

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

September 21, 2017

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, September 21, 2017 at 9:35 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
Gibson Hazard	Tom Goodwin	Howard "Bub" Miller
Carl McClure	Curtis Mitchell	Dallas May
Mark Pifher	Seth Clayton	Alan Hamel
Kevin Karney	Greg Felt	

DIRECTOR(S) ABSENT AND EXCUSED:

None

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 Finance Coordinator/IT Leann Noga.

VISITORS PRESENT:

Scott Howell and Abby Ortega, Colorado Springs Utilities; Roy Vaughan and Shane Hayden, U.S. Bureau of Reclamation; Doug Fitzgerald, Congressman Scott Tipton's office; Roy Heald, Security Water District and Fountain Valley Authority; Jerry Peña, GEI Consultants; Bill McDonald, McDonald Consulting; Kevin Niles, Arkansas Groundwater Users Association; Bob Hamilton, retired; Steve Witte, Colorado Division of Water Resources; Bill Banks, U.S. Geological Survey; Bob Hartzman, Canon City Water Department; and Judy Leonard, Pueblo West Metropolitan District.

INTRODUCTION OF VISITORS:

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

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APPROVAL OF MINUTES:

President Long said the minutes of the July 20, 2017 Board meeting were posted to the Board website for review, and if there were any corrections or additions. Hearing none, Mr. Howard “Bub” Miller moved, seconded by Mr. Felt, to approve the minutes. Motion unanimously carried.

FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for July and August were posted to the Board website for review. Ms. Nichols moved, seconded by Mrs. Ortegon, for acceptance of the July and August financial statements and payment of the September 2017 bills. Motion unanimously carried.

CONSENT ITEMS:

None

PRESENTATIONS:

DISTINGUISHED BUDGET PRESENTATION AWARD FOR THE 2016 BUDGET PUBLICATION

President Long reported the Government Finance Officers Association (GFOA) awards the Distinguished Budget Presentation Award to governments with very high quality that reflects both the guidelines established by the National Advisory Council on state and local budgeting and the GFOA’s best practices on budgeting.

President Long read the letter notifying the District of its receipt of the Distinguished Budget Presentation Award for the current budget from the GFOA. When the Distinguished Budget Presentation Award is granted to an entity a Certificate of Recognition for Budget Presentation is also presented to the individual or department designed as being primarily responsible for its having achieved the award. President Long recognized Leann Noga for taking the lead. The Budget Team was presented the Certificate of Recognition for Budget Presentation. The Budget Team was made up of James Broderick, Leann Noga, Toni Gonzales, and Chris Woodka. President Long presented the Distinguished Budget Presentation Award to the Budget Team. Ms. Noga acknowledge the Budget Team for working together and providing the document that was submitted and said each year the Budget Team will work on the suggested improvements. This is the sixth consecutive year the District has received this award.

ACTION ITEMS:

APPOINTMENT OF BUDGET OFFICER

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).

Ms. Nichols moved, seconded by Mr. Clayton, to appoint Finance Coordinator Leann Noga as the Budget Officer for the 2018 District budget preparation. Motion unanimously carried.

SET PUBLIC HEARING FOR 2018 PROPOSED BUDGET

Ms. Nichols reported the Board conducts a Public Hearing each year prior to adopting the annual budget, which a published notice is required.

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Ms. Nichols moved, seconded by Mr. Hazard, the Board set November 9, 2017 at 9:45 a.m. at the office of the Southeastern Colorado Water Conservancy District for a Public Hearing for the 2018 Proposed Budget. Motion unanimously carried.

RESOLUTION NO. 2017-01-DF, ADOPTION OF SUNFLOWER BANK CORPORATION AUTHORIZATION RESOLUTION, AND RESOLUTION AUTHORIZING TREASURY MANAGEMENT SERVICES

Leann Noga reported it is staff's recommendation to adopt the Resolution No. 2017-01-DF, completion of the Sunflower Bank signature cards, and the Resolution Authorizing Treasury Management Services be adopted by the Board. The above recommendations will complete updating all the District banking services.

Mr. Goodwin moved, seconded by Mr. Karney, the Board adopt Resolution No. 2017-01-DF, the Sunflower Bank Corporate Authorization Resolution, and the Sunflower Bank Resolution authorizing Treasury Management Services. Motion unanimously carried.

INCLUSION OF LAND ANNEXED BY THE CITY OF PUEBLO

Garrett Markus reported the Resource and Engineering Planning Committee met on September 7, 2017 and recommends the Board approve the inclusion of the Airport West Annexation parcels of land annexed by the City of Pueblo 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 Bureau of Reclamation (Reclamation) for assent. Then the District will submit the inclusion to the District Court for final decree.

