SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT MINUTES

January 19, 2023

A meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, January 19, 2023 at 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. Mr. Long asked Margie Medina for a roll call for those connected via ZOOM.

President Long established that a Quorum was present.

DIRECTORS PRESENT:

Alan Hamel Andy Colosimo Ann Nichols Bill Long Curtis Mitchell Greg Felt (remote) Howard "Bub" Miller (remote) Kevin Karney Mark Pifher Matt Heimerich

Pat Edelmann Patrick Garcia Seth Clayton Tom Goodwin

DIRECTOR(S) ABSENT AND EXCUSED:

Dallas May

DISTRICT OFFICIALS PRESENT:

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 Kevin Meador (remote); Administrator of Administration Leann Noga; Finance Manager Stephanie Shipley: Administrative Support Specialist's Margie Medina and Patty Rivas(remote); Kogovsek and Associates Christine Arbogast(remote); and H2O Consultants Roy Vaughan.

VISITORS CONNECTED:

Abba Ahmed, Aurora Water; Cathy Garcia, Congresswoman Boebert's Office (@ 9:45); Eric Kuhn, retired Colo River Water Conservation District; Jeffery DeHerrera, Pueblo West Metro; Jennifer Gimbel, Colorado Water Center; Jerry Pena, Kennedy Jenks; Kassidy Davis, Colo Division of Water Resources; Kevin Salter, Kansas Dept of AG (@ 10:57); Luke Mecklenburg, Assistant Attorney General, Federal and Interstate Water Unit; Mitch Frischmeyer, Wilson Water Group; Roy Heald, Security Water & Sanitation; and Sage Church, Fountain Valley Authority.

VISITORS PRESENT:

Brandon Forbes, USGS; Lauren Duncan, Colorado Water Conservation Board; Mike Holmberg, USBR; Rachel Zancanella, Colo Division of Water Resources; Sam Ebrersole, Ebersole Media; Scott Lorenz, Colorado Springs Utilities; and Terry Scanga, UAWCD; and Rick Kienitz, Aurora Water.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting.

APPROVAL OF MINUTES:

President Long said the minutes from the December 8, 2022, District Board meeting were posted for review and asked if there were any corrections or additions. Hearing none, Mr. Garcia moved, seconded by Mr. Pifher to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Ms. Ann Nichols reported the financial statements for November 2022, and DRAFT December 2022 were posted for review. Ms. Nichols moved, seconded by Mr. Garcia for acceptance of the November 2022 and DRAFT December 2022 financial statements and payment of the January 2023 bills. Motion unanimously carried.

PRESENTATION ITEMS:

ADAPTING COLORADO'S WATER SYSTEMS FOR A 21ST CENTURY ECONOMY AND WATER SUPPLY

Mrs. Jennifer Gimbel along with Mr. Eric Kuhn fellows of the Common Sense Institute, presented to the Board: *Adapting Colorado's Water Systems for a 21st Century Water Supply and Economy*.

Mr. Kuhn gave a brief background on the Commonsense Institute. It was founded in 2010, they are of the belief that "We believe sound and economic research is essential to uphold Colorado's economic vitality, future, and individual opportunity." Topics were:

- 1. Doing more with less
- 2. Calls for Collaborative Action
- 3. The cost of water is going up at an exponential rate
- 4. A large portion of our states share of Colorado River supplies, including those used for trans basin diversions, are at risk
- 5. Preserving agricultural water supplies is becoming more challenging and yet more critical to the states diversified economy
- 6. Climate change is impacting more than just the supply of water
- 7. Colorado is part of a much larger interconnected system
- 8. Arkansas Basin Findings

President Bill Long thanked Jennifer Gimbel & Eric Kuhn.

President Long called on Mr. Greg Felt to introduce Lauren Duncan, Regional Water Plan Grant Manager, Arkansas River Basin, with the Colorado Water Conservation Board (CWCB). Lauren is one of the four new Regional Water Plan Grant Coordinators hired by CWCB. Lauren Duncan spoke to the Board, gave a brief description of her position at CWCB and her background.

