

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

April 20-21, 2010

Pursuant to notice duly and properly given, the Second Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, April 20-21, 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
John Currier, Chief Engineer, CRWCD
Laurie DePaolo, Business Support Specialist, 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
Audrey Hughes, Human Resources Specialist, CRWCD
Denise Hussain, Records Specialist, CRWCD
Kem Davidson, Dam Operator, CRWCD
Keri Wagstrom, Administrative Assistant, CRWCD
Jim Lochhead, Brownstein, Hyatt & Farber, P.C.
Jim Martin, Colorado Department of Natural Resources
Alexandra Davis, Colorado Department of Natural Resources

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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.

Pam Roth, Williams Exploration and Production
Shane Henry, Williams Exploration and Production
Sam Potter, West Divide Water Conservancy District
Ed Olzwseski, Massih & Morris
David Brown, USGS
Kerry Sundeen, Grand River Consulting
Tyler Benton, Grand River Consulting
Craig Ullman, Applegate Group
Judy Sappington, Morrisania Water Supply Company
Mary Anderson, Morrisania Water Supply Company
Alden Vanderbrink, Town of Rangely
Peter Brixius, Town of Rangely
Mike Drake, Painted Sky Resource Council and Development
Dave Sturges, City of Glenwood Springs
Tresi Houpt, Garfield County Commissioner

Quorum.

President Mueller found a quorum and called the meeting to order at 9:03 a.m.

Review and Approve Agenda and Meeting Objectives.

Peter Fleming requested the following additions to the agenda: 1) New Proposal for Designation of Non-Tributary Groundwater in Niobrara Formation-Grand County as agenda item 3.b. v. 2) Authorization and Participatory Funding of Compact Water Bank/WaterSMART Grant Application as agenda item 10.d. 3) Discussion of Yampa River Wild and Scenic Process as agenda item 3.a.vii.; and, 4) Update on Multi-District Litigation Committee Ruling on the Applications of Busk-Ivanhoe, Inc., Case No. 09CW186, Water Division 5 and Case No. 09CW272, Water Division 1 as agenda item 3. a. viii. Director Stavney moved, seconded by Director Mathis, to approve the agenda as amended. Motion carried unanimously.

Consent Agenda.

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

Approval of Minutes and Actions Taken:

- a. Minutes of First Regular Quarterly Meeting, January 19-20, 2010.
- b. Minutes of Information and Outreach Committee Meeting, January 20, 2010.
- c. Minutes of Special Joint Meeting, Telephone Conference, February 2, 2010.
- d. Minutes of Executive Committee Meeting, March 11, 2010.
- e. Minutes of Special Joint Meeting, Telephone Conference, March 18, 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, including:
 - (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 Firing Project and Upper Colorado Stream Flow Management.
- iii. Green Mountain Reservoir Administrative Fill and Climax C.A. 1710 Priority Issues.
- iv. Colorado River Wild and Scenic Stakeholders Group Proposal for Alternative Management Plan.
- v. Colorado River District Project Development.
- vi. Proposed Transfer of Property for OMID Efficiency Project.
- vii. Discussion of Yampa River Wild and Scenic Process.
- viii. Update on Multi-District Litigation Committee Ruling on the applications of Busk-Ivanhoe, Inc., Case No. 09CW186, Water Division 5 and Case No. 09CW272, Water Division 1.

Director Mathis moved, seconded by Director Nelson, 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 11:39 a.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: agenda items 3a.i.-3a.v. Mr. Fleming also requested that the Board reconvene into Executive Session during the afternoon portion of the meeting to address agenda items 3.a.vi.-3.a.viii.

- i. Colorado River Basin Proposal, Blue River Decree and Moffat System Issues, including:
 - (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.
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- v. Colorado River District Project Development.
- vi. Proposed Transfer of Property for OMID Efficiency Project.
- vii. Discussion of Yampa River Wild and Scenic Process.
- viii. Update on Multi-District Litigation Committee Ruling on the applications of Busk-Ivanhoe, Inc., Case No. 09CW186, Water Division 5 and Case No. 09CW272, Water Division 1.

Ratification of Statements of Opposition:

Director Mathis moved, seconded by Director Trampe, to ratify the following statements of opposition. Motion carried unanimously.

Statements of Opposition in Applications of the Fremont Pass Ditch Co., Case Nos. 09CW187 and 09CW188, Water Division 5, 09CW143, Water Division 2, and 09CW278, Water Division 1.

Director Ely moved, seconded by Director Proctor, to ratify the following statements of opposition. Motion carried unanimously.

Statements of Opposition in Applications of Busk-Ivanhoe, Inc., Case Nos. 09CW186, Water Division 5, 09CW142, Water Division 2, and 09CW272, Water Division 1.

Discussion with West Divide Water Conservancy District (West Divide):

Sam Potter, Board President, expressed West Divide's appreciation for the River District's assistance in analyzing project components of the West Divide Project. The analysis is being done in conjunction with West Divide on conditional water rights connected with the project that are held by the River District.

Discussion of Other Items in General Counsel's Report:

Jason Turner reported that EOG Resources, Inc. (EOG) has petitioned the State Engineer for a determination of nontributary ground water pursuant to the recently promulgated Produced Nontributary Ground Water Rules for six wells in the Niobrara formation located in Jackson and Grand Counties. The concerns that have arisen regarding the petition are that the designation of such a large area (60 miles long, 30 miles wide) may require an amendment to the ground water rules, not just an adjudication. Additionally, the engineering report provided by EOG raises questions about whether the technical information is sufficient to meet the applicable burden of proof to delineate the entire area as nontributary. Director Merritt, moved, seconded by Director Proctor, to authorize staff to file comments with the State Engineer's Office regarding the EOG petition, and request a hearing of the State Engineer's initial determination, if necessary. Motion carried unanimously.

Discussion with Jim Martin and Alexandra Davis, Colorado Department of Natural Resources (DNR).

Jim Martin reported that the ongoing state budget issues are a high priority within DNR and noted that while there are signs of an economic recovery, the state budget will continue to be impacted through 2012. Mr. Martin also noted that the draft of phase I of the Colorado River Water Availability Study has been published for review and comment. President Mueller expressed the River District's appreciation to the CWCB for its efforts in coordinating the study.

A discussion ensued with Alex Davis on topics ranging from protecting pre-1922 Colorado River Compact water rights from being abandoned, to the potential damage to the West Slope if a Flaming Gorge pipeline project were to be built, and making the water court system more efficient. Concerns expressed by the Board included the possibility of a compact curtailment being triggered by a Flaming Gorge pipeline due to the sheer volume of water being sent to the Front Range, with the West Slope bearing the brunt of a curtailment.

Presentation by Williams Exploration and Production.

Shane Henry and Pam Roth gave an overview of Williams Exploration and Production's Colorado operation. They reported that Williams has approximately 3,500 wells in operation making it the largest natural gas producer in the state. Ms. Roth also relayed that Williams has recently become active in legislative issues as well as recycling and reuse of water at well sites, thereby reducing the need for fresh water sources and reducing truck traffic for transporting water.

Approval of Treasurer's Reports.

Director Stavney moved, seconded by Director Hazard, to approve the treasurer's reports for December 2009, January and February 2010. Motion carried unanimously.

Service Anniversary Recognition.

Eric Kuhn expressed the River District's appreciation to Kem Davidson for her years of service at the River District.

Annual Policy Discussion.

Water Quality:

After extensive discussion, Director Sharp moved, seconded by Director Trampe to table further discussion of the proposed policy changes until the July quarterly board meeting and directed staff to incorporate additional modifications discussed by the Board to the policy. Motion carried unanimously.

Endangered Species Act and Upper Colorado River Recovery Program:

Director Sharp moved, seconded by Director Trampe, to approve the policy as presented with the exclusion of any language referring to water quality in connection with the Recovery Program.

After further discussion, Director Sharp withdrew the motion and offered a substitute motion, seconded by Director Trampe, to table further discussion of the proposed policy changes until the July quarterly meeting and directed staff to incorporate additional modifications discussed by the Board. Motion carried unanimously.

Recreational Water Uses:

Director Merritt moved, seconded by Director Stavney, to adopt the policy as presented. Motion carried unanimously.

External Affairs.

Information and Outreach Update:

Jim Pokrandt directed the Board's attention to the 2009 CRWCD Annual Report which will be mailed to approximately 600 interested parties and distributed throughout the year at various events. Mr. Pokrandt also noted that the second annual Water Camp will be held in May at the Keystone Science School. In addition, the River District will be sponsoring five State of the River meetings throughout the District.

Director Merritt moved, seconded by Director Nelson, to approve a continuing services agreement with Ajax Design for video and graphic design services in an amount not to exceed \$100,000 per year, for a period of four years. Motion carried unanimously.

State Affairs:

House Concurrent Resolution 10-1003: SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO ARTICLE X OF CONSTITUTION OF THE STATE OF COLORADO.

Recommendation: Amend to Protect SB-09-165 Funding or Oppose Completely.

Chris Treese reported that this proposal, if approved by two-thirds of both houses of the General Assembly, would be placed on the November 2010 ballot. The amendment would create a "rainy day" fund to be tapped during economic downturns, and would be funded by severance tax revenues up to \$25 million per year, when such revenues exceed \$50 million a year. Mr. Treese reported the amendment would effectively repeal SB-09-165 which provides grants to small communities for water and wastewater treatment improvements and is funded in the same manner.

Director Alvey moved, seconded by Director Proctor, to oppose **HCR-10-1003**. Motion carried 8:5. Directors voting for the motion: Alvey, Stavney, Merritt, Newberry, Proctor, Mathis, Nelson and Martinez. Directors voting against the motion: Trampe, Gray, Dewey, Hazard and Sharp.

2010 Proposed Ballot Initiatives:

Martha Moore reported that there are currently 24 proposed "River Access" ballot initiatives for the November 2010 election. Hearings will be held on April 21st by the Title Setting Board to set the titles and summaries for each of the proposals. Ms Moore noted that proponents are unlikely to pursue signature gathering on all 24 proposals, but there's no way to predict which, if any, proponents favor. She further noted that a clearer picture will develop by the July board meeting and an update will be provided then.

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. Appropriations are being separately sought for a statewide selenium study. 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 in the 15 Mile Reach are non-reimbursable.

General Counsel's Report - Executive Session, (Cont'd.).

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):

- vi. Proposed Transfer of Property for OMID Efficiency Project.
- vii. Discussion of Yampa River Wild and Scenic Process.
- viii. Update on Multi-District Litigation Committee Ruling on the applications of Busk-Ivanhoe, Inc., Case No. 09CW186, Water Division 5 and Case No. 09CW272, Water Division 1.

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

President Mueller adjourned the meeting at 4:52 p.m.

Wednesday, April 21, 2010

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

President Mueller reconvened into Public Session at 8:33 a.m.

General Counsel's Report - Public Session, (Cont'd.).

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

- vi. Proposed Transfer of Property for OMID Efficiency Project.
- vii. Discussion of Yampa River Wild and Scenic Process.
- viii. Update on Multi-District Litigation Committee Ruling on the applications of Busk-Ivanhoe, Inc., Case No. 09CW186, Water Division 5 and Case No. 09CW272, Water Division 1.

Director Gray moved, seconded by Director Sharp, to authorize counsel and staff to file a protest within the appropriate time frame, in the event the BLM issues a finding of Wild and Scenic suitability on stream segments of the Yampa River under review. Motion carried unanimously.

Director Merritt moved, seconded by Director Hazard, to authorize counsel and staff to file a petition to the Colorado Supreme Court requesting that the Court review the decision made by the Multi-District Litigation Committee in the matter of Busk-Ivanhoe, Inc., Case Nos. 09CW186, Water Division 5, 09CW142, Water Division 2, and 09CW272, Water Division 1. Motion carried unanimously.

General Manager's Report.

HB-1177/Roundtables/IBCC Update:

Eric Kuhn relayed that the IBCC is currently examining several different water supply scenarios ranging from a high supply/low demand to low supply/high demand with future water management planning in mind. He also noted that a West Slope Roundtables meeting of all four Colorado River roundtables will be held in Grand Junction on May 10, 2010.

Colorado River Water Availability Study (CRWAS):

Mr. Kuhn reported that the draft phase I of the CRWAS has been published for review and comment. He went on to summarize the study results as follows: 1) There is a large variance (broad range) in the results. 2) Generally, the impacts of climate change are more significant on the southern tributaries than on the northern tributaries; and, 3) generally, winter precipitation will increase and summer precipitation will decrease with greater temperature increases in the southern part of the state and at lower elevations.

Colorado River Interstate Issues/Basin-Wide Hydrology Update:

Mr. Kuhn noted that the April-July inflow to Lake Powell is predicted to be 63% of normal, while inflow to Flaming Gorge Reservoir is predicted to be at an all-time low at 43%.

Update on Water Bank Pilot Project/Compact Water Bank/WaterSMART Grant:

Dan Birch reported that the River District has been working with several entities including the Southwestern Water Conservation District (Southwest) and the Nature Conservancy to develop a Compact Water Bank. Furtherance of this "banking" concept may be aided by a WaterSMART grant from the Bureau of Reclamation. Southwest is in the process of applying for the grant with the River District, CWCB, and the Nature Conservancy identified as partners.

Director Merritt moved, seconded by Director Mathis, to authorize staff to participate in the grant application process for a WaterSMART grant in an amount up to \$300,000 and to provide technical support, and a cash match in an amount not to exceed \$75,000. Motion carried unanimously.

OMID Project Update:

Mr. Birch relayed that the Bureau of Reclamation has begun implementation of the OMID Water Efficiency Project by holding a public scoping and beginning the design engineering.

Presentation of 2009 CRWCD Audit by Kevin Smith of McGladrey & Pullen, LLC.

Mr. Smith stated that in the opinion of McGladrey & Pullen LLP, the River District's financial statements

presented fairly, in all material respects, as of December 31, 2009. Director Mathis moved, seconded by Director Proctor, to accept the 2009 CRWCD audit. Motion carried unanimously.

Executive Committee Report.

Dave Kanzer reported that the recently revamped grants program that now combines both large grants (greater than \$15,000) and small grants (less than \$15,000), received a total of 39 grant applications with 11 applications being recommended by staff (3 large grants and 8 small grants). Mr. Kanzer also reviewed the criteria used by staff to review applications, which include appropriateness of the project; project description; budget; funding; technical adequacy; and project effectiveness. Pursuant to the Board's request, priority is given to projects that utilize and/or preserve pre-1922 Colorado River Compact water rights. Director Dewey moved, seconded by Director Nelson, to approve the list of grant applications as recommended by the Executive Committee and staff. Motion carried unanimously. (A list of the grant applications is attached as Appendix A.).

A discussion ensued regarding issues surrounding the Grants Program including more emphasis being placed on projects that utilize pre-1922 Colorado River Compact water rights, the pros and cons of funding studies as opposed to "earth moving" projects, and the geographic distribution of grants throughout the River District.

Wild and Scenic Stakeholders Process on the Uncompahgre and Lower Colorado River.

Chris Treese reported that the River District is continuing to participate with other stakeholders in the development of alternative management plans in Wild & Scenic determination processes being conducted by the Bureau of Land Management (BLM) on stream segments in the lower Colorado as well as the lower Gunnison and lower Dolores Rivers. Mr. Treese also related that a Wild & Scenic process is being initiated by the BLM's Uncompahgre Field Office. The Board concurred that the River District offer assistance to the Uncompahgre Field Office by convening a stakeholders group similar to those organized for the Yampa and Upper and Lower Colorado River efforts.

Directors' Concerns.

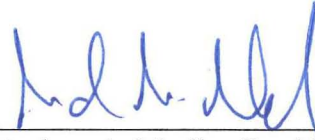
Director Sharp requested that staff prepare an analysis of the District's funding for the USGS stream gaging program to be presented at the CRWCD budget workshop on September 15, 2010.

Future Meetings.

- a. Four Basin Roundtables Meeting, **May 10, 2010, Grand Junction, CO.**
- b. Third Regular Quarterly Meetings, **July 20-21, 2010, Glenwood Springs, CO.**
- c. CRWCD 2011 Budget Workshop, **September 15, 2010, Grand Junction, CO.**
- d. CRWCD Water Seminar, **September 16, 2010, Grand Junction, CO.**
- e. Fourth Regular Quarterly Meetings, **October 19-20, 2010, Glenwood Springs, CO.**
- f. Other Meetings:
 - i. Western State Water Workshop, **July 21-23, 2010, Gunnison, CO.**
 - ii. CWC Summer Convention, **August 26-27, 2010, Vail, CO.**
 - iii. CRWUA Convention, **December 15-17, 2010, Las Vegas, NV.**

Adjourn.

There being no further business before the Board, President Mueller adjourned the meeting at 10:34 a.m.



Andrew A. Mueller, President

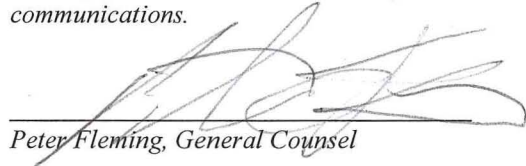
ATTEST:



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