The Application of Assent has been submitted to the District and will be forwarded to Reclamation for these properties.

The Resolution for Inclusion are as follows:

RESOLUTION NO.	More Commonly Known As	Legal	Acres	
2017-31D INCL-AX	Airport West - Phase 1 Sec 22 T20SR64	West of North 27th Lane, South of Rawlings Blvd and North of Pete Jimenez Blvd	867.39	Agricultural vacant range
	Airport West - Phase 2 Sec15 T20SR64	West of North 27th Lane and North of Rawlings Blvd	287.39	Agricultural vacant range
	Airport West - Phase 3 Sec 27 & 15 T20SR64	West of the Pueblo Airport Industrial Park and South of Pete Jimenez Blvd	157.01	Agricultural vacant range
TOTAL			1311.79	

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I move that the Board approve, by Resolution, the inclusion of the Airport West annexed by the City of Pueblo 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 Fryingpan-Arkansas Project water available to the City of Pueblo. Any Fryingpan-Arkansas Project water used on these included lands will need to come from the water allocated to Pueblo through Fryingpan-Arkansas Project water allocations made pursuant to the District's Allocation Principles and Policies; and
2. Any use of Fryingpan-Arkansas Project water on the included lands is subject to the 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.

Ms. Nichols moved, seconded by Mr. Hamel, motion unanimously carried.

Jim Spaccamonti was present representing the City of Pueblo. He was asked what the land was going to be used for, he responded that it would be changing from ag land to commercial/residential land.

2017 CONSERVATION AND MANAGEMENT PLAN

Mr. Woodka reported a condition of the District Master Contract with Reclamation is to develop a Conservation and Management Plan (Plan) every five years. The District is also required to have a Plan to ensure efficient use of water by the Constitution, statutes, and State Water Plan.

This year's Plan was developed in a way similar to past years, but is displayed in a user-friendly magazine-style format with colorful photos, informative graphics, and concise writing.

The Appendices of the Plan are contained in a CD, that is pasted in the back cover of the Plan. The Plan is intended to be inclusive of past conservation efforts of the District as well as identifying emerging needs, such as expanded outreach, communication, and watershed health.

The Resource and Engineering Planning Committee met on September 7, 2017, reviewed the Plan, and voted to recommend the Board approve the 2017 Conservation and Management Plan.

Mr. Felt moved, seconded by Mr. Pifher, to approve the 2017 Conservation and Management Plan. Motion unanimously carried.

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COLORADO WATER PROTECTION AND DEVELOPMENT ASSOCIATION (CWPDA), EDISON SCHOOL DISTRICT 54JT, AND FOUNTAIN MUTUAL IRRIGATION COMPANY (FMIC) (CASE No. 16CW3080): APPROVAL OF AGREEMENT AND STIPULATION

Lee Miller reported CWPDA, Edison School District 54JT, and FMIC (Applicants) filed an application in Case No. 16CW3080 on November 30, 2016. The District filed a Statement of Opposition on January 24, 2017. Case No. 16CW3080 seeks to add a structure to CWPDA's blanket augmentation plan decreed in Case No. 07CW128. The District's primary focus is to ensure that Project Water Return Flows are not used to augment structures that are ineligible to receive an allocation of Project Water Return Flows.

The District's objectives in Case No. 16CW3080 are to ensure that: (1) the proposed decree specifies whether Project Water Return Flows may be used as an augmentation source; (2) the proposed decree is consistent with relevant terms of the decree entered in Case No. 07CW128; and (3) the proposed decree provides sufficient protections to the District's water rights and exchanges by specifying that the timing and amount of replacement water will be adequate to replace depletions to the Arkansas River from the Edison School Well.

General Counsel and Special Water Counsel believe the proposed decree and agreement provided to the Board satisfy these objectives. The structure in Case No. 16CW3080 is located outside of the District's boundaries, and is thus ineligible to receive an allocation of Project Water or Project Water Return Flows. Paragraph 8.c of the proposed decree states that Project Water and Project Water Return Flows may not be used as an augmentation source for the additional structure. Paragraph 8.d of the proposed decree states that it does not change any provisions of the Decree in Case No. 07CW128, other than the inclusion of the additional structure, and requires Applicants to account for and replace all out-of-priority stream depletions in accordance with the terms and conditions of the Decree in Case No. 07CW128. Paragraph 8.d summarizes how replacements will be made, and indicates that those replacements will be sufficient to replace depletions to the Arkansas River.

