

MINUTES¹
FIRST REGULAR QUARTERLY MEETING OF THE BOARD OF DIRECTORS
OF THE COLORADO RIVER WATER CONSERVATION DISTRICT

January 19-20, 2010

Pursuant to notice duly and properly given, the First Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, January 19-20, 2010 at the Hotel Colorado, 526 Pine Street, Glenwood Springs, Colorado.

Directors present during all or part of the meeting:

Andrew A. Mueller, President	Thomas R. Sharp, Vice President
Tom Alvey	Jon Stavney
David H. Merritt	James Newberry
William S. Trampe	Warner Dewey
Richard Proctor	Tom Gray
Stephen M. Mathis	John Ely
Forrest F. Nelson	Rebie Hazard
Gary Martinez	

Directors not present:

Others present during all or part of the meeting:

Eric Kuhn, Secretary/General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
Dan Birch, Deputy General Manager, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
Jason Turner, Associate Counsel, CRWCD
Mary Kalmes, Senior Accountant/Administrative Chief, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Ray Tenney, Senior Water Resources Engineer, CRWCD
Don Meyer, Senior Water Resources Engineer, CRWCD
Mike Eytel, Water Resources Specialist, CRWCD
Jim Pokrandt, Communication and Education Specialist, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Rob Streit, Senior Accountant, CRWCD
Denise Hussain, Records Specialist, CRWCD
Audrey Hughes, Human Resources Specialist, CRWCD
Dave Smith, Engineering Technician, CRWCD
Keri Wagstrom, Administrative Assistant, CRWCD
David Brown, USGS
Sonja Baca-Chavez, Selenium Task Force
Carol DeAngelis, U.S. Bureau of Reclamation
Ed Warner, U.S. Bureau of Reclamation
Dennis Webb, Daily Sentinel

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An audio recording has been made of the meeting. The motions described herein may not necessarily represent a verbatim transcription. The audio recordings are available for listening at the CRWCD offices during regular office hours. These minutes are the official record of the Colorado River Water Conservation District's meeting.

John Currier, Resource Engineering
Nathan Fey, American Whitewater
Jeffery Schneider, Town of Avon
Shanna Koenig, Water Quality & Quantity Committee

Quorum.

President Mueller found a quorum and called the meeting to order at 9:02 a.m.

Review Agenda and Meeting Objectives.

President Mueller proposed that agenda items 6., Designation for Posting Notices; and, agenda item 7., Annual Staffing Determinations be moved to the Consent Agenda as agenda items 8.a., and 8 b., with the existing item, Approval of Minutes and Actions Taken, being lettered as agenda item 8c. Director Merritt moved, seconded by Director Mathis, to approve the agenda as amended. Motion carried unanimously.

Report and Presentation of Credentials for Directors.

Director Sharp moved, seconded by Director Hazard, to accept the credentials of Directors Alvey (Delta County), Stavney (Eagle County), Newberry (Grand County), Dewy (Hinsdale County) and Director Martinez (Summit County). Motion carried unanimously. (The credentials are attached as Appendices A-E.)

Election of President and Vice President.

Director Mathis moved, seconded by Director Proctor, to nominate Director Mueller for President. Director Merritt moved, seconded by Director Nelson, to close the nominations and elect Director Mueller by affirmation. Motion carried unanimously. Director Dewey moved, seconded by Director Mathis, to nominate Director Sharp for Vice President. Director Merritt moved, seconded by Director Proctor, to close nominations and elect Director Sharp by affirmation. Motion carried unanimously.

Resolution for Outgoing Director.

Director Mathis moved, seconded by Director Nelson, to approve a resolution expressing the board's appreciation to Thomas A. "Tom" Long for his service as a River District director. Motion carried unanimously.

Appointment of Committees for 2010.

President Mueller and Eric Kuhn provided background information regarding appointments to the Executive Committee which, historically, has rotated among counties within basin and sub-basin groups of counties and includes the President as chairman. The 2010 Executive Committee is comprised of directors from Grand, Hinsdale, Montrose, Pitkin, and Rio Blanco Counties as well as the Board President. Other committee assignments are made by the President and Vice President. Pursuant to the Joint Management Agreement with the Bluestone Water Conservancy District, Mesa County and Garfield County directors were appointed to the Bluestone Management Committee.

Consent Agenda.

Director Merritt moved, seconded by Director Proctor, to approve the following consent agenda as presented. Motion carried unanimously.

