in the form of a PowerPoint presentation:

The District began a Pueblo Reservoir Recovery of Storage Study (Study) in 2020. The firm of Mott-MacDonald (Consultants) completed Phase I of the Study in October 2020, and Phase 2, Task 1 in September 2021.

As next steps, the consultants recommended updated bathymetric and topographic surveys, refined storage capacity estimates, and a hydrology and geomorphology assessment of the area upstream of Pueblo Reservoir.

The Resource and Engineering Planning Committee also asked staff to provide an assessment of when loss of storage becomes critical.

In November 2021, staff completed an internal analysis of when storage would become critical to the Fryingpan-Arkansas Project. Given the data available, Excess Capacity contracts could be impacted by 2046, municipal carryover storage by 2052, and fundamental operations of the Fryingpan-Arkansas Project (Project) by 2092. Those estimates would have to be confirmed with further studies as recommended by the Consultants.

It was determined that much of this work will require close cooperation with the Bureau of Reclamation (Reclamation), because increased sedimentation will begin to compromise the sustainability of Pueblo Reservoir, add uncertainty to future storage options, and decrease potential revenues for both Reclamation and the District.

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In January 2022, staff discussed with the Eastern Colorado Area Office the possibility of operating the Recovery of Storage program in conjunction with Project extraordinary maintenance. The Bureau of Reclamation Area Office agreed with the concept and submitted a proposal to apply for funds under the Bipartisan Infrastructure Law to carry out the next steps recommended by the Consultants, as well as some preliminary work for future Phases.

On May 10, 2022, the Department of Interior (Interior) awarded Reclamation \$1 million for the Recovery of Storage at Pueblo Reservoir program in a competitive bid process. The funds are among \$240.4 million awarded for fiscal year 2022 to 46 projects in 10 states.

The request emphasized that the remedy for Recovery of Storage will take many decades and millions of dollars, but that it is important to understand in 2022 the steps that will be taken. The proposed scope of work, which was accepted by Interior, includes:

1. Hydrographic (multibeam) and Topographic Surveying (LiDAR) within Project Area Limits \$300,000
 - a. Pueblo Reservoir
 - b. Portions of Upper Arkansas River Basin
2. Tributary Risk Assessment and Estimate of Sediment Load - \$150,000
3. Development of a Sediment Sampling and Analysis Plan (SAP) - \$100,000
4. Hydrologic Studies and Numerical Modeling of Fluvial Processes - \$250,000
5. Pre-Feasibility Pueblo Reservoir Dredging and Disposal Analysis and Design - \$100,000
6. Pre-Feasibility Upper Arkansas River Basin Sedimentation Reduction Analysis and Design \$50,000
7. Reporting, Coordination, and Project Management - \$50,000

District staff has initiated meetings with the Area Office to determine next steps on how to proceed.

Mr. Woodka and Mr. Broderick fielded questions from the Board.

ACTION ITEMS:

ELECTION OF OFFICERS

Mr. Long reported the election of officers is conducted annually in the month of May following the appointment of the Board of Directors in April.

Current officers are:

1. Bill Long, President
2. Curtis Mitchell, Vice President
3. Seth Clayton, Secretary
4. Ann Nichols, Treasurer
5. Jim Broderick, Executive Director (non-voting member ex officio)

Mr. Karney moved, seconded by Mr. Hamel to retain the current slate of officers. Motion unanimously carried.

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EMERGENCY SUCCESSION PLAN (2022)

Mr. Broderick presented to the Board an action item that was previously presented to the Human Resources Committee for review. In April 2022, staff prepared a plan to illustrate what happens in the event of a planned or unplanned temporary or short-term absence of the Executive Director. Mr. Broderick reviewed the plan with the Committee.

The Executive Director (ED) position in SECWCD is a central element in the District's success. Therefore, ensuring that the functions of the ED are well-understood and even shared among staff is important for safeguarding the District against unplanned and unexpected change. This kind of risk management is equally helpful in facilitating a smooth leadership transition when it is predictable and planned.

