

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO  
WATER CONSERVANCY  
DISTRICT MINUTES  
September 21, 2023**

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, September 21, 2023 @ 9:32 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	Howard "Bub" Miller (remote)	Seth Clayton
Ann Nichols	Kevin Karney	
Bill Long	Mark Pifher	
Curtis Mitchell	Matt Heimerich	
Dallas May (remote)	Pat Edelmann	

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

Andy Colosimo, Greg Felt, Patrick Garcia, and Tom Goodwin

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 James Broderick; 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; Administrative Support Specialist's Margie Medina and Patty Rivas; Finance Manager Stephanie Shipley; Staff Intern Beth Nosker; H2O Consultant Roy Vaughan; and Kogovsek & Associates Christine Arbogast.

**VISITORS PRESENT:**

Andrew Klakulak and Krystal Brown USGS; Derek Mickle, Jeff Rieker, Mike Holmberg, USBR; Jack Goble, LAVWCD; Jerry Pena, Kennedy Jenks; Rachel Zancanella, Division of Water Resources; Rick Kienitz, Aurora Water; and Travis White, JHL Construction.

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**VISITORS CONNECTED VIA ZOOM:**

Brett Gracely, LRE Water; Jeffery Deherrera, Pueblo West Metro District (9:33); Lisa Wade, Wilson Water Group; Luke Mecklenburg, Assistant Attorney General Water Unit; and Scott Lorenz, Colorado Springs Utilities (9:42).

**APPROVAL OF MINUTES:**

President Long said the minutes from the August 17, 2023, District Board meeting were posted to OnBoard and the website for review and asked if there were any corrections or additions. Hearing none, Mr. Hamel moved, seconded by Mr. Pifher, to approve the minutes. Motion unanimously carried.

**TREASURER REPORT:**

Ms. Nichols reported the financial statements for August 2023, were posted to OnBoard and the website for review. Ms. Nichols moved, seconded by Mr. Clayton, for acceptance of the August 2023 financial statements and payment of the September 2023 bills. Motion unanimously carried.

President Long convened the meeting of the Enterprise Board meeting to order @ 9:35 a.m. to be held in conjunction with the District Board meeting to present the Budget action Items.

**ACTION ITEMS:**

**APPOINTMENT OF BUDGET OFFICER**

Mr. Broderick presented an annual action item to the Board for the appointment of a Budget Officer to follow Colorado State Budget Law.

The first action the governing board must take under the Budget Law is to designate or appoint a Budget Officer to prepare and submit a proposed budget (Section 29-1-104, C.R.S.).

Mr. Edelman moved, seconded by Mr. Karney, to appoint Leann Noga, Director of Finance and Administration, as the Budget Officer for the 2024 District budget period. Motion carried unanimously.

**SET PUBLIC HEARING FOR 2024 PROPOSED BUDGET**

Mr. Broderick presented an annual action item that the Board of Directors conduct a Public Hearing prior to adopting the annual Budget, to follow Colorado State Law C.R.S. 29-1-108(1).

A published notice of the Public Hearing is required for District Policy and compliance with Colorado State Law C.R.S. 29-1-106(1).

A copy of the letter to newspapers for publication, along with a copy of the notice as to 2024 Proposed Budget was provided to the Board.

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Mr. Clayton moved, seconded by Mr. Hamel, that the Board of Directors set Thursday, November 16, 2023, at 9:45 a.m. for the Southeastern Colorado Water Conservancy District to hold the Public Hearing of the 2024 Proposed Budget. Motion carried unanimously.

Mr. Long recessed the Enterprise Board meeting at 9:38 a.m. that was held in conjunction with the District Board meeting.

**INCLUSION OF LAND ANNEXED BY COLORADO SPRINGS**

Mr. Garrett Markus brought before the Board an action item recommending the Board approves the inclusion of the annexation of 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 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>
2023-04D INCL-AX	<b>Authentix Wolf Ranch Addition No. 1</b>	Section 6 T13SR65	17.469	El Paso

The Board was provided with a copy of the Resolution and maps.

Mr. Pifher moved, seconded by Mr. Hamel, that the Board approve, by Resolution, the inclusion of the Authentix Wolf Ranch Addition No. 1 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 Fryingspan-Arkansas Project water available to the city. Any Fryingspan-Arkansas Project water used on these included lands will need to come from the water allocated to the city through Fryingspan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingspan-Arkansas Project water on the included lands is subject to the

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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 carried unanimously.

