

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
ACTIVITY ENTERPRISE**

MINUTES

April 18, 2013

A regular meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, April 18, 2013 at 11:15 a.m., at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Vera Ortegon
Harold Miskel	Tom Goodwin	Kevin Karney
Gibson Hazard	Carl McClure	Greg Johnson
David Simpson	Howard "Bub" Miller	Shawn Yoxey
Gary Bostrom	Jay Moore	

DEPARTING BOARD MEMBER:

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DIRECTOR(S) ABSENT AND EXCUSED:

Leonard Pruett and Alan Hamel-Advisory Board Member.

ENTERPRISE OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Project Engineer Kevin Meador; Finance Manager Tina White; Director of Engineering and Resource Management Bob Hamilton; Project-Program Coordinator Jean Van Pelt; Special Water Counsel Steve Leonhardt and Alix Joseph; and Federal Lobbyists Ray Kogovsek and Christine Arbogast.

VISITORS PRESENT:

David Mau, U.S. Geological Survey; Chris Woodka, The Pueblo Chieftain; Steve Witte, Colorado Division of Water Resources-Division 2; Doris Morgan, Congressman Cory Gardner's office; Terry Book, Board of Water Works of Pueblo; Bob Hartzman, City of Canon City Water Department; Roy Vaughan, Bureau of Reclamation; Tom Simpson, Aurora Water; Roy Heald, Security Water District and Fountain Valley Authority; Terry Scanga, Upper Arkansas Water Conservancy District; Scott Lorenz, Arkansas Groundwater Users Association; Mark Scott, GEI; Curt Thompson, Merrick & Company; Tim Payne, Fremont County; Ken Lykens, HDR Engineering; Keith Goodwin, Otero County

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Commissioner; Curtis Mitchell, City of Fountain; Scott Campbell, Colorado Canal; Dan Henrichs, High Line Canal Company; Mark Morley, Excelsior; and Sean Chambers, Cherokee Metro.

APPROVAL OF MINUTES:

President Long asked if the members of the Board had received their copy of the minutes of the March 21, 2013 Board meeting, and if there were any corrections or additions. Hearing none, Mrs. Ortegon moved, seconded by Mr. Howard “Bub” Miller, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Ann Nichols reported the financial statement for March was posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Hazard, for acceptance of the March 2013 financial statement and payment of the April 2013 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

FEDERAL LEGISLATION

Christine Arbogast reported that President Obama submitted to Congress only \$1 million for the AVC, the District had discussed \$14 million to begin design and construction of the AVC for 2014. Other water projects that have already begun construction also received drastic cuts by the President’s budget.

Mr. Broderick said if Congress adopts another Continuing Resolution, rather than the budget, the AVC might retain its current level of funding, \$3 million in 2014. Ms. Arbogast said “delays cost money, so it’s going to make it more difficult as we move forward.”

CONDUIT, EXCESS CAPACITY MASTER CONTRACT, AND NEPA UPDATE

Jean Van Pelt reviewed the following:

- Conference call with Cooperating Agency Team was held on March 25 to discuss the finalized responses to the comments they provided
 - In the process of having upper management review the responses in order to finalize them
 - Environmental Impact Statement (EIS) team is working on a number of products to assist in the selection of the preferred alternative which are due this week.
 - When completed they will be delivered to upper management to assist them in their decision making process.
- District staff has begun reviewing and commenting on the draft Final EIS, which is still scheduled to be released in July.
- Work is continuing on the Toolbox for the Conduit Water Conservation Plan.
 - There will be a presentation on the Toolbox at the Arkansas River Basin Water Forum.
 - The Toolbox will be housed on the District’s website.

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- We have requested that the Colorado Water Conservation Board-Water Conservation Technical Advisory Group and the Colorado Water Wise Council review the website for content.
- After the review by CWCB and Colorado Water Wise Council, it will be introduced to the participants by holding two workshops to demonstrate its use.
- Mr. Broderick and Ms. Van Pelt delivered the Excess Capacity Master Contract MOA to Fowler on March 25, 2013 and provided them an update on the EIS.
 - Fowler was invoiced for their buy-in to the Master Contract and they have paid the invoice.

ACTION ITEMS:

AMENDMENTS TO WATER ALLOCATION POLICY

Mr. Hamilton reported at the February 2011 Board meeting, the Board approved the following motion, “to authorize the District to pay the Bureau of Reclamation \$8,990 in Reclamation Reform Act (RRA) Administrative Fees. The District will not bill the landholders, but will inform them and the canal companies that this is a one-time only occurrence, and in the future, the landholders will be responsible for the fees.”

The Six Year Strategic Plan, under the key results area Project Development and Reliability states the District will develop procedures for RRA compliance. This task was completed in 2012.

Section 224 of the RRA and Section 426.19 of the Acreage Limitation Rules and Regulations state, “Reclamation shall collect all data necessary to carry out the provisions of the RRA and other provisions of Federal Reclamation law”. Section 228 states, “any contracting entity subject to ownership or pricing limitations of the RRA shall provide reports as Reclamation may require.”

Paragraph 18 of the District’s current Water Allocation Policy states, “The submission of an application for Project Water constitutes the Applicant’s agreement that (a) it is subject and will comply with all applicable federal and state laws, including the Reclamation Reform Act of 1982 and the regulations thereunder, etc.” As part of the procedures for RRA Compliance, the District will request and review a copy of the water organizations’ current shareholder/member list to ensure landholders that are required to comply with RRA reporting are reporting.

Mr. Hamilton said the Allocation Committee recommends the Board amend the “Water Allocation Policy” to require the annual submittal of a shareholder/member list by water organizations as a condition for receiving an allocation of Fryingspan-Arkansas Project Water or Fryingspan-Arkansas Project water return flows (Project water) and make water organizations responsible for Bureau of Reclamation fee bills and bills for full cost water delivered to landholders served by the water organization

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The adoption of these amendments will give the District a mechanism for recouping fees and costs due to the Bureau of Reclamations billing of administrative fees and full cost Project water (\$149.33 per acre-foot for individuals, and \$206.20 per acre-foot for corporations.)

Mr. McClure moved, seconded by Mrs. Yoxey, the Board adopt Resolution 2013-01WR amending the Water Allocation Policy. Motion unanimously carried.

UPPER COLORADO RIVER ENDANGERED FISH RECOVERY PROGRAM, RECOVERY IMPLEMENTATION PROGRAM, AND RECOVERY ACTION PLAN PARTICIPATION AGREEMENT

Lee Miller reported in 1999, the U.S. Fish and Wildlife Service (FWS) issued a programmatic biological opinion (PBO) for a critical reach of the Colorado River in Colorado related to recovery efforts for four fish species listed as endangered under the Endangered Species Act (ESA) 10825 Project: Upper Colorado River Endangered Fish Recovery Program. In 1988, the Upper Colorado River Endangered Fish Recovery Program was established to restore endangered fish from the brink of extinction: the humpback chub, bonytail, Colorado pike minnow, and razorback sucker. The PBO provides ESA compliance for five U.S. Bureau of Reclamation (Reclamation) projects including the Fryingpan-Arkansas Project. This program has an established number of program partners. The Southeastern Colorado water Conservancy District (District) contributes annually to this program through the 10825 Project. The impact this has on District stakeholders is that it allows for the diversion of Fry-Ark Project water. The District participates in two programs related to the implementation of the PBO.

As part of the PBO, Colorado water users agreed to provide 10,825 acre-feet/year for fish recovery from interim water sources until 2010, by which time permanent sources of water must be identified and agreements completed between water users and the FWS to provide the permanent source(s) of water. Water users have identified the required permanent sources of water for endangered fish. As a matter of convenience and accounting, the obligation to provide the 10,825 acre-feet of water committed to the Program was split equally between the west slope and east slope water users. The east slope water users will provide 5,412.5 acre-feet to the Program by purchasing Red Top Ditch water and modifying the operations of the ditch and other facilities. Northern Water is willing and able to provide 5,412.5 acre-feet of water annually in perpetuity to the Recovery Program on behalf of Northern Water, the District, Denver, Aurora, Colorado Springs, Board of Water Works of Pueblo, and Twin Lakes, based on this one-time payment. Reclamation has completed NEPA compliance on federal actions related to providing 10,825 acre-feet/year for endangered fish.

The District and the other partners will, through this water service agreement, agree to pay to Northern Water their pro rata share of the cost of the 5,412 Water. The District's pro rata share is 10.19 percent of the cost, or \$1,750,479.

Mr. Goodwin moved, seconded by Mr. Johnson, the Board authorize the Executive Director to sign a version of the Upper Colorado River Endangered Fish Recovery Program, Recovery Implementation

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Program, and Recovery Action Plan Participation Agreement substantially similar to the version the Board members were provided. Motion unanimously carried.

INFORMATIONAL ITEMS:

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

- AVC, Excess Capacity Master Contract, and NEPA Update

OTHER BUSINESS MATTERS:

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:50 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