As part of our settlement discussions in Case No. 16CW3080, Special Water Counsel negotiated the Agreement with CWPDA. This Agreement is designed to govern future circumstances in which CWPDA seeks to add structures to the augmentation plan decreed in Case No. 07CW128, and hopefully make these cases more routine. The District entered into a similar agreement with LAWMA in 2016 regarding structures to be added to LAWMA's plan for augmentation (the LAWMA Agreement is discussed in the Information Item at Agenda Item VII.c). Like the LAWMA agreement, the proposed Agreement sets forth a procedure for CWPDA and the District to confer regarding any structures to be added to the augmentation plan. The hope is that in the process of this conferral, the District and CWPDA can agree whether Project Water and Project Water Return Flows are appropriate augmentation sources. In the event that the District and CWPDA can reach such an agreement, the District will not need to file a Statement of Opposition in future cases where CWPDA seeks to add structures to the augmentation plan decreed in Case No. 07CW128.

Mr. Hazard moved, seconded by Mr. Hamel, to authorize the District to execute an agreement with CWPDA governing addition of structures to the augmentation plan decreed in Case No. 07CW128 that is consistent with the Agreement, and Special Water Counsel to execute a stipulation with Applicants in

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Case No. 16CW3080 consenting to entry of a proposed decree consistent with that dated August 7, 2017. Motion unanimously carried.

AUTHORIZATION NEGOTIATION OF 1982 CONTRACT AMENDMENT AND CONVERSION TO REPAYMENT CONTRACT

Staff recommends that the District Board authorize immediately entering into negotiations with the Bureau of Reclamation (Reclamation) to negotiate an amendment to the contract between the United States of America and the District to: (i) extend the repayment for the District's allocated share of the construction costs of the Fryingpan-Arkansas Project to the maximum period permitted under the authorizing legislation, (ii) change to advance payment of annual operation, maintenance and replacement (OM&R) costs, and (iii) create an OM&R reserve fund to finance extraordinary maintenance and replacement work on the Project. In addition, staff recommends that the District Board authorize entering into negotiations following completion of this contract amendment to convert the contract into a repayment contract pursuant to subsection (d) of Section 9 of the Reclamation Project Act of 1939 covering the agricultural purposes and pursuant to subsection (c)(1) of Section 9 of said act, covering the municipal purposes, for the remainder of the 50-year period authorized for such contracts. Changing to advance payment of annual OM&R costs and creation of an OM&R reserve fund are current Reclamation requirements and will have to be included in the conversion to a repayment contract.

Bill McDonald provided a PowerPoint that reviewed the following:

- The Contract between the District and the Bureau of Reclamation was signed on January 21, 1965. It was a far-reaching document that framed the issues surrounding the repayment to the federal government for the local municipal, industrial and agricultural share of the construction cost of the Fryingpan-Arkansas Project.
- The repayment obligation of the District is the primary, but not the only, purpose of the contract with Reclamation first signed in 1965 and amended 10 times since. It was amended in 1981 to state that it took effect on January 1, 1982, to reflect final construction costs & repayment requirements. For this reason we will refer to the contract as the "1982 Contract."
- Contract conversion
The 1982 contract expires at the end of 2021. Because the 1982 contract is expiring, the District and Reclamation must replace it. There are two options for the next contract:
 - Renew as a water service contract
 - Convert to a repayment contract

The important difference between the 2 forms of contract is their duration, or term. By statute, a water service contract can have a term of no longer than 40 years. However, Reclamation has the discretion to use a shorter term. At times, Reclamation has limited the terms of these contracts to 25 years. In contrast, there is no statutory limit on the term of a repayment contract. Traditionally, Reclamation does not require a termination date in these contracts. Thus, they are referred to as being contracts in perpetuity.

- OM&R Reserve Fund
There are several reasons to create the OM&R reserve fund through the contracting process.

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- Fry-Ark facilities are aging.
- Increasing extraordinary maintenance over time, leading to increased and increasingly expensive repairs.
- Large replacement costs are coming, and they may not always be anticipated or scheduled.
- Key Elements of Immediate Amendment
 - The proposed approach to creating a reserve fund will have to be addressed contractually given how the 1982 contract handles the use of ad valorem tax revenues and given that the contract has no mechanism for a reserve fund. The point of the amendment would be to affect the proposed approach to creating the OM&R reserve fund now rather than waiting for the conversion to a repayment contract. The amendment would provide that:
 - Ad valorem tax remains at 0.9 mills.
 - Extend repayment of construction costs to the full 50 years allowed by statute (2031).
 - Application of tax revenues:
 - 1st to annual OM&R costs (including extraordinary maintenance and replacements);
 - 2nd to the reduced annual construction payment; and
 - Remainder, if any to OM&R reserve fund.