This document outlines an emergency succession plan for the SECWCD. This plan reflects SECWCD's commitment to sustaining a healthy functioning District. The purpose of this plan is to ensure District's leadership has adequate information and a strategy to effectively manage SECWCD in the event the ED is unable to fulfill the duties required.

Mr. Hamel moved seconded by Mr. Goodwin that the Board approve the Emergency Succession Plan (2022). Motion carried Unanimously.

INCLUSIONS OF LAND ANNEXED BY COLORADO SPRINGS

Mr. Garrett Markus presented an action item recommending the Board approve the inclusion of eleven annexations in 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.

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. After Secretarial Assent, the inclusion is then submitted to the District Court for including the lands within the District.

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RESOLUTION NO.	More Commonly Known As	Legal	Acres	County
2022-09D INCL-AX	Extol Park Vista Subdivision No. 2	Sec26 T13SR66	0.659	El Paso
2022-10D INCL-AX	Amara Addition No. 1	Sec11 T15SR65	1.493	El Paso
2022-11D INCL-AX	Amara Addition No. 2	Sec11 T15SR65	4.16	El Paso
2022-12D INCL-AX	Amara Addition No. 3	Sec11 T15SR65	8.633	El Paso
2022-13D INCL-AX	Amara Addition No. 4	Sec6&7 T15SR64	24.43	El Paso
2022-14D INCL-AX	Amara Addition No. 5	Sec6&7 T15SRT64	124.759	El Paso
2022-15D INCL-AX	Amara Addition No. 6	Sec7 T15SR64	218.046	El Paso
2022-16D INCL-AX	Amara Addition No. 7A and 7B	Sec19 T15SR64	349.715	El Paso
2022-17D INCL-AX	Amara Addition No. 8	Sec30 T15SR64	400.348	El Paso
2022-18D INCL-AX	Amara Addition No. 9	Sec25 T15SR65	515.841	El Paso
2022-19D INCL-AX	Amara Addition No. 10	Sec26(in) & 35 T15SR65	719.719	El Paso

Mr. Garcia moved, seconded by Mr. Pifher that the Board approve, by Resolution, the inclusion of the Extol Park Vista Subdivision No. 2, Amara Addition No. 1 thru 6, 7A & B, and 8 thru 10 annexations 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 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. Mr. Markus reported that the Application of Secretarial Assent has been submitted to the District and will be forwarded to Reclamation for the property.

APPROVAL OF STIPULATION IN THE APPLICATION OF UPPER WATER CONSERVANCY DISTRICT, CASE NO. 19CW3089, WATER DIVISION 2

Mr. Lee Miller presented an action item that recommend that the Board authorize Special Water Counsel to execute a stipulation with Upper Arkansas Water Conservancy District (“UAWCD”) in Case No. 19CW3089, UAWCD’s application to change a portion of the Cottonwood Irrigating Ditch water rights, consenting to entry of a decree that is no less restrictive on UAWCD and no less protective of the District’s water rights than the proposed decree dated April 13, 2022.

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Upper Arkansas Water Conservancy District (“UAWCD”) seeks to change a portion of the water rights decreed to the Cottonwood Irrigating Ditch, which diverts from Cottonwood Creek near Buena Vista. UAWCD proposes to use the water rights changed in this case in its augmentation plans and Rule 14 replacement plan. The water rights being changed in this case were previously changed and quantified in Case No. 79CW172. UAWCD also seeks flexibility to divert and measure the water rights changed in this case at the point of diversion for a different, previously changed portion of the Cottonwood Irrigating Ditch water rights. UAWCD proposes to apply stream depletion credits from the changed water rights for replacement as they accrue to the stream, or by storage and release from Pueblo Reservoir, Twin Lakes Reservoir, Cottonwood Lake, Rainbow Lake, and other reservoirs.

