

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

March 21, 2019

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, March 21, 2019 at 9:34 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long	Ann Nichols	Curtis Mitchel
Carl McClure	Tom Goodwin	Dallas May
Alan Hamel	Seth Clayton	Mark Pifher
Kevin Karney	Andy Colosimo	Patrick Garcia
Howard "Bub" Miller	Greg Felt	

DIRECTOR(S) ABSENT AND EXCUSED:

Gibson Hazard

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Principal Engineer Kevin Meador; Water Resources Engineer Garrett Markus; Issues Management Program Coordinator Chris Woodka; and Administrative Support Specialist Margie Medina.

VISITORS PRESENT:

Doug Fitzgerald, U.S. Congressman Scott Tipton's office; Dwight Gardner, U.S. Senator Michael Bennet's office; Terry Dawson, U.S. Bureau of Reclamation; Mark Scott, GHD Inc.; Judy Leonard, Jeffrey DeHerrera, and Jim Quam, Pueblo West Metropolitan District; Bill Tyner and Rachel Zancanella, Colorado Division of Water Resources; David Mau and Krystal Brown, U.S. Geological Survey; Jay Winner, Lower Arkansas Valley Water Conservancy District; Bob Hamilton, citizen; Brett Gracely, Matrix Design Group; Michael Hill, Bessemer Ditch; Tom Pope, Riverside Dairy Ditch; Rick Kientiz, Aurora Water; Tom Browning, Atkins Global; and Curt Thompson, AECOM.

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

RECORD OF PROCEEDING

APPROVAL OF MINUTES:

President Long said the minutes of the February 21, 2019 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Felt moved, seconded by Mr. Clayton, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for February 2019 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Clayton, for acceptance of the February 2019 financial statements and payment of the March 2019 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

2019 ADOPTED BUDGET

Mr. Woodka reviewed the following three documents:

1. The 2019 Strategic Plan: The Strategic Plan was adopted in 2017 as a 15-year planning tool. It outlines four Strategic Initiatives, and aligns these with Action Plans.
2. The 2019 Business Plan: The Business Plan aligns anticipated District activities over the next three years with the Strategic Plan. It provides a general description and cost guidelines.
3. The 2019 Adopted Budget: The Budget document provides a summary of revenues and expenses for the upcoming year, as well as a recap of activities, programs, and projects from 2018.

Mr. Broderick said each document projects a different way of explaining some of the same topics. He commended the whole staff for a job well done.

FINANCIAL STRATEGY AND SUSTAINABILITY STUDY CENTRAL AREA OUTREACH

Mr. Broderick presented a PowerPoint, reviewing the following:

- Project Team
- Financial Strategy and Sustainability Study
- Financial Plan
- Policies Analysis
- Capital Improvement and Capital Projects Plan
- Revenue Requirement Analysis
- Cost of Service Analysis
- Rate Design Analysis
- Communication
- Schedule of Meetings
- Study Schedule
- Information Updates

RECORD OF PROCEEDING

UPDATE ON GROWING HEMP WITH RECLAMATION WATER OR FACILITIES

Lee Miller reported during the February 21, 2019 Board meeting, Eastern Colorado Area Office Deputy Area Manager Monica Griffitt made a presentation to the Board regarding the status of using federal water and facilities for industrial hemp cultivation. During Deputy Area Manager Griffitt's presentation, she indicated that a response to a letter from U.S. Senators Bennet and Tester regarding implementation of changes to the Controlled Substances Act made in the Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill.

The Board was provided a copy of the letter dated March 8, 2019 from Commissioner Burman to Senator Bennet, with an identical letter sent to Senator Tester.

After reviewing the Commissioner's response, Lee Miller said he has a few additional questions, which he sent to the Eastern Colorado Area Office on March 14, 2019.

1. Commissioner Burman's letter makes clear that "Reclamation is able to provide water for hemp cultivation in accordance with current law." The letter goes on to refer individuals and districts to the USDA and the states for compliance with legal and regulatory requirements. The previously applicable policy states that Reclamation does not have a responsibility or a designated role in enforcement in actively enforcing the law. What role will Reclamation take in assuring that hemp cultivation with Reclamation water is in accordance with legal and regulatory requirements?
2. Further, what obligations does Reclamation place on districts with which Reclamation has contracts to assure compliance with legal and regulatory requirements? Specifically, are districts charged with determining whether a state program complies with legal and regulatory requirements?
3. Assuming that Reclamation places obligations on contracting districts, what method of enforcement will Reclamation use to assure compliance?