FINANCE PLANNING REVIEW

Mrs. Leann Noga presented to the Board "2023 Financial Planning":

A brief recap of a timeline on the studies was given. From 2017-2020

- A. January-February 2023
 - a. 2019 Financial Strategy and Sustainability Study Review
 - b. Present financial model results
 - 1. Revenue Requirement Analysis
 - 2. Cost of Service Analysis
- B. March 2023
 - a. Determine next steps:
 - 1. Discussion Topics
 - Water and Storage Rates
 - Surcharge Fees
 - Reserves

ACTION ITEMS:

OPEN MEETING RESOLUTION NO. 2022-01D

Mrs. Leann Noga reported a Resolution Relating to Compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law is required under Colorado Revised Statute §37- 45-101 *et seq*. This resolution defines where the public notice of each meeting will be posted at least 24 hours prior to a meeting. After the approval of the resolution, notice will be sent to the County Clerk and Recorder of each of the nine counties within the District boundaries. The Board was provided a copy of the Resolution No. 2023-01D and memorandum to the County Clerk and Recorder.

Mr. Clayton moved, seconded by Mr. Garcia, the Board approve Resolution 2023-01D ,a resolution relating to the compliance by the Southeastern Colorado Water Conservancy District with the Colorado Open Meeting Law. Motion unanimously carried.

AURORA-COLORADO SPRINGS JOINT WATER AUTHORITY EASEMENT CONTRACT NO. 4-07-70-1926 AMENDMENT 1

Mr. Garrett Markus presented an action item to the Board that recommended authorization of the Executive Director to execute an agreement with the Bureau of Reclamation and the Aurora-Colorado Springs Joint Water Authority.

The Bureau of Reclamation has a Perpetual Easement with the Aurora-Colorado Springs Joint Water Authority under Contract No. 4-07-70-L1926 executed on November 8, 1983. The purpose of the easement was for the construction, operation, and maintenance of the Otero Intake Pipeline Extension in the Twin Lakes Dam area.

The Aurora-Colorado Springs Joint Water Authority determined that a secondary butterfly valve is necessary along with an amendment to the original contract. The purpose of Amendment No. 1 is to authorize temporary and permanent use of additional acreage to Aurora-Colorado Springs Joint Water Authority, for a secondary butterfly valve and associated appurtenances in the South ½ of Section 23, Township 11 South, Range 80 West of the Sixth Principal Meridian, Lake County, Colorado. (Maps

were provided to the Board).

Mr. Hamel moved, seconded by Mr. Pifher, the Board of Directors to authorize the Executive Director signature authority to execute an agreement with the Bureau of Reclamation and the Aurora-Colorado Springs Joint Water Authority. Motion unanimously carried.

DILIGENCE APPLICATION FOR DISTRICT'S NON-PROJECT WATER EXCHANGE RIGHTS, CASE NO. 06CW08

Mr. Peter Levish presented to the Board an action item that recommended that the Board adopt a resolution authorizing Special Water counsel to file an application for a finding of reasonable diligence to maintain the District's conditional exchange rights decreed in Case No. 06CW08.

The District holds conditional exchange rights, decreed in Case No. 06CW08 (Water Division 2), that enable the District, together with its constituent entities, to exchange Non-Project Water stored in Holbrook Reservoir No. 1 or Dye Lake, or diverted at the Catlin Canal, High Line Canal, Holbrook Canal, Oxford Farmers Ditch or Rocky Ford Ditch, to Pueblo Reservoir for use in the AVC and for other purposes within the District. "Non-Project Water" includes any water (other than Fryingpan-Arkansas Project water and Project return flows) that is owned, controlled, or leased by the District or its constituent entities; decreed for use in Water Division 2; and allowed to be stored in Pueblo Reservoir and used by exchange. The District's Non-Project Water Exchange shares a co-equal December 2005 priority with Colorado Springs's exchanges decreed in Case No. 05CW96 and Lamar's exchanges decreed in Case No. 05CW107. The deadline to file a diligence application to continue the District's decreed conditional exchange rights is February 28, 2023.