Special Water Counsel, General Counsel, and District Staff believe that the April 13, 2022, Proposed Decree satisfies the District’s objectives, as follows:

Paragraphs 8.b.i and 20.a through 20.h include appropriate Standard Language terms addressing UAWCD’s use of Pueblo Reservoir as a structure from which UAWCD may release water to replace historical return flows associated with its change of the Cottonwood Irrigating Ditch water rights. Paragraph 20.i includes an alternative version of the District’s Standard Language Term V.B, which has been modified to address UAWCD’s releases of water from Pueblo Reservoir for return flow replacement when the VFMP is in effect. This modified term is similar to language that UAWCD included in its decree entered in Case No. 04CW96 and is sufficient to ensure that UAWCD’s releases from Pueblo Reservoir to replace historical return flows will not injure the VFMP. Paragraph 14.f.iv also addresses the points from which UAWCD may release water leased from the Board of Water Works of Pueblo (“BWWP”) to replace historical return flows and is consistent with Paragraph 20.i and BWWP’s current storage contract, with respect to releases of leased water from Pueblo Reservoir. Paragraph 14.f confirms that UAWCD will not use Project Water or Project Return Flows to maintain historical return flows from the changed Cottonwood Irrigating Ditch water rights. Paragraph 9 addresses the quantification of the historical consumptive use of the changed water rights in Case No. 79CW172, and the use of that quantification (which may not be relitigated) and further engineering analysis to develop appropriate terms and conditions in this case. Paragraph 29 provides that the Water Court will retain jurisdiction for five years after UAWCD has diverted 88.5 acre-feet of water attributable to the changed water rights, which is a sufficient time period to evaluate whether the terms and conditions of the decree protect against injury.

The Cottonwood Irrigating Ditch was not included in the Environmental Impact Statement conducted under the National Environmental Policy Act (“NEPA”) for the District’s 2016 Excess Capacity Storage Master Contract with the Bureau of Reclamation. Accordingly, UAWCD agreed to include language in its stipulation with the District in this case providing that it will not store its Cottonwood Irrigating Ditch water rights in Pueblo Reservoir without the completion of further NEPA analysis regarding such storage, unless Reclamation confirms that such analysis for this water right is unnecessary.

Mr. Hamel moved, seconded by Mr. Bub Miller to enter a stipulation with the Upper Arkansas Water Conservancy District, consenting to entry of a decree in Case No. 19CW3089 that is no less restrictive on UAWCD and no less protective of the District’s water rights than the proposed decree dated April 13, 2022. Mr. Goodwin abstained. Motion unanimously carried.

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MONTHLY/QUARTERLY REPORTS:

U.S BUREAU OF RECLAMATION REPORT

Mr. Mike Holmberg provided a written report reviewing the following as of May 15, 2022:

- There were 214,377 acre-feet stored in Pueblo Reservoir; 116,018 acre-feet of Project water; 43,840 acre-feet of Excess Capacity water; 27,848 acre-feet of Winter water and winter carryover
- There is currently 129,355 acre-feet of Project space in Pueblo Reservoir and 57,920 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Charts illustrating storage amounts in Turquoise Lake, Twin Lakes, and Pueblo Reservoir
- Project Reservoirs: Turquoise 92%, Twin Lakes 96%, Pueblo 106% as of May 15, 2022
- Snowpack summaries for Arkansas River Basin and Colorado Headwaters
- Fry-Ark Forecasts:
 1. February 1: 59.1 KAF
 2. March 1: 47.4 KAF
 3. April 1: 42.3 KAF
- May 1:
 1. 10% - 59.5 KAF
 2. 25% - 52.7 KAF
 3. 50% - 45.3 KAF
 4. 75% - 37.8 KAF
 5. 90% - 31.1 KAF
- Busted Imports to date, 7,358 AF (5/16/22)
- Forecasted vs. Actual Imports Since 2000
- Peak Snow Water Equivalent vs. Total Imports
- As of April 30, 2022, Total M&I in the System = 119,192 AF
 1. East = 18,563
 2. West = 9,065
 3. Pueblo = 16,834
 4. Other = 3,983
 5. FVA = 68,427
 - a. CSU – 51,045
 - b. Fountain = 5,724
 - c. Security = 4,634
 - d. Stratmoor = 1,757
 - e. Widefield = 5,268