- a. Designation for Posting Notices.
- b. Annual Staffing Determinations:
 - i. Reappointment of General Manager, General Counsel and Treasurer.

- ii. Confirmation of Assistant Secretary.
- c. Approval of Minutes and Actions Taken:
 - i. Minutes of the Fourth Regular Quarterly Meeting, October 20-21, 2009.
 - ii. Minutes of the Special Joint Meeting, Telephone Conference, November 25, 2009.
 - iii. Minutes of the Special Meeting, Telephone Conference, January 5, 2010.

General Counsel's Report - Executive Session.

Peter Fleming reported that the following matters qualify for discussion in Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations):

- i.. Colorado River Basin Proposal, Blue River Decree and Moffat System Issues:
 - (a). Denver's Blue River System Diligence Applications, Case Nos. 06CW255 and 03CW39, Water Division 5, and
 - (b). Denver's Williams Fork and Fraser (Moffat) Project Diligence Applications in Case Nos. 07CW29, 07CW30 and 07CW31, Water Division 5.
- ii. C-BT Project Operations, Windy Gap Firming Project and Upper Colorado Stream Flow Management.
- iii. Colorado River Wild and Scenic Stakeholders Group Proposal for Alternative Management Plan.
- iv. 10th Circuit Ruling on Climax Mine Motion to Intervene in Blue River Decree.
- v. Colorado River District Conditional Water Rights.
- vi. Implementation of HB09-1303, State Engineer's Produced Non-Tributary Groundwater Rule-making.
- vii. Colorado River Interstate Compact Issues.

Director Hazard moved, seconded by Director Martinez, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations). Motion carried unanimously.

Peter Fleming stated that no further record of the portion of the Executive Session in which legal advice or negotiations are discussed would be kept based on his opinion that the discussion will constitute privileged attorney-client communications.

President Mueller reconvened into public session at 2:02 p.m.

General Counsel's Report - Public Session.

Peter Fleming reported that during Executive Session, the Board provided guidance to staff and General Counsel on the following matters:

- i.. Colorado River Basin Proposal, Blue River Decree and Moffat System Issues:
 - (a). Denver's Blue River System Diligence Applications, Case Nos. 06CW255 and 03CW39, Water Division 5, and
 - (b). Denver's Williams Fork and Fraser (Moffat) Project Diligence Applications in Case Nos. 07CW29, 07CW30 and 07CW31, Water Division 5.
- ii. C-BT Project Operations, Windy Gap Firming Project and Upper Colorado Stream Flow Management.
- iii. Colorado River Wild and Scenic Stakeholders Group Proposal for Alternative Management Plan.
- iv. 10th Circuit Ruling on Climax Mine Motion to Intervene in Blue River Decree.

- v. Colorado River District Conditional Water Rights.
- vi. Implementation of HB09-1303, State Engineer's Produced Non-Tributary Groundwater Rule-making.
- vii. Colorado River Interstate Compact Issues.

Director Sharp moved, seconded by Director Alvey, to confirm the River District's intent to maintain the Rampart Reservoir Second Fill right, and direct staff and counsel to file an application seeking a finding of reasonable diligence in Rampart Reservoir Second Fill, Case No. 03CW24, Water Division 6. Motion carried unanimously.

Director Mathis moved, seconded by Director Merritt, to declare the River District's intent to abandon the Pot Hook Reservoir Second Fill storage right, Case No. 03CW30, Water Division 6, and direct staff and counsel to file a notice of abandonment with the Division 6 Water Court. Motion carried unanimously.

Director Stavney moved, seconded by Director Gray, to authorize staff and Counsel, based on current workload and commitments, to file an *amicus curiae*, or to join another party's brief in support of the Upper Yampa Water Conservancy District's appeal in Upper Yampa Water Conservancy District v. State/Division Engineers, Water Division 6, Case No.09SA352. Motion carried unanimously. Vice President Sharp abstained from the vote.

Director Alvey moved, seconded by Director Merritt, authorize staff and counsel, the discretion to file an *amicus curiae* brief or, to join another party's brief in support of the Farmers Reservoir and Irrigation Company's appeal in City of Englewood v. Burlington Ditch Reservoir & Land Co. et al., Case No. 09SA133. Motion carried unanimously.

Mr. Fleming referred the Board to a memo from Mike Eytel outlining a request to the River District to act as a fiscal agent for the Colorado Water Conservation Board (CWCB) by entering into a "pass-through" contract with Miller Ecological for a stream flow study on the Colorado River. The effort is being funded solely by the CWCB.