Every six years, the owner of conditional water rights, such as the District's exchange rights decreed in Case No. 06CW08, must file an application with the Water Court explaining what progress, or diligence, has been made to complete the appropriation and use of its conditionally decreed rights. If the diligence application for the Non-Project Water Exchange is not filed by February 28, 2023, then the conditional exchange rights will be cancelled. With a diligence application, the District may also apply to convert some of its conditional rights to absolute rights, if it has sufficient evidence to do so. The Non-Project Water Exchange was decreed for the primary purpose of facilitating the delivery of non-Project water to the District's constituents through the AVC. Because the AVC is now under construction, the District has not operated the exchanges and, therefore, cannot yet seek to make any portion of these exchange rights absolute. However, the District's funding and construction efforts related to the development of the AVC during the diligence period demonstrate that Southeastern has been diligent in its activities toward the development of these conditional exchange rights. Moreover, because the District is cooperating with the Bureau of Reclamation ("Reclamation") for the development and construction of the AVC, Reclamation's actions and expenditures for the AVC during the diligence period are also relevant to the development of the Non-Project Water Exchange. Six years after a decree is entered in this case, the District will need to file another application for a finding of reasonable diligence and, if possible, may seek to make a portion of the exchange right absolute at that time.

A copy of Resolution 2023-02D was provided to the Board.

RECORD OF PROCEEDING

Mr. Clayton moved, seconded by Mr. Karney, the Board to adopt Resolution No. 2023-02D, which authorizes Special Water Counsel to file an application for diligence with the Water Court by February 28, 2023. Motion unanimously carried.

STATEMENT OF OPPOSITION IN THE APPLICATION OF THE UPPER ARKANSAS WATER CONSERVANCY DISTRICT, CASE NO. 22CW3093 (water division 2)

Mr. Lee Miller presented an item recommending that the District Board authorize Special Water Counsel to file a Statement of Opposition to the Application of the Upper Arkansas Water Conservancy District (UAWCD) in case No. 22CW3093.

In Case No. 22CW3093, filed in December 2022, UAWCD seeks approval of a conditional water storage right for Wenke Pond (in Custer County) and conditional appropriative rights of exchange to facilitate the storage of water in Wenke Pond. UAWCD also seeks to amend its augmentation plan decreed in 2021 in Case No. 18CW3076 by (1) adding the Wenke Pond as a structure used for storage and release of augmentation water; (2) adding water stored in Wenke Pond as a source of augmentation water; and (3) revising its augmented area to add the portion of UAWCD's service area in the Grape Creek drainage above the Taylor Creek confluence. This expanded area is located in Custer County, outside of the Southeastern District's boundaries.

UAWCD's application states that its sources of augmentation water will be the same as those decreed in Case No. 18CW3076 (with the addition of the Wenke Pond), including Fryingpan-Arkansas Project water and Project return flows. The District filed a statement of opposition to UAWCD's application in Case No. 18CW3076, in part to ensure that UAWCD's use of Project Water and Project return flows is consistent with the District's policies. Staff and counsel recommend filing a statement of opposition in Case No. 22CW3093 to ensure that the decree is consistent with the District's terms and conditions for the use of Project Water and return flows, including confirmation that Project Water and its return flows will not be used to augment depletions from water use outside of the District's boundaries. Filing a statement of opposition in this case will also allow the District to ensure that any decree entered in this case is consistent with UAWCD's augmentation plan decreed in Case No. 18CW3076.

Mr. Garcia moved, seconded by Mr. Hamel to authorize Special Water Counsel to file a Statement of Opposition to the Application of Upper Arkansas Water Conservancy District in Case No. 22CW3093. Mr. Goodwin, and Mr. Felt recused themselves from the vote. Motion unanimously carried.

COLORADO SPRINGS URBAN RENEWAL AUTHORITY: CITY GATE 2.0

Mr. Broderick presented an item to the Board recommending they authorize the Executive Director an agreement with the Colorado Springs Urban Renewal Authority to provide tax increment financing for an urban renewal project in Colorado Springs.