Jeff Rieker is the Area Manager of the Eastern Area Office of Reclamation. He has served at Reclamation for 23 years. Mr. Rieker wanted to update the Board on some forward movements:

- The Recovery of Storage Project was recently awarded 1 million dollars. Mr. Rieker thanked the District Staff for their continued cooperative efforts on this project
- Arkansas Valley Conduit Project
 1. Last week there was a 2 million dollar plus up to the funding
 2. Construction of the Boone Reach Contract is progressing

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3. Design, preconstruction efforts are well underway towards Boone and Beyond
4. There have been two hirings at Reclamation for the AVC:
 - a. Project Program Manager Branch Chief – Dave Mickle
 - b. Supervisor Construction Manager Pueblo – Name has yet to be announced
- Fry-Ark
 1. Upgrades have been made to the actuators on the collection system
 2. Mt. Elbert, one generator a crack was discovered. Repairs are in process
 3. Leadville Treatment Plant has reached its useful life-span. A new plant is in development

Mr. Rieker fielded questions from the Board.

U.S. GEOLOGICAL SURVEY REPORT

Mr. Brandon Forbes presented a report on USGS: Time of Travel Tool Demonstration. Topics of discussion:

- Riverine Oil Spills and their complexities
 1. Chemicals can be distributed over long distances
 2. Chemicals can be deposited in sediments and backwaters
 3. Chemicals can change phase due to mixing
 4. Quick response is especially important
 5. Time of travel toolbox for spill response
 - a. Charts and graphs as well as USGS site information were provided to further explain the data on the charts.

Q&A was opened to the Board.

STATE LEGISLATION UPDATE

Mr. Lee Miller provided an update to the Board by first advising the Board that the final day of the Legislation session was May 11, 2022. The Legislature will return on January 9, 2023, for the 2023 regular session.

Among the Bills of interest to the District were:

HB22-1316: HB22-1316 appropriates a total of \$17,080,000 from the Colorado Water Conservation Board (CWCB) Construction Fund in the Department of Natural Resources (DNR) to the CWCB and the Division of Water Resources for specified water-related projects. In addition, the bill transfers \$3.0 million between water-related cash funds and authorizes the CWCB to loan up to \$13,130,000 from the CWCB Construction Fund to the town of Breckenridge to rehabilitate the Goose Pasture Tarn dam. The bill has passed both the House and Senate and is awaiting action by the Governor.

HB22-1151: This bill requires the CWCB to develop a statewide program to provide financial incentives for the voluntary replacement of irrigated turf with water-wise landscaping (turf replacement program). The bill defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs. Local governments, certain districts, Native American tribes, and nonprofit organizations with their own turf replacement programs may apply to the board for money to help finance their turf replacement programs. The CWCB will contract with one or more third parties to administer one or more turf replacement programs in areas where local turf replacement programs do not exist. After amendments in the Senate, the bill has passed both houses and awaits

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action by the Governor.

SB22-028: This Water Resource Review Committee (WRRC) approved bill seeks to establish a funding vehicle to receive money which will be applied to the needs in the Republican River and Rio Grande areas to further interstate compact compliance requirements. The bill sets forth the structure of the fund and how it will be administered. The priority uses of the funds are identified as retiring certain acreages of irrigated farmland and the shutdown of some wells. Critics have raised questions regarding the disparity between this approach and well-enforcement on the Arkansas and South Platte Rivers. SB22-028 passed the Senate without amendments. The bill was amended in the House to specify that the funding would come from the American Rescue Plan Act; the amendment was concurred with by the Senate and awaits final action of the Governor.