#### INSURANCE CLAIM AND REPAIR/OR REPLACEMENT SERVICES

Mr. Broderick presented to the Board an action item recommending the approval of the necessary repairs and/or replacement for service through general contractor Genova Construction, LLC.

On July 16, 2023, the District headquarters experienced a hailstorm that damaged much of the exterior of the building and property. On July 16, 2023, District staff contacted our current insurance provider, Colorado Special District Property Liability Pool. Mr. Wes Ellis, insurance adjuster, reviewed the property and performed an estimate of the damage on July 27, 2023. The initial estimated loss was listed as \$245,000 total. The District has a \$50,000 deductible for this insurance claim. As of the date of this report the District has received \$110,990 from the insurance per the original insurance adjustment estimate.

The following is a list of repairs and/or replacements identified in the claim:

- Roofing shingles, gutters, down spouts
- Damaged window frames and in some cases window glass on building
- HVAC fans blades and guards
- Stucco
- Carport metal roofing, gutters, downspouts
- 2 overhead garage doors
- Tuff Shed shingles and paint
- Awning patio cover
- Exterior business frame
- Garden lighting fixtures
- Fencing and gates surrounding trash dumpster

District staff have been in contact with Mr. Ellis and believe that there will be adjustments made to the insurance payout and additional repairs to more closely match the quotes that were received through the bidding process. The District has received two separate quotes from general contractors which both have accounted for the list of repairs and/or replacements above: MSS Exteriors quote of \$197,526 and Genova Construction quote of \$179,647. Both contractors had the opportunity to work with Mr. Ellis to confirm the needs and requirements of the bid process.

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The District will move forward with all repairs and/or replacements as suggested by Mr. Ellis. There are several repairs that need to be complete prior to winter, but all repairs and/or replacements are planned to be completed by December 31, 2023. If this is not achievable due to outdoor weather, sub-contractor's availability or supplies issues this service contract can be extended through 2024.

Mr. Clayton moved, seconded by Mr. Karney, that the Board of Directors approve the insurance claim due to the hailstorm. Also, to authorize the Executive Director to hire Genova Construction, LLC. to complete all repairs and/or replacements, using a contract that is substantially similar to the form provided.

A draft contract for Professional services from Genova Construction was provided to the Board.

**MONTHLY/QUARTERLY REPORTS:**

**USBR**

Mr. Derek Mickle, Project Manager on the Arkansas Valley Conduit (AVC) Project for the Bureau of Reclamation, (Reclamation) opened the Presentation with an update on the project:

1. Project Designs
  - a) Injection Site & Backflow Preventer- On track to have a Contractor awarded by the end of 2023.
  - b) Trenchless Crossings
  - c) Truck Line Pre-Designs
2. Current Construction
  - a) Boone Reach 1
  - b) Boone Reach 2 – Awarded Friday, September 15<sup>th</sup> for 27.3 Million.
3. O & M and Transfer Documents
4. Finance & Funding – 160 Million to date: pay off Boone Reach 1, Boone Reach 2, and the Injection site, and various other future AVC related expenses. This is a “No year funding.”

Questions were asked of Mr. Mickle.

Mr. Jeff Rieker, Area Manager for the Eastern Colorado Area Office, took over addressing the Board. Mr. Rieker advised that Mr. Derek Mickle was awarded Project Manager of the Year for this Region. Congratulations to Mr. Mickle were given.

Mr. Rieker gave additional updates for the project regarding Staff:

- Efforts are being made to ensure they are appropriately structured to support the AVC Project.
  1. There is a new Deputy Regional Officer, Chris Wright, he is out of the Billings MT office. Mr. Wright was previously a member of the Eastern Colorado Office.
  2. A third Realty Specialist was brought on Board to assist with the Project.
  3. A dedicated Archaeologist for the project has now been added to the Pueblo office.

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- Fry-Ark updates:
  1. Mt. Elbert is undergoing a major rehabilitation; this is one of the longest standing Pump Storage Facilities in the nation that has not yet undergone a full rehab.
  2. A Collection System tour was taken.
  3. Leadville Water Treatment plant working towards a re-solicitation for a construction contract for replacement of the Plant.

DIVISION ENGINEER, DIVISION 2

Mrs. Rachel Zancanella presented to the Board on “DWR Water Operations Enforcement.”

- The Jurisdiction over regulation water
  1. Colorado Revised Statutes 37-902-501: “Jurisdiction of water rules and regulations
- DWR Authority to issue orders
  1. Colorado Revised Statutes 37-92-503: “orders as to waste, diversions, or distribution of water”
- DWR Action in cases of violations of Orders
  1. Colorado Revised Statutes 37-92-503: “Enforcement-injunction”
- Enforcement Process, 37-92-503 (Complaints):
  1. Surface Water
    - a) Verbal Communication
    - b) Order of the Division Engineer
    - c) Complaint issued by the Attorney General’s Office
    - d) Fines up to \$500.00 per day, per incident
  2. Ground Water
    - a) Groundwater Use and Measurement Violations
    - b) Pumping under order
    - c) Complaint issued by the Attorney General’s Office
    - d) Fine up to \$ 500.00 per day per incident
- Enforcement Process, 37-92-503 (Complaints)
  1. Surface Water
    - a) Headgate Orders are to go to complaint
    - b) Ponds/Reservoirs
    - c) Groundwater

Questions were asked of Mrs. Zancanella.

UNITED STATES GEOLOGICAL SURVEY

Mrs. Krystal Brown presented to the Board on “Pueblo Reservoir Water Quality Data.”

- Updates were given for:
  1. Pueblo Reservoir, 2022-2023, Monitoring Locations
  2. 2022 Pueblo Reservoir Profiles 3B, 5C, 7B
  3. Specific Conductance for the Arkansas River above Pueblo, 1966-94
  4. Median End-of-Month Contents of John Martin Reservoir, 1955-79 and 1980-94
  5. Specific Conductance for the Arkansas River below John Martin Reservoir, 1955-94

Questions were asked of Mrs. Brown.

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STATE LEGISLATION REPORT

Mr. Lee Miller updated the Board, the Water Resources and Agriculture Review Committee (WRARC) met on August 23, 2023, during the Colorado Water Congress Summer Conference. Most notably, the WRARC heard from Upper Colorado River Commissioner for Colorado, Rebecca Mitchell, on the status of the interstate discussions on the Colorado River. In addition, the WRARC heard from two panels on the status of the “Waters of the United States” case law and legislative debate.

The WRARC met again on September 11-12, 2023, primarily focusing on issues associated with access to veterinary care and pesticide control issues. The WRARC did hear from several panelists on the impacts of conservation on water rights, with a focus on a 2021 Arizona statute. A fact sheet on the Arizona statute has been attached for information. In addition, the WRARC received an update on tribal water rights issues.

The next WRARC meeting will be held on October 31, 2023, at which time the WRARC will consider proposed legislation for the next legislative session.

The Board was provided with a white paper prepared by the Special District Association on Proposition HH. Mr. Miller discussed what impact the bills passing will have on the District over the next ten years.

Discussion of the SB23-295 Colorado River Drought Task Force activities is included in the Colorado River Issues monthly report.

Questions were asked of Mr. Miller.

COLORADO RIVER ISSUES

Mr. Lee Miller provided an update to the Board, the SB23-295 Colorado River Drought Task Force (CRDTF) met on September 14, 2023, in Grand Junction. Lee Miller is the District’s representative to the CRDTF; Jim Broderick is the alternate. Lee provided an update to the Board regarding intrastate tools being investigated by the task force.

The meeting schedule for the rest of the year is as follows:

- September 28
- October 12 and 26
- November 9 and 16
- December 7

Mr. Miller said he will be attending the Upper Colorado River Commission (UCRC) meeting this afternoon.

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**INFORMATIONAL ITEMS:**

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

- Water Court Resume
- 2024 Budget Calendar, Mr. Broderick directed the Board to this information item.
- Special Water Counsel Legal Report
- Winter Water Meeting Agenda for the October 20, 2023, Meeting
- NWRA 2023 Annual Conference and Leadership Forum
- December Board Meeting, December 7, 2023
- CRWUA Annual Conference, Las Vegas

President Long asked if there were any other matters to come before the District Board. Hearing no other matters to come before the Board, Mr. Long adjourned the District Meeting at 9:40 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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**Kevin Karney**

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**Ann Nichols – Treasurer**

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**Mark Pifher**

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**Alan Hamel**

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**Matt Heimerich**

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**Andy Colosimo**

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**Pat Edelmann**

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**Dallas May**

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**Patrick Garcia**

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**Greg Felt**

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**Tom Goodwin**