The Colorado Springs Urban Renewal Authority (CSURA) is pursuing an urban renewal plan for a parcel of land located in the City of Colorado Springs in El Paso County. The Plan Area is comprised of 13 parcels on approximately 11.63 acres of land. The boundaries of the Plan Area to which this plan applies includes West Cimarron Street to the north, West Rio Grande Street to the south, Sahwatch Street to the east, and the railroad to the west. The Plan Area, development includes approximately

2,300 apartment units and 37,000 square feet of retail space. The Plan Area will be redeveloped into a vibrant, walkable area adjacent to the Weldner Soccer Field in Downtown Colorado Springs. Additional public amenities include streetscape, sidewalks, trees, and public structured and off-street parking. The proposed development includes public parking in addition to the residential parking requirements.

The Plan Area is located within the Southeastern Colorado Water Conservancy District, which has a 0.9420 mill levy. The District's share of the current property tax base is \$1,977 and will continue to be collected by the District. After the 25-year period is complete, the District's share of property tax revenues will increase to approximately \$47,188 annually due to the new development.

Mr. Pifher moved, seconded by Mr. Garcia, to authorize the Executive Director to execute Property Tax Increment Revenue Agreements with the Colorado Springs Urban Renewal Authority to provide tax increment financing for City Gate 2.0 Urban Renewal Plan. Motion unanimously carried.

COLORADO SPRINGS URBAN RENEWAL AUTHORITY: HANCOCK COMMONS

Mr. Broderick presented an item to the Board recommending they authorize the Executive Director to execute an agreement with the Colorado Springs Urban Renewal Authority to provide tax increment financing for an urban renewal project in Colorado Springs.

The Colorado Springs Urban Renewal Authority (CSURA) is pursuing an urban renewal plan for a parcel of land located in the City of Colorado Springs in El Paso County. The Plan Area is comprised of one parcel on approximately 18.59 acres of land. The boundaries of the Plan Area to which this plan applies is divided by Hancock Expressway with Chelton Road to the east, Clarendon Drive to the west. The Plan Area, development includes approximately 150 apartment units and 87 townhome units. The townhome units will be for-sale and priced for attainable housing for the local workforce. The commercial site will include approximately 10,000 square feet of retail, restaurant, and/or neighborhood services.

The Plan Area is located within the Southeastern Colorado Water Conservancy District, which has a 0.9420 mill levy. The District's share of the current property tax base is \$122 and over the 25-year period will generate about \$4,494 to be collected by the District. After the 25-year period is complete, the District's share of property tax revenues will increase to approximately\$9,821 annually due to the new development.

Mr. Goodwin moved, seconded by Mr. Colosimo, to authorize the Executive Director to execute Property Tax Increment Revenue Agreements with the Colorado Springs Urban Renewal Authority to provide tax increment financing for Hancock Commons Urban Renewal Plan. Motion unanimously carried.

COLORADO SPRINGS URBAN RENEWAL AUTHORITY: GARNET

Mr. Broderick presented an item to the Board recommending they authorize the Executive Director to execute an agreement with the Colorado Springs Urban Renewal to provide tax increment financing for an urban renewal project in Colorado Springs.

RECORD OF PROCEEDING

The Colorado Springs Urban Renewal Authority (CSURA) is pursuing an urban renewal plan for a parcel of land located in the City of Colorado Springs in El Paso County. The Plan Area is comprised of one parcel on approximately 88 acres of land plus adjacent right-of-way (ROW). The location of the Plan Area to which this plan applies is 301 South Rockrimmon Boulevard, and generally bound by Ute Valley Trail Road to the east, Ute Valley open space to the south, commercial offices to the west, and residential development to the north. The parcel in the Study Area is currently vacant with no buildings. The proposed project for the Plan Area, as expressed by the Developer, is an industrial development with a 500,000 square foot high-tech manufacturing facility. After the initial phase is complete there is a potential for an expansion of an additional 500,000 square feet.