Director Nelson moved, seconded by Director Martinez, to approve entering a "pass through" contract with Miller Ecological. Director Sharp moved, seconded by Director Trampe, to amend the motion to include a clause in the contract to preserve the River District's right to challenge the results of the Miller Ecological study. Directors Nelson and Martinez accepted the amendment, and the motion as amended, carried unanimously.

Director Sharp moved, seconded by Director Trampe, to approve an increase in special counsel rates for 2010.

Approval of Treasurer's Reports.

Director Mathis moved, seconded by Director Alvey, to approve the treasurer's reports for September, October and November 2009. Motion carried unanimously.

General Manager's Report.

Activities and Priorities for 2010:

Eric Kuhn reviewed River District activities and priorities for the upcoming year including: 1) continued participation the Colorado River Basin Proposal mediation; 2) facilitation of the ongoing efforts to achieve a 10,825 solution; 3) continued participation in the Wild and Scenic Alternative Plan process; 4) interview to fill the position of River District Chief Engineer ; and, 5) gather and analyze the dam settlement data collected at Wolford Mountain Reservoir in 2009 and consider long term solutions to address the settlement issue.

HB-1177 Roundtables/IBCC Update:

Mr. Kuhn reported that the HB-1177/ Roundtables process is entering its fifth year and frustrations are building among Roundtable members as well as legislators regarding the process. East Slope Roundtables are frustrated by the discussions surrounding new transmountain diversions, while West Slope participants have concerns regarding the role of the IBCC in promoting a "top down" effort instead of a "bottom up" approach for future water projects and water supply planning.

Colorado River Interstate Issues:

Mr. Kuhn related that a Colorado River basin-wide study is currently underway with the U.S. Bureau of Reclamation as the lead agency. The purpose of the study is to analyze system demands and water availability under climate change conditions, system reliability, environmental issues and augmentation strategies for the Colorado River Basin.

Service Anniversaries Recognition:

Eric Kuhn expressed the River District's appreciation to Gail Guentzel, Dave Kanzer, and Ray Tenney for their years of service at the River District.

President Mueller adjourned the meeting at 3:01 p.m.

Wednesday, January 20, 2010

President Mueller found a quorum and reconvened the meeting at 8:21 a.m.

Information and Outreach Committee Report.

Jim Pokrandt summarized the efforts that will be made in 2010 regarding information and outreach including: 1) a billboard campaign on both the East and West Slope to help people understand the connection between West Slope snowpack and their domestic water needs; 2) commissioning a book on the River District's history to commemorate the District's 75th anniversary in 2012; 3) the continuation of the River District's participation in Water Camp, State of the River meetings, and various water festivals; and, 4) production of the Annual Report.

External Affairs.

State Affairs:

Chris Treese noted that budget issues will again dominate the 2010 legislative session as they did in 2009, and any legislation introduced that has a fiscal impact will be difficult to pass.

House Bill 10-1159: CONCERNING THE WATER COURT'S AUTHORITY TO CONSIDER CONDITIONS IN DECREES TO ADDRESS THE EFFECTS OF A WATER EXPORT ACROSS WATER DIVISION BOUNDARIES.

Recommendation: Support.

Mr. Treese reported that **HB-10-1159** would allow water judges to impose conditions for mitigation if none could be agreed upon by the water user and the local conservancy/conservation district on new decrees for transbasin diversions in excess of 1,000 a.f. to protect current and future water users in the exporting basin.

Director Sharp moved, seconded by Director Mathis, to support **HB-10-1159** in concept. Motion carried unanimously.

House Bill 10-1006: CONCERNING INCREASED FUNDING FOR THE DIVISION OF WATER RESOURCES FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND.

Recommendation: Support.

Mr. Treese relayed that **HB-10-1006** would provide the majority of Division of Water Resources funding from the severance tax trust fund, thereby all but eliminating the Division's reliance upon funding from the general fund.

Director Merritt moved, seconded by Director Alvey, to support **HB-10-1006**. Motion carried unanimously.

House Bill 10-1051: CONCERNING ADDITIONAL INFORMATION REGARDING COVERED ENTITIES' WATER EFFICIENCY PLANS.

Recommendation: Support in Concept.

Mr. Treese reported that currently any provider of 2,000 a.f. or more of retail water annually must file a water conservation plan with the state and have it approved. This bill would increase the scope of information and reporting frequency required by the state. Concerns water providers have expressed include the burden of increased costs to provide this information as well as having meaningful and comparable information gathered. Staff is currently working with water providers to address these concerns.