SB22-029: This is the WRRC-approved “anti-speculation” bill. This bill was approved by the WRRC as a “place-holder” to address concerns by some that “hedge funds” and other investment buyers were profiting from scarce Colorado water resources. The bill was amended on April 14, 2022, in the Senate Agriculture and Natural Resources Committee to refer the question to the WRRC, but no vote on the bill was taken. No vote was taken since, as amended, the bill did not require legislative action to be considered by the WRRC.

SB22-030: This is another WRRC bill that proposes to expand the scope of interest of the WRRC beyond water to include agricultural issues. Some proponents have suggested that this is limited to agricultural water issues, but the text does not support such an interpretation and the history of the WRRC suggests that agricultural water issues have always been considered by the WRRC. The Governor has signed this bill.

SB22-114: This is the Colorado Counties, Inc., supported bill to address concerns regarding ponds used for fire suppression that are unpermitted and incapable of being augmented, either because augmentation is infeasible because it is economically prohibitive or water-availability constraints. Following several amendments, many to do with the rights of a potentially injured water rights holders, the bill passed both the House and Senate and awaits action by the Governor.

SB22-126: This bill sponsored by Senators Jerry Sonnenberg and Kerry Donovan and Representative Richard Holtorf requires the Colorado Water Conservation Board (CWCB) prioritize water storage in the South Platte River Basin in choosing projects to finance with money from the CWCB construction fund. Current law requires the CWCB to prioritize projects that will increase the beneficial consumptive use of Colorado's undeveloped compact-entitled waters. The bill includes within this priority a specific priority for projects that increase or improve water storage in the South Platte River basin as a means of increasing the beneficial consumptive use of undeveloped water entitled under the South Platte River compact and in a manner that reduces reliance on transmountain diversions. This bill has been postponed indefinitely.

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Recreational In-Channel Values Reach—RIVR draft legislation: The effort to amend the Recreational In-Channel Diversion (RICD) program has been suspended by the advocates for this legislative session.

Regarding the Water Resources Review Committee, Senator Don Coram will not be participating in the upcoming Interim Session, because he is running for Congress. Senator Cleave Simpson will be taking his slot on the Committee.

COLORADO RIVER ISSUES STATUS

Mr. Lee Miller reviewed with the Board the reasoning for some information in the Colorado River Committee meeting needing to go into Executive Session, to clear up some confusion that has been expressed by the Board.

Some of the information may be provided in Executive Session. Jim Broderick and Lee Miller serve as advisors to the Colorado Commissioner for the Upper Colorado Commission (UCRC). As advisors, they are subject to a “Common Interest and Joint Defense Agreement.” They meet periodically with the Colorado Commissioner, currently Rebecca Mitchell, in confidential sessions to discuss issues of importance to Colorado related to the Colorado River Compact and the Upper Colorado River Compact.

Lee Miller also attends UCRC meetings and work sessions as a member of the Upper Colorado River Commission Legal Committee. Mr. Miller has an agreement with the, UCRC not to expose confidential litigation and negotiation strategies as a protection to the Commission. Mr. Miller went on to advise the Board what items will be discussed in the Colorado River Committee meeting to be held after the Board Meeting.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Audio and Visual Upgrades to Board and Conference Rooms Status
- Video Contract for 60th Anniversary
- Special Water Counsel Legal Report (Lee Miller reminded the Board of at the closing of his State Legislation Update)

President Long presented Kevin Meador with his 10-year service award. Thanked him for his service to the District and its constituents. Chris Woodka presented a slide show congratulating Roy Vaughan on his being awarded the Bob Appel friends of the Arkansas Award for 2022 at the Arkansas River Basin Water Forum, a very deserving recipient. Also, in the slideshow were some of Mr. Vaughan’s most memorable slides in his presentations given at the Board meetings over the years. A big congratulations from the Board and District was given to Mr. Vaughan on his retirement and a resounding thank you for all his efforts over the years in working with the District. President Long reminded the Board that Committee assignments would be announced at the June Board meeting, if

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any Board member had any special requests, they were instructed to contact him. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 11:27 a.m.

Respectfully submitted,

Patty Rivas
Administrative Support Associate

Secretary