The Plan Area is located within the Southeastern Colorado Water Conservancy District, which has a 0.839 mill levy. The District's share of the current property tax base is \$468 and over the 25-year period will generate about \$14,000 to be collected by the District. After the 25-year period is complete, the District's share of property tax revenues will increase to approximately \$27,400 annually due to the new development. If phase 2 is constructed it would generate an additional \$27,400 annually.

Mr. Goodwin moved, seconded by Mr. Colosimo, to authorize the Executive Director to execute Property Tax Increment Revenue Agreements with the Colorado Springs Urban Renewal Authority to provide tax increment financing for Garnet Urban Renewal Plan. Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:

U.S BUREAU OF RECLAMATION REPORT

Mr. Mike Holmberg provided a written report reviewing the following, January 12, 2023:

- There were 199,051 acre-feet stored in Pueblo Reservoir; 119,573 acre-feet of Project water; 46,481 acre-feet of Excess Capacity water; 25,538 acre-feet of Winter water and winter water carryover.
 - 1. 216080 acre-feet 2023 winter water
 - 2. 3,930 acre-feet of winter water carryover
- There is currently 125,800 acre-feet of Project space in Pueblo Reservoir and 39,648 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Charts illustrating storage amounts in Turquoise, Twin Lakes, and Pueblo Reservoir
- Project Reservoirs: Turquoise 100%, Twin Lakes 96%, Pueblo 104% as of January 12, 2023
- Project Reservoirs: Turquoise 89%, Twin Lakes 94%, Pueblo 102% in January 12, 2022
- Bousted Stored Cumulative Imports
- Total M&I PW in the system, 117,620 AF as of December 31, 2022:
 - a) East 17,807
 - b) West 8,842
 - c) Pueblo 17,000
 - d) Other 3,466
 - e) FVA 71,025
 - CSU 52,099
 - Fountain 6,415

- Security 5,466
- Stratmoor 2,087
- Widefield 4,957
- First Use Project + PCO Municipal Water
- Colorado SNOTEL Current Snow Water Equivalent (Nov.14, 2022)
- General Updates:
 - a) Winter Operations:
 - Currently moving 75 cfs out of Twin Lakes and 60 cfs out of Turquoise
 - Sugarloaf Powerplant
 - Personnel changes:
 - o Brandon Erchul new Mt. Elbert Water Section Tech
 - Mike Holmberg is officially named the Pueblo Office Facility Manager
 - Ruedi Fill Forecast
 - Import Forecasting will start Feb. 1

Staff and Board congratulated Mike on his new position.

COLORADO DIVISION OF WATER RESOURCES

Mrs. Rachel Zancanella advised the Board that she was appointed Division Engineer in December 2022. She provided a presentation reviewing the current structure of the office of the Division Engineers. The Board was provided a hard copy of the presentation:

- 1. DWR around the Basin
- 2. DWR Div. 2 Pueblo Staff areas of expertise
- 3. Division of Water Resources Division 2 Contacts
- 4. Division 2 Organization Chart

Mr. Broderick congratulated Mrs. Zancanella on her new position. Also a brief discussion of what the Board would like in future presentations from The Colorado Department of Water Resources.

U.S GEOLOGICAL SURVEY

Mr. Brandon Forbes presented to the Board covering Ice and Streamflow, topics were:

- Quick Fundamentals
- Controls are very important for accurate gages
- Ice buildup on banks and controls causes challenges
- Dangers of ice to our staff infrastructure
- Technology can help

STATE LEGISLATION UPDATE

Mr. Lee Miller provided an update to the Board by reporting the first regular session of the 74th General Assembly convened on January 9, 2023. Unless the Legislature wraps up its business early or there is an intervening public health emergency, the Legislature will adjourn sine die no later than midnight on May 8, 2023.

The District participates in the Colorado Water Congress (CWC) State Affairs Committee, which meets most Mondays during the session. Lee Miller serves as one of the vice chairs for the committee. You may find the CWC's bill tracking sheet at:

https://www.cowatercongress.org/uploads/1/1/9/2/119211024/bill_tracking_sheet.pdf

A listing with photographs of House Agriculture Livestock, & Water Committee Members and Senate Agriculture & Natural Resources Committee Members can be accessed at: <u>https://www.cowatercongress.org/uploads/1/1/9/2/119211024/2023_house_and_senate_committee_assignments.pdf</u>

Stream Rehabilitation and Stream Restoration was another topic of discussion in the Summer interim Water Committee Session. When the term Stream Rehabilitation/Stream Restoration was brought up, it automatically brought up the subject of Beavers. The panel decided that there should be an award titled "Friend of the Beaver." The 2022 recipient is Terry Scanga, Mr. Scanga was present at the meeting to accept his award.

COLORADO RIVER ISSUES STATUS

Mr. Lee Miller updated the Board on a notice in the Federal Register on October 28, 2022, the Secretary of the Interior directed the Bureau of Reclamation (Reclamation) to prepare a Supplemental Environmental Impact Statement (SEIS). The Supplement is to the December 2007 Record of Decision entitled Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines). The Federal Register notice initiates the public-scoping process for the SEIS. Reclamation requested that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information, and studies on or before December 20, 2022. District staff worked with the Front Range Water Council and the two west slope water conservation districts on a comment letter that was posted to the Committee page in December.

Focus has shifted to Reclamation's request for a basin states' proposal for consideration in the SEIS. Discussions have been ongoing, with some attention being focused on a Southern Nevada Water Authority proposal that included an additional 500,000 acre feet of reductions in the Upper Basin. It is unclear whether any proposal from the basin states is likely to result by the end of January 2023 deadline.

The Upper Colorado River Commission (UCRC) announced significant progress in implementing its Five-Point Plan at its meeting on December 14, 2022, at the Colorado River Water Users Association Meeting in Las Vegas, Nevada.

Colorado Commissioner Becky Mitchell emphasized that "the most impactful thing that can be done to manage the Colorado River System is to reduce uses in dry years." Colorado achieves this through strict administration of water rights based on hydrology—in 2021, administration impacted water use on over 203,000 acres within the Colorado River Basin in Colorado.

Collectively, preliminary data from the UCRC shows that the Upper Division States used 25% less water in 2021 than in 2020 due to constraints on the physical and legal availability of water.

At its meeting, the UCRC released a pre-solicitation for request for proposals for participation in the System Conservation Pilot Program, a large-scale program involving temporary, voluntary, and compensated reductions in consumptive use across the Upper Division States. Conserved system water could help mitigate the impacts of drought in the Upper Basin.

The UCRC also announced progress on the interstate Demand Management feasibility investigation and released a summary report of the study detailing key findings of the interstate investigation. This report will help inform next steps in Colorado's Demand Management investigation, which will continue into 2023.

The Upper Division States will also consider additional releases from upstream reservoirs pursuant to the Drought Response Operations Agreement, in addition to the 661,000 acre-feet previously committed. The Commissioners emphasized the need to maintain the benefits of this water in Lake Powell.

The Governor's November 1, 2022 budget submission includes \$1.9 million to build a "Colorado River Policy and Technical Support Team" to help negotiate and implement the compact and fulfill Colorado's obligations.

The Colorado River and Water Supply Committee will meet following the Board meeting, with most of the discussion occurring in executive session. Topics for coverage in this executive session will include:

- 1. Report on current UCRC activities;
- 2. Impact of the Governor's budget announcement creating a Colorado River Policy Team; and
- 3. State discussions of current Federal activities to address issues on the Colorado River

INFORMATIONAL ITEMS:

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

- Water Court Resume
- 2023 Annual Conference Calendar
- 2023 Board Meeting Schedule
- 2023 Committee Meeting Schedule
- Special Water Counsel Legal Report
- Colorado Water Congress Jan 25-27 Conference
- FFA February 23-24 Conference
- 2023 DARCA February 24-25 Conference
- 2023 ARBWF Conference April 24-26
- NWRA Federal Water Issues April 17-19

RECORD OF PROCEEDING

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 11:40 a.m.

Respectfully submitted,

Patty Rivas Administrative Support Associate

Secretary