Director Nelson moved, seconded by Director Gray, to support **HB-10-1051** in concept. Motion carried unanimously.

House Bill 10-1086: CONCERNING A LIMITATION OF LANDOWNERS' LIABILITY.

Recommendation: Support.

This legislation would modify current state law and specifying that water facilities are not an attractive nuisance which would reduce liability for both private landowners and water providers who have water-related infrastructure.

Director Sharp moved, seconded by Director Mathis, to support **HB-10-1086**.

Senate Bill 10-019: CONCERNING THE VALUATION OF HYDROELECTRIC ENERGY FACILITIES FOR THE PURPOSE OF PROPERTY TAXATION.

Recommendation: Support.

The intent of this legislation is to provide property tax incentives for new hydroelectric facilities by receiving the same favorable property valuation that new wind energy and solar energy facilities receive.

Director Gray moved, seconded by Director Martinez, to support **SB-10-019**. Motion carried unanimously.

Senate Bill 10-025: CONCERNING THE LONG-TERM FUNDING OF THE WATER EFFICIENCY GRANT PROGRAM.

Recommendation: Support.

Mr. Treese reported that the CWCB's Water Efficiency Grant Program sunsets in 2012. **SB 10-025** would extend that date to 2020.

Director Alvey moved, seconded by Director Proctor, to support **SB-10-025**. Motion carried unanimously.

Senate Bill 10-027: CONCERNING A FINE FOR THE UNAUTHORIZED DIVERSION OF SURFACE WATER.

Recommendation: Support.

Mr. Treese stated that **SB 10-1027** was introduced at the request of the State Attorney General's Office and it would allow water courts to fine \$500 per day for out-of-priority diversions of surface water. Concerns expressed by the Board included the need for adequate notice to water users in violation, the potential for abuse, and an inability to cure before fines are imposed.

Director Sharp moved, seconded by Director Trampe, to monitor **SB 10-27**.

After further discussion by the Board regarding the amount of authority that would be delegated to Division Engineers by this bill, Director Sharp moved, seconded by Director Trampe, to withdraw the original motion and offer a new motion as follows: To oppose **SB 10-027**. Motion carried unanimously.

Senate Bill 10-052: CONCERNING THE ABILITY OF THE GROUNDWATER COMMISSION TO ALTER THE BOUNDARIES OF A DESIGNATED GROUNDWATER BASIN.

Recommendation: Monitor.

Director Stavney moved, seconded by Director Proctor, to monitor **SB 10-52**. Motion carried unanimously.

Senate Bill 10-067: CONCERNING THE EXEMPTION OF CERTAIN SCHOOL WELLS FROM THE LAWS GOVERNING THE ADMINISTRATION OF WATER RIGHTS.

Recommendation: Oppose.

Director Stavney moved, seconded by Director Mathis, to oppose **SB 10-067**. Motion carried unanimously.

Senate Bill 10-078: CONCERNING THE USE OF REUSABLE EFFLUENT THAT HAS BEEN DISCHARGED BACK TO A WATER BODY FROM A DOMESTIC WASTEWATER FACILITY AFTER BEING PUT TO BENEFICIAL USE.

Recommendation: None Offered.

After a lengthy discussion, staff was directed to further analyze both the potential benefits and possible deleterious effects of **SB 10-078** and report to the Board at a later date.

Senate Joint Resolution 10-004: CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO RIVER WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.

Recommendation: Support.

Director Merritt moved, seconded by Director Alvey, to support **SJR 10-004**. Motion carried unanimously.

Ballot Issues:

Director Stavney moved, seconded by Director Alvey, to oppose Amendment 60, Amendment 61, and Proposition 101. Motion carried unanimously.

Federal Affairs:

Chris Treese reported that efforts are underway to secure appropriations for the Selenium Management Program in the Gunnison River Basin. The program is required by the recently issued Gunnison River Programmatic Biological Opinion. Mr. Treese also stated that the River District is continuing work to resolve issues surrounding the Ruedi Reservoir legislation to establish water released for the West Slope's half of the 10,825 a.f. commitment for endangered fish as non-reimbursable.

Water Quality Update.

Regulation 93 - Water Quality Control Commission:

Eric Kuhn referred the Board to a memo from Mike Eytel and Dave Kanzer outlining the River District's ongoing participation in the Water Quality Control Commission's (WQCC) hearings and the Water Quality Control Division (WQCD) workgroup meetings. Staff plans to participate in relevant water quality rulemaking hearings taking place in 2010.