First two items are payments to Reclamation. The reserve fund is kept by the District (must be federally insured or in U.S. Treasury bonds).

Since this is only an amendment of the 1982 contract, it will be superseded within a couple of years.

I move to authorize:

1. immediately entering into negotiations with the Bureau of Reclamation to negotiate an amendment to the contract between the United States of America and the District to extend the repayment for the District's allocated share of the construction costs of the Fryingpan-Arkansas Project to the maximum period permitted under the authorizing legislation, to change to advance payment of annual operation, maintenance and replacement (OM&R) costs, and to create an OM&R reserve fund to finance extraordinary maintenance and replacement work on the Project; and
2. entering into negotiations following completion of the contract amendment to convert the contract into a repayment contract pursuant to subsection (d) of Section 9 of the Reclamation Project Act of 1939 covering the agricultural purposes and pursuant to subsection (c)(1) of Section 9 of said act, covering the municipal purposes, for the remainder of the 50-year period authorized for such contracts.

The Board had a lengthy discussion regarding the timing of moving forward, and agreed this is a good time to begin the process. There was also discussion that the constituents of the District need to be kept informed of the process through continued outreach.

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Mr. Goodwin moved, seconded by Mrs. Ortegon, to authorize number one and two above. After discussion of the motion's wording it was suggested that number one be amended to the following:

1. immediately entering into negotiations with the Bureau of Reclamation to negotiate an amendment to the contract between the United States of America and the District to address extending the repayment period for the District's allocated share of the construction costs of the Fryingpan-Arkansas Project to the maximum period permitted under the authorizing legislation, Reclamation's requirement for eventually changing to advance payment of annual operation, maintenance and replacement (OM&R) costs, and Reclamation's requirement to create an OM&R reserve fund to finance extraordinary maintenance and replacement work on the Project; and

Mr. Pifher moved, seconded by Mr. Karney, the amendment, which passed unanimously. Following passage of the amendment, the Amended motion unanimously carried.

MONTHLY/QUARTERLY REPORTS**U.S. BUREAU OF RECLAMATION**

Roy Vaughan provided a PowerPoint presentation reviewing the following:

- As of September 18, 2017 there were 210,309 acre-feet stored in Pueblo Reservoir; 126,339 acre-feet of Project water; 53,331 acre-feet of Excess Capacity water; 30,614 acre-feet of Winter water.
- There is currently 119,037 acre-feet of Project space in Pueblo Reservoir and 11,098 acre-feet of space in Turquoise and Twin Lakes Reservoirs.
- Charts illustrating storage amounts in Turquoise, Pueblo, and Twin Lakes.
- Total M&I Project Water in the System.
- Project Reservoirs: Turquoise 106%; Twin Lakes 106%; Pueblo 135%
- Boustead Imports to Date – 77,009 a.f.
- Ivanhoe SNOTEL-Precipitation
- Arkansas River Basin Time Series Snowpack Summary June 14, 2017
- Upper Colorado River Basin Time Series Snowpack Summary June 14, 2017
- May 1 Forecast-77,700 Acre-Feet
- U.S. Drought Monitor

Mr. Vaughan stated the collection system is being winterized, and Mt. Elbert conduit is currently off. At the present time Reclamation is not moving any Project water from Twin Lakes to Pueblo. Reclamation plans to move an additional 50,000 af from the upper reservoirs. Movement of water will be adjusted according to the forecast and customer's needs.

DIVISION ENGINEER'S REPORT

Steve Witte reported on the following:

- River and Reservoir Report
 - Reference Arkansas River Daily Report. River Call is:
 - i) 2/31/1884 Catlin
 - ii) 5/31/1949 Compact Call
- <http://www.dwr.state.co.us/div2/aras/arascal.asp>

