

RECORD OF PROCEEDING

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**SOUTHEASTERN COLORADO  
WATER ACTIVITY ENTERPRISE  
MINUTES  
November 17, 2022**

A meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, November 17, 2022, at the District office, 31717 United Avenue, Pueblo, Colorado. President Long called to order the Enterprise meeting at 9:48 to be held in conjunction with the District meeting for a presentation item. Following the joint presentation item with the District, President Long recessed the Enterprise meeting at 10:24 a.m. President Long reconvened the Enterprise meeting at 12:06 p.m. The ZOOM platform was also made available for Board members and visitors.

President Long established that a quorum was present.

**DIRECTORS PRESENT:**

Alan Hamel	Curtis Mitchell	Pat Edelmann
Andy Colosimo	Kevin Karney	Seth Clayton
Ann Nichols	Mark Pifher	Tom Goodwin
Bill Long	Matt Heimerich	

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

Dallas May, Greg Felt, Howard “Bub” Miller, and Patrick Garcia.

**DISTRICT OFFICIALS PRESENT:**

Executive Director James Broderick; Senior Policy and Issues Manager Chris Woodka; Water Resource Engineer Garrett Markus; Principal Engineers Kevin Meador (remote) and Mark Scott; Administrator of Finance and Administration Leann Noga; General Counsel Lee Miller; Administrative Support Specialists Margie Medina and Patty Rivas (remote); Staff Attorney Peter Levish; Accountant Stephanie Shipley; Christine Arbogast (remote), Kogovsek & Associates.

**VISITORS PRESENT:**

Bobby Bandham and Jarid Prowell, Pueblo West Metro District; Jeff Rieker, Mike Holmberg, USBR; Kelly Roesch, Ryan Maecker, Scott Lorenz and Kevin Gortz, Colorado Springs Utilities; Rachel Zancanella, Colorado Division of Water Resources; Oliver Wesley, JHL Constructors; Krystal Brown, USGS.

**VISITORS CONNECTED REMOTELY:**

Luke Mecklenburg, (9:41-12:12) Assistant Attorney General; Jerry Pena, Kennedy Jenks; Curtis Thompson, AECOM; and Roy Heald (9:37), Security Water and Sanitation.

**APPROVAL OF MINUTES:**

President Long said the minutes of the October 20, 2022, Enterprise Board meeting were posted to OnBoard as well as the Board website for review and asked if there were any corrections or additions.

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Hearing none, Mr. Colosimo moved, seconded by Mr. Pifer to approve the minutes. Motion unanimously carried.

**TREASURER REPORT:**

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

**ACTION REPORT:**

**OTERO COUNTY AMERICAN RESCUE PLAN ACT FUNDING SUBRECIPIENT AGREEMENT**

Mrs. Noga presented to the Board an action item recommending that Board ratify the American Rescue Plan Act Funding Subrecipient Agreement for Otero County for Arkansas Valley Conduit (AVC) which will fund the design of unincorporated Arkansas Valley Participants delivery lines in Otero County.

The American Rescue Plan Act (ARPA) of 2021, which President Biden signed on March 11, 2021, includes federal funding to support several specific eligibilities including water infrastructure. The federal government allocated these funds to counties, cities, and towns all over America.

In 2021, a team made up of Jim Broderick, Bill Long, Kevin Karney, Leann Noga and Jason Meyer from GMS met with each Otero County Commissioner to provide an update of the AVC Project and to request \$1.2 million in ARPA funds for the design and construction of the AVC Project within Otero County.

In October 2022, the Otero County Commissioners unanimously agreed to support the AVC Project and commit the requested ARPA funds of \$1.2 million for design of AVC delivery lines for unincorporated participants of the AVC Project.

District staff have worked with Otero County to develop a scope of work, spending timeline, and contract for the use of the ARPA funds for Otero County unincorporated AVC participants water delivery design.

The Board was provided the Otero County Design Plan and the ARPA Subrecipient Agreement for the Arkansas Valley Conduit. This agreement has been signed by both Otero County and the Enterprise and will require Board ratification. The Enterprise is aware that the detailed tracking of these grant funds and the possibility of a required single audit could accrue. Staff have planned resources in the 2023 Proposed Budget to accommodate these needs. Upon ratification of this agreement, the Enterprise will move forward with a Request for Proposal (RFP) process of the qualified consultant/contractors.