Lee Miller said he also recently learned that the Colorado statutory program are not effective once USDA promulgates a program.

Lee Miller said he and Garrett Markus met with hemp cultivators on March 7, 2019 to explain the District's responsibilities. Letting the hemp cultivators know that the District is actively trying to get answers regarding this issue.

On February 27, 2019 Lee Miller wrote to the ECAO to request guidance consistent with the letter of September 17, 2018 from Area Manager J. Signe Snortland, into next steps for use of Fryingpan-Arkansas Project water for the cultivation of hemp consistent with a Colorado Department of Agriculture pilot project. Guidance was provided on March 4, 2019 as follows:

USDA has not yet drafted regulations for the 2018 Farm Bill, so we cannot offer any advice on complying with this recent law; however, there are regulations in place allowing irrigation of hemp

RECORD OF PROCEEDING

under the 2014 Farm Bill, if this would be a more comfortable approach for the District. The provisions include:

- Must be grown or cultivated for purposes of research
- Must be conducted under an agricultural pilot program or other agricultural or academic research
- Must be allowed under the laws of the State

Reclamation advised that to proceed under the 2014 Farm Bill provisions, a similar, but different, procedure to that used by Reclamation's Montana Area Office in 2018 to allow irrigation of industrial hemp with Federal water. In that case, (1) the landowner and her attorney requested a temporary water service contract from Reclamation for the water year. (2) The farmer was given a research exemption because of her work with an agricultural college. (3) The Montana Department of Agriculture authorized the crop under Montana's Industrial Hemp Pilot Program. (4) The Department of Justice reviewed the application prior to issuance of the temporary water service contract by Reclamation.

Since Reclamation does not issue temporary water service contracts from Pueblo Reservoir, the process would need to be adjusted, if the District wants to approve this application under the 2014 Farm Bill instead of the 2018 law. Reclamation has a water service contract with the District for allocation and delivery of water from Pueblo Reservoir. So, instead of issuing a temporary water service contract to the farmer, once the above steps (2), (3), and (4) were taken, Reclamation would inform the District that we believe allocation and delivery of water to the farmer would not be in violation of the District's contract with Reclamation, or conflict with any laws or policy.

ACTION ITEMS:**SALARY RANGES 2019-2021**

Chairman of the Human Resources (HR) Committee, Mr. Hamel, said it has been the practice of this District to conduct a compensation study every three years. In 2018 the District commissioned to have a market study completed, to make sure our salary ranges are in line with the Board's policy of setting the midpoint of salary ranges at the 70th percentile. Outside of salary survey adjustments, annual aging adjustments are made to salary ranges based on state data.

The HR Committee met on March 7, 2019, and after review of the 2018 Compensation Review FINAL document, prepared by District staff, it was recommended by the HR Committee to recommend to the Board, the approval of the salary ranges that incorporate a 40 percent spread with the annual aging adjustment of 2.2 percent increase for the 2019-2021 time period, and to maintain competitive ranges, the District would age the salary ranges annually. The Board members were provided a copy of the Salary Range 2019-2021 Recommendation 2.2 percent chart.

Mr. Hamel moved, seconded by Mr. Goodwin, the Board approve the salary ranges that incorporate a 40 percent spread with the 2.2 percent increase for the 2019-2021 time period, and to maintain competitive ranges, the District would age the salary ranges annually. Motion unanimously carried.

RECORD OF PROCEEDING

EXECUTIVE DIRECTOR EVALUATION

Chairman Hamel reported the Human Resources Committee evaluates the executive director's performance. President Long reviews the evaluations submitted by the Human Resources Committee members, and recommends an amount to be awarded, if any, to the Human Resources Committee for recommendation to the Board.