Gunnison Basin PBO/Selenium Update:

Dave Kanzer related that the final Gunnison River Programmatic Biological Opinion (PBO) has been issued by the U. S. Fish & Wildlife Service. A key component of the PBO is the requirement for the implementation of a selenium management program. Elements of the program will include: reduction of non-point source selenium loading; water quality monitoring; selenium control projects for irrigated lands; and, public information and education.

Wolford Mountain Reservoir:

Mike Eytel reported that water quality data collection is continuing at Wolford Mountain Reservoir in an effort to have Wolford Mountain removed from the EPA's 303(d) list for dissolved oxygen. He also stated that the WQCD has proposed moving Wolford Mountain from the 303(d) list to the Monitoring and Evaluation list. This recommendation must be approved by the WQCC.

Discussion with Carol DeAngelis, U.S. Bureau of Reclamation,

Carol DeAngelis and Ed Warner outlined the Draft Environmental Impact Statement (EIS) for the reoperation of the Aspinall Unit for the benefit of endangered fish species in the Gunnison River. As with the Gunnison River Basin PBO, selenium reduction is a key element in the Aspinall Unit DEIS. Ms. DeAngelis also expressed the Bureau's appreciation to the River District for its participation in both processes and its continuing assistance to obtain funding for the selenium management program.

Annual Policy Discussion.

Eric Kuhn provided an overview of the policy review process. In 2004, the Board chose to formalize the development and review processes of River District policies. Roughly one-third of the policies are now reviewed by the Board annually.

Water Quality:

By consensus, staff was directed to research the benefits and detriments of incorporating selenium control under the Upper Colorado River Recovery Program from a District policy perspective.

Endangered Species Act and Upper Colorado River Recovery Program:

By consensus, staff was directed to add the phrase “on the Western Slope” after the word “development” in the first bullet under Background and Discussion.

Recreational Water Uses:

By consensus, staff was directed to move the following two sentences from the Policy Statement to the Background and Discussion section: “Recreational use and aesthetic enjoyment of the state’s water are integral to western Colorado’s lifestyles and economy” and “Recreation is a recognized beneficial use of the state’s waters.”

Directors’ Concerns.

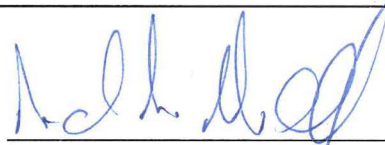
No director concerns were expressed.

Future Meetings,

- a. Special Meeting Conference Calls During Legislative Session, **beginning February 4, 2010. (Every other Thursday at noon).**
- b. Executive Committee Meeting, **March 11, 2010, Glenwood Springs, CO.**
- c. Second Regular Quarterly Meetings, **April 20-21, 2010, Glenwood Springs, CO.**
- d. Four Basin Roundtables/Southwestern Water Conservation District Meeting, **mid-May 2010?, Montrose CO.**
- e. Third Regular Quarterly Meetings, **July 20-21, 2010, Glenwood Springs, CO.**
- f. CRWCD 2011 Budget Workshop, **September 15, 2010, Grand Junction, CO.**
- g. CRWCD Water Seminar, **September 16, 2010, Grand Junction, CO.**
- h. Fourth Regular Quarterly Meetings, **October 19-20, 2010, Glenwood Springs, CO.**
 - i. Other Meetings:
 - i. CWC Annual Convention, **January 27-29, 2010, Denver, CO.**
 - ii. Western State Water Workshop, **July 21-23, 2010, Gunnison, CO.(Tentative).**
 - iii. CWC Summer Convention, **August 26-27, 2010, Vail, CO.**
 - iv. CRWUA Convention, **December 15-17, 2010, Las Vegas, NV.**

Adjourn.

There being no further business before the Board, President Mueller adjourned the meeting at 11:53 a.m.



Andrew A. Mueller, President

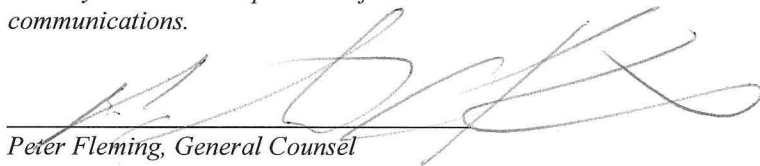
ATTEST:



R. Eric Kuhn, Secretary/General Manager

Executive Session Attestations.

I hereby attest that the portions of the Executive Session that were not recorded constituted privileged attorney-client communications.



Peter Fleming, General Counsel