Mr. Goodwin moved, seconded by Mr. Clayton, the Board of Directors to ratify the American Rescue Plan Act Funding Subrecipient Agreement for Otero County for Arkansas Valley Conduit which will fund the design of unincorporated Arkansas Valley Participants delivery lines in Otero County. Motion passed unanimously.

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APPROVAL OF AGREEMENT TO PURCHASE PROPERTY FOR THE AVC INJECTION SITE FROM TRIVIEW METROPOLITAN DISTRICT

Mr. Mark Scott presented an action item that recommends the Enterprise Board of Directors approve the Agreement to Purchase 9.64 acres of land from Triview Metropolitan District to support the Arkansas Valley Conduit (AVC) Injection Site for \$25,000 and the related U.S. Bureau of Reclamation (Reclamation) Temporary Construction and Right of Entry License Agreement.

In June 2022, Reclamation expressed concerns to SECWAE that the purchase of the property for the AVC Injection Site and use as a construction staging area for the initial Boone Reach construction was experiencing delays. SECWAE staff agreed to expedite the purchase by acquiring the property from Triview Metropolitan District.

The SECWAE needs to acquire this land parcel including an access easement from Triview Metro District to secure land to keep the AVC project on schedule for construction that will start for the Boone Reach starting in 2022 to 2023.

The total cost of this purchase is \$25,000 or \$2,593.36 per acre. This is less per acre than Triview Metro District paid for the land, and SECWAE staff performed a market review that validated these costs are reasonable.

The SECWAE has had multiple meetings with the Pueblo County Planning Department, which has been very helpful. The current steps are:

1. The Reclamation Construction Contractor will acquire Building permits for use of the property as a construction staging area.
2. Reclamation is working with the Colorado Department of Transportation (CDOT) on site access off Highway 50.
3. The SECWAE is working with Pueblo County on rezoning the parcel from an A1 to and A2 to allow for the purchase to be finalized.

AVC Injection Site with Triview Metropolitan District

On October 20, 2022, the Triview Metropolitan District Board approved and signed the Land Purchase Agreement with the SECWAE for \$25,000. This Agreement entitles the SECWAE possession of the Property and to utilize the Property for public purposes upon deposit of the Purchase Price with the Title Company. The SECWAE will be responsible to pay Triview Metropolitan District \$5,000 if the Agreement is terminated prior to December 31, 2024.

The Temporary Construction and Right of Entry License Agreement also included in the package simply allows Reclamation to use this land as part of the AVC for a construction staging area and the location of the Injection Site.

A copy of the property exhibit for this parcel and an aerial look at the parcel location and the Agreement were provided to the Board. The parcel was identified by the US Bureau of Reclamation and SECWAE staff and is an ideal location for both the Injection Site as well as for a construction staging area.

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Mr. Hamel moved, seconded by Mr. Karney that the Southeastern Colorado Activity Enterprise Board approve the property purchase for the AVC Injection Site in the amount of \$25,000 from the Triview Metropolitan District and the Temporary Construction and Right of Entry License Agreement with Reclamation. Motion passed unanimously.

APPROVAL OF AMENDMENT 1 TO THE CONTRACT FOR PROFESSIONAL SERVICES BETWEEN THE SOUTHEASTERN COLORADO WATER ACTIVITY ENTERPRISE AND GMS, INC CONSULTING ENGINEERS

Mr. Mark Scott presented an action recommending the Enterprise Board approve Amendment 1 to the 2022 Contract for Professional Services Between the Southeastern Water Activity Enterprise (Enterprise) and GMS, Inc. Consulting Engineers (GMS).

In 2021, and continuing with a new contract in 2022, GMS has been supporting the Enterprise by providing professional engineering services related to assisting the Enterprise and AVC Participants and Regional entities to determine their individual water system needs and how the AVC will connect to each of them.

GMS was able to complete a majority of the AVC specific costs and descriptions of the original Delivery and Spur Lines for the AVC with the original 2022 budget. The Enterprise desires to amend the 2022 contract with GMS to expand and complete their support work with the Participants to:

- 1) Complete preliminary engineering reports for the remainder of Participants not yet completed.
- 2) Assist the Enterprise with evaluation and implementation of consolidation opportunities with Crowley County Water, City of La Junta, and possible others.
- 3) Provide assistance related to evaluation and application of funding options for the AVC and/or Participants.
- 4) Assist with ongoing communication with the Participants related to AVC. GMS was selected because of their past and current working experience with the AVC Participants, knowledge of water issues in the Arkansas Valley, and knowledge of funding mechanisms for small communities.

Since the original scoping was completed in 2022, GMS and staff have realized necessary additions and/or adjustments to the original scope. These additions and/or adjustments are listed below:

- 1) Need to break out and present the reports into the following three categories:
  - a. Group 1: These are the AVC delivery lines to be designed and constructed by the Enterprise. This includes delivery and spur lines.
  - b. Group 2: These are improvements required by the Participants to receive AVC water deliveries that are the responsibility of the Participants.
  - c. Group 3: These are water system improvements not tied directly to AVC that the Participant will need to do withing their existing system.
- 2) Need to address the multiple funding agency needs and provide the information each needs to prepare funding applications to those they choose.
- 3) Need to analyze further the consolidation opportunities in the Arkansas Valley.
- 4) Assist Participants facing enforcement orders from the CDPHE with the information they need to respond and present a plan for compliance.
- 5) Address the many changes presented by the Participants and Regional entities.

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- 6) Attend and/or support over one hundred additional meetings with Participants, Regional representatives, and the Enterprise.

The original 2022 GMS contract was focused on support for the Enterprise with the AVC portion of the work only (see Item 1a above) but as the work progressed the value of also capturing the Group 2 and 3 (see Item 1b and 1c above) was recognized.

It is of great value for the Enterprise and the AVC participants to understand the requirements needed regarding system improvement and AVC connection. This allows the participants to identify grants and funding opportunities.

These multi-faceted reports average over seventy pages plus appendices each to meet the requirements that need to be addressed. To date GMS has supported the Enterprise on looking at Consolidation opportunities that could save the AVC over \$15,000,000 in capital construction costs.

The total of the 2021 and 2022 GMS contracts with this Amendment 1 is \$810,359.

The 2021 and 2022 Contract for Professional services between SECWAE and GMS were provided to the Board.

Mr. Karney moved, seconded by Mr. Edlmann that the Southeastern Colorado Activity Enterprise Board approve Amendment 1 to the approved 2022 GMS contract in the amount of \$400,000 for Professional Services between the Southeastern Colorado Water Activity Enterprise and GMS, Inc. Consulting Engineers. Motion passed unanimously.

**PRESENTATION REPORT:**

**FEDERAL LEGISLATION UPDATE**

Ms. Christine Arbogast gave a brief update:

- Postelection, Congress is reorganizing. Changes in committee leadership are forthcoming.
- Monitoring the Continuing Resolution to fund government for FY '23. One large omnibus bill is anticipated but other issues may be tacked on. Our interest is in funding levels for Reclamation, if they plus up their budget funding may be available for AVC.
- Also monitoring passage of the one/year fix for the Upper Colorado Endangered Fish Recovery Program, which may be done by unanimous consent, which is unusual.

President Long mentioned that in a meeting that was held Wednesday the 16<sup>th</sup>, attended by Jim Broderick, Bill Long, Chris Woodka, the Colorado Water Conservation Board approved a \$20 million grant for the Arkansas Valley Conduit at its meeting in Denver today. This is in addition to the \$10 million grant approved in 2020. The action will now go to the Colorado General Assembly for approval in 2023.

**INFORMATION ITEMS:**

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

- AVC Update
- JWBHP Update
- Excess Capacity Master Contract Update

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President Long asked if there were any other matter to come before the Board, hearing no other matters President Long adjourned the meeting @ 12:26 p.m.

Respectfully submitted,

Patty Rivas  
Administrative Support Specialist

Secretary

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