The HR Committee met on March 7, 2019 and discussed Mr. Broderick's annual performance review. During Executive Session, Mr. Broderick's performance was evaluated by the HR Committee. It is recommended that based on Mr. Broderick's excellent performance for the following:

- Hydroelectric Project-Maximizing the Fry-Ark Project to the benefit of the District.
- AVC – Continued creativity for a challenging project.
- Budget Book – Exceptional document that is very informative.
- Staff Development – He is getting the best out of a great staff.
- Contract and AVC Negotiations – A vision and planning for the future.
- Water Rate Study – Maintaining the financial health of the District.
- Inclusion Manual

The HR Committee recommends to the Board, that a five percent (5%) increase be retroactive to January 2019.

Mr. Hamel moved, seconded by Mr. May, to approve a five percent (5%) increase to be retroactive to January 2019 for the executive director. Motion unanimously carried.

MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Terry Dawson presented a PowerPoint presentation reviewing the following:

- As of March 18, 2019 there were 230,663 acre-feet stored in Pueblo Reservoir; 128,367 acre-feet of Project water; 34,427 acre-feet of Excess Capacity water; 51,131 acre-feet of Winter water
- There is currently 117,006 acre-feet of Project space in Pueblo Reservoir and 64,725 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Project Reservoirs: Turquoise 80%; Twin Lakes 101%; Pueblo 105%
- Total M&I Project water in the System
- Ensembles
- Snow Water Equivalent (Fremont, Independence, Ivanhoe, Nast)
- Colorado River Basin Time Series Snowpack Summary-Mar. 19, 2019
- Arkansas River Basin Time Series Snowpack Summary-Mar. 19, 2019

Discussion was had on setting up a meeting of entities to discuss the high amount of possible water that may be transferred downstream.

RECORD OF PROCEEDING

DIVISION ENGINEER'S REPORT

Bill Tyner presented a PowerPoint reviewing the following:

- Comparison of Comparable Snowpack Years
- Arkansas River Flows at Avondale/Purgatoire River Flows at Las Animas (1984,1993,2008, 2017)
- Pueblo Reservoir Content (acre-feet) March 15-November 14
- John Martin Reservoir Contents (acre-feet) March 15-November 14

U.S. GEOLOGICAL SURVEY REPORT

Krystal Brown presented a PowerPoint titled, *USGS Update: Evaluation of Selected Water-Quality Issues*, reviewing the following:

- Phosphorus
- Total Phosphorus 2000-Current Median, Maximum, Minimum
- Pueblo Reservoir 2000-Current Total Phosphorus (all depths) Median, Maximum, Minimum
- Arkansas River near Wellsville
- Arkansas River near Portland
- Arkansas River at Catlin Dam

STATE LEGISLATION UPDATE

Lee Miller reported on March 21, 2019, we will be about two-thirds of the way through this legislative session.

A few of the new bills that may have greater implications for the District include:

- HB19-1218: This bill would grant additional authority to the Colorado Water Conservation Board (CWCB) to use loaned water for in-stream purposes if the loaned water is to be used for preserving the natural environment of a stream reach that is subject to a decreed in-stream flow water right held by the CWCB. The bill would allow the CWCB to use the loaned water to improve the natural environment to a reasonable degree in accordance with a decreed in-stream flow right; and, most notably, preserve or improve the natural environment to a reasonable degree *for a stream reach for which the CWCB does not hold a decreed in-stream right*. Additionally, the bill would increase the number of years for the loan from the current 3 years in 10 to 5 years in 10 and would allow the loan to be renewed for 2 additional 10-year periods.
- SB19-184: This bill is in response to the rapidly emerging technology of blockchains. Governor Polis has announced a major long-term commitment by his administration to making Colorado a hub for the technology of blockchains. Blockchain technology is most often associated with cryptocurrency but it has a vast array of uses with respect to asset management, inventory control, product safety, and other applications where security of interchanges is of the highest priority. The bill authorizes the Colorado Water Institute to study the potential uses of blockchain technology in various water applications such as recording and monitoring water rights, developing market exchanges of water, creation and operation of water banks, aquifer

RECORD OF PROCEEDING

storage and retrieval and other applications. The Institute is not given a specific date by which the study must be completed. When it has accomplished its work, or can report progress, the results will be presented to the General Assembly.

The last day upon which the General Assembly may adjourn sine die is May 4, 2019. The General Assembly may adjourn earlier than that date, but not later than May 4.

INFORMATIONAL ITEMS:

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

- Water Court Resume
- Arkansas River Basin Water Forum – April 25-26 - Pueblo

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 11:39 a.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