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- Current River/Reservoir Operations
 - Pueblo Reservoir
 - i) Content is 208,496 af.
 - ii) Project and Winter water account balances diminishing
 - iii) Planned experimental release to front load delivery of 200 cfs Project water to Ft. Lyon set to begin September 22, 2017
 - John Martin Conservation Storage ended July 17, 2017 and current content is 243,132 af
 - i) Only Amity can call through
- Compact Issues
 - ARCA Special Engineering Committee – No progress
 - Pre-ARCA Issues briefing scheduled for November
- Administrative Activities
 - Arkansas River Decision Support Contracts have been finalized
 - i) Wilson Water Group (Surface Water/Consumptive Use Model)
 - (1) Interviews of water commissioners re irrigated acreage
 - ii) HRS Water Consultants (GIS and spatial data)
 - iii) Leonard Rice Engineers (Administrative tools for improvements for Division of Water Resources and Ark Basin Water Users).
 - (1) Interviews of 2/3 Ground Water Associations
- Personnel
 - State Engineer – Kevin Rein
 - CWCB Director (ARCA head of delegation) – Rebecca Mitchell
 - Assistant State Engineer – Tracy Kosloff (Intrastate Water Supply team and the Hydrogeologic Services team)
 - Water District 12 – Dan Henrichs
 - PSRS Ground Water Information – Monica Long

U.S. GEOLOGICAL SURVEY

Bill Banks presented a PowerPoint reviewing the following:

- Map of Monthly-average Streamflow for the Month of Year-August 2017
- Map of 28-Day Average Streamflow Compared to Historical Streamflow for the Day of the Year-September 19, 2017
- Runoff Hydrograph
- Map of Flood and High Flow Conditions
- Most Recent Flow and Stage for Colorado
- Arkansas River at Avondale

STATE LEGISLATION UPDATE

Lee Miller reported the Water Resources Review Committee (WRRC) has met for five separate days over the course of August and September, with three more meeting days scheduled in October. Following the first two days the WRRC met, Representative KC Becker left the WRRC, and was replaced by Representative Daneya Esgar from Pueblo.

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Jim Broderick addressed the WRRC on August 2, 2017, providing an update on the District's projects and activities. Jim was on a panel with Jack Goble, Lower Arkansas Valley Water Conservancy District, to address Arkansas River management issues.

During the last WRRC meeting on September 7, 2017, WRRC members requested the Legislative Counsel Office to draft 11 bills for consideration by the WRRC. The requests to draft committee legislation or a resolution included the following topics:

1. Municipal water sharing;
2. Substitute water supply plans for gravel pits;
3. The "Mussel-Free Colorado Act";
4. Reclaimed water use for edible agriculture crops;
5. Reclaimed water use for toilet flushing;
6. Reclaimed water use for marijuana crops;
7. Reclaimed water use for industrial hemp crops;
8. To improve efficiencies within CDPHE;
9. Keeping groundwater levels to a certain level below the ground surface;
10. The study of high groundwater levels in the South Platte basin; and
11. Related to the loan programs for the Colorado Water Resources and Power Development Authority.

Each bill recommended by the WRRC must be approved by a two-thirds vote of the WRRC members, or at least seven members. The WRRC is limited to recommending three bills to the Legislative Council, unless two-thirds of the WRRC members vote to recommend a greater number. Such greater number may not exceed one bill or other measure per member or up to ten bills and resolutions.

For more information on the WRRC, please see <https://leg.colorado.gov/committees/water-resources-review-committee/2017-regular-session>.

Apart from the WRRC, Lee Miller has been actively participating in meetings convened by Northern Water to address issues related to Northern Water's mitigation requirements for permitting of its Northern Integrated Supply Project. The meetings have involved more than 50 people representing water interests throughout the state. Senator Jerry Sonnenberg introduced SB17-282 during the last session to address this problem, but that bill failed. The District's main goal in working with Northern Water during the session and these most recent meetings is to assure that the bill would not impact the Upper Arkansas Voluntary Flow Management (VFMP) program and agreement that the District has been instrumental in effectuating since 1991.

INFORMATIONAL ITEMS:

Mr. Broderick announced that the process to fill the El Paso County seat left vacant, due to Mr. Bostrom's passing will begin in October. The Board will also elect a Vice President in October to finish off the term of Mr. Bostrom.

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Mr. Broderick said that each Board member was provided a copy of a memo to Bill Long from Lee Miller regarding “Temporary Mill Levy Reduction” and a summary document Mr. Woodka created of the Framing the Future. Mr. Broderick said that after reviewing the documents, if the Board had any questions to please contact him or staff.

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

- Water Court Resume
- Legal Quarterly Update
- Lower Arkansas Water Management Association (LAWMA) Amended and Restated Agreement
- 2018 Budget Calendar
- Winter Water Annual Meeting – October 20, La Junta
- NWRA 86th Annual Conference – November 15-17 – Tucson, AZ
- 2017 CRWUA Annual Conference, December 13-15, Las Vegas, NV
- November Board Meeting – November 9
- December Board Meeting – December 7

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:01 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary

