

MINUTES¹

SPECIAL JOINT MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO RIVER WATER CONSERVATION DISTRICT AND OF THE COLORADO RIVER WATER CONSERVATION DISTRICT ACTING BY AND THROUGH ITS COLORADO RIVER WATER PROJECTS ENTERPRISE

February 4, 2011

Pursuant to notice duly and properly given, a special joint meeting telephone conference of the Board of Directors of the Colorado River Water Conservation District (CRWCD) and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise was held on Friday, February 4, 2011, at the offices of the Colorado River Water Conservation District, 201 Centennial Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

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|--------------------------------|-------------------|
| James Newberry, Vice-President | Andrew A. Mueller |
| Steven Acquafresca | Gary Martinez |
| Tom Alvey | Stephen M. Mathis |
| Warner Dewey | David H. Merritt |
| John Ely | Forrest F. Nelson |
| Tom Gray | Jon Stavney |
| Rebie Hazard | William S. Trampe |

Directors not participating:

Thomas R. Sharp, President

Others participating during all or part of the meeting:

Eric Kuhn, General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
John Currier, Chief Engineer, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Jim Pokrandt, Communication & Education Specialist, CRWCD
Ray Tenney, Senior Water Resources Engineer, CRWCD
Jason Turner, Associate Counsel, CRWCD
Representative Randy Fischer, Colorado State House of Representatives
Shanna Koenig, Water Quality/Quantity Committee, Northwest Colorado Council of Governments
Laura Locke, Corporate Advocates, Inc.
Danny Williams, Corporate Advocates, Inc.

Quorum.

Vice-President Newberry found a quorum and called the meeting to order at 12:05 p.m.

¹ 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.

External Affairs.

State Issues:

Bills for Action

HB 1068 CONCERNING THE STATE ENGINEER'S AUTHORITY TO APPROVE TEMPORARY AGRICULTURAL WATER TRANSFER AGREEMENTS

This bill is intended to facilitate administration of the "Super Ditch" in the lower Arkansas basin. It provides for state engineer's approval of "temporary" agriculture water transfer agreements of up to 40 years, with a renewal of a second 40-year term. The water court would not be involved in the change case unless the State Engineer's ruling on the application is appealed. Benefits of the bill would be a reduced transaction cost to the requisite changes of water rights to implement the Super Ditch. Provisions of the bill are largely modeled on the Interruptible Supply bill passed in 2003. HB 1068, as introduced, applies only to the lower Ark valley; however, the bill title does not guarantee that limitation.

Board discussion of technical aspects included the provisions that rotating fallowing can only be used for 1/3 of the years of the 40-year contract term or 1/3 of the acreage. Therefore, fallowing the first 13 years in succession could occur and would not require a court filing thus avoiding the transactions costs which are often prohibitive. Expressed concerns included potential agricultural dry-up.

Representative Fischer stated that he was working on amendments.

Director Merritt moved, seconded by Director Dewey to **AMEND HB 1068 to address technical issues.** Motion carried unanimously.

HB 1083 CONCERNING THE CONSIDERATION OF NEW HYDROELECTRICITY PROJECTS, AND, IN CONNECTION THEREWITH, ALLOWING THE PUBLIC UTILITIES COMMISSION TO CONSIDER HYDROELECTRICITY AND PUMPED HYDROELECTRICITY FOR THE GENERATION OF ELECTRICITY

The bill adds hydroelectricity and pumped hydroelectricity to the list of technologies that the PUC may give the fullest possible consideration when considering generation acquisitions for electric utilities.

Director Gray moved, seconded by Director Dewey to **SUPPORT HB 1083.** Motion carried unanimously.

HB 1115 CONCERNING THE PAYMENT OF RETAINAGE IN CONSTRUCTION CONTRACTS INVOLVING PUBLIC ENTITIES

This bill reduces the maximum amount of retainage that a project owner can hold back from the current initial 10 percent to 5 percent of the contract amount. The bill also requires a release of retainage within 45 days of the end of a project or of any section of the project certified for occupancy. This affects our ability to ensure construction work has been completed. This bill applies exclusively to state and local governments.

Director Stavney moved, seconded by Director Merritt to **OPPOSE HB 1115.** Motion carried unanimously.

HB 1123 CONCERNING A PROHIBITION ON TRANSFERS TO THE STATE GENERAL FUND FROM CASH FUNDS THAT HAVE REVENUE RELATED TO THE SEVERANCE OF MINERALS IN THE STATE

HB 1123 is nearly identical to SB 035, which is currently in the Senate State, Veterans & Military Affairs and not expected to survive the committee. In the past two years, the state has backfilled its budget with nearly \$106 million that would have otherwise gone to energy-impacted local governments to deal with vital infrastructure and service demands created by the extraction industries. Over \$175 million has been

transferred from the Colorado Water Conservation Board (CWCB) cash funds since 2008. This bill would prevent the proposed FY 2011-12 transfers and future transfers.

Director Merritt moved, seconded by Director Alvey, to **SUPPORT HB 1123**. Motion carried unanimously.

HB 1150 CONCERNING ADDITIONAL REVENUES FOR WATER STORAGE PROJECTS

This bill would transfer \$5 million a year from Wildlife funds to the CWCB for water projects which support wildlife values. Although written to avoid losing federal funds, the US Fish & Wildlife Service already has stated the bill would trigger Colorado's loss of \$40 million in federal wildlife dollars.

Director Dewey moved, seconded by Director Hazard, to **OPPOSE HB 1150** unless federal dollars can be protected. Motion carried unanimously.

HB 1172 CONCERNING PROTECTION OF WATER QUALITY, AND, IN CONNECTION THEREWITH, REQUIRING THE COLORADO OIL AND GAS CONSERVATION COMMISSION (COGCC) AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT (DPEH) TO REVIEW THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S STUDY REGARDING HYDRAULIC FRACTURING FLUIDS AND REQUIRING THE COGCC TO REPORT TO THE GENERAL ASSEMBLY REGARDING COMPLAINTS ARISING FROM OIL AND GAS OPERATIONS

Board discussion concluded that this bill is unnecessary as review of the EPA study will undoubtedly be conducted and COGCC complaints are already public information.

Director Merritt moved, seconded by Director Trampe to **OPPOSE HB 1172**. Motion carried unanimously.

HB 1177 CONCERNING AN EXTENSION OF THE ABILITY TO MAKE VOLUNTARY CONTRIBUTIONS VIA INCOME TAX TO THE COLORADO HEALTHY RIVERS FUND

Extends the current sunset on the Colorado Healthy Rivers and Streams check off option on Colorado income tax forms.

Director Alvey moved, seconded by Director Nelson to **SUPPORT HB 1177**. Motion carried unanimously.

HB 1179 CONCERNING ON-SITE SEWAGE SYSTEMS (ISDS)

This is an extensive re-write of the current individual sewage disposal system (ISDS) statutes.

Director Trampe moved, seconded by Director Martinez to **MONITOR HB 1179**. Motion carried unanimously.

Bills for Information

Treese noted that the following bills include water-related issues or public policy issues potentially affecting the District. However, he recommends these bills need not be brought back to the Board at each meeting. Treese will monitor these but will not report on them unless Directors indicate more attention is deserved or substantive changes occur to the bills.

HB 1026 CONCERNING THE DESIGNATION OF STORM WATER MANAGEMENT SYSTEM ADMINISTRATORS

This bill places certain requirements on Storm Water systems regarding its Storm Water Manager. There is an amendment prepared to re-write the entire bill. The River District has contacted in-District utilities to determine interest and concerns.

HB 1165 CONCERNING AN INCREASE IN THE COMPENSATION THAT COUNTY TREASURERS CAN RECEIVE FOR COLLECTING CERTAIN WATER DISTRICT ASSESSMENTS

This bill would increase county treasurers' compensation for collecting assessments from drainage and irrigation districts to be identical to the compensation for analogous collection services provided to special districts.

SB 50 CONCERNING A REQUIREMENT THAT A CONDEMNING AUTHORITY PAY FAIR MARKET VALUE FOR LAND SUBJECT TO A CONSERVATION EASEMENT

If land that is subject to a conservation easement is condemned, the condemning authority must pay no less than fair market value notwithstanding the easement.

HJR 1008 CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

This resolution is the Annual Projects approval resolution for drinking water and wastewater infrastructure projects; it annually passes essentially without amendment. Treese recommended the Board adopt a position of **SUPPORT for HJR 1008** for the record, but noted that he would not include this resolution in future legislative report.

HB 1034 CONCERNING THE CREATION OF A PROTECT-OUR-RIVERS SPECIAL LICENSE PLATE FOR COLORADO TROUT UNLIMITED

This bill authorizes a custom, fund-raising Colorado license plate exclusively for Trout Unlimited.

HB 1066 CONCERNING THE REINFORCEMENT OF THE PROHIBITION ON GOVERNMENTAL TAKINGS OF CERTAIN TYPES OF PROPERTY WITHOUT PROVIDING PROCEDURAL DUE PROCESS TO THE PROPERTY OWNER

Prohibits governmental takings of livestock, airspace and seepage water rights without due process. This is motivated by the Pinon Canyon debate in Southeast Colorado.

HB 1070 CONCERNING THE PAYMENT OF PREVAILING COMPENSATION FOR WORKERS ON PUBLIC WORKS

This legislation has been postponed indefinitely by the House State, Veterans & Military Affairs Committee. It would have applied the federal Davis-Bacon "prevailing wages" requirement to all public sector projects that had any state funding.

HB 1141 CONCERNING AN ECONOMIC STIMULUS THROUGH A PROPERTY TAX EXEMPTION FOR BUSINESS PERSONAL PROPERTY

This is one of several bills expected this session designed to diminish business personal property tax revenue. HB 1141 exempts business personal property purchased during the calendar years 2012 and 2013 from ever being assessed for business personal property tax. It creates a significant reduction of property tax revenue for all levels of local government.

HB 1156 CONCERNING AN EXTENSION OF CONSERVATION DISTRICT GRANT FUNDING WITH SEVERANCE TAX REVENUES

This bill revises the sunset date for Conservation Districts to receive revenues from the severance tax trust fund to 2022.

HB 1158 CONCERNING SALES AND USE TAX EXEMPTIONS FOR THE SELL AND USE OF WOOD FROM TREES HARVESTED IN COLORADO

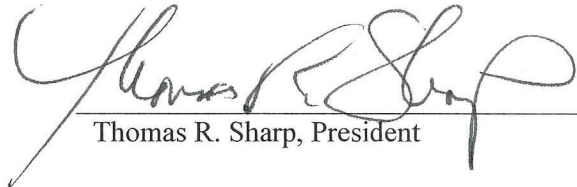
Wood and wood products from trees killed or infested by the mountain pine beetle are currently exempt from Colorado sales and use tax. The exemption expires on July 1, 2013. The bill specifies that the current exemption includes trees killed or infested in Colorado by the spruce beetle. Starting July 1 this of year, HB 1158 expands the sales and use tax exemption to include all wood and wood products from trees harvested in Colorado and extends the expiration of the current beetle-kill exemption to July 1, 2020.

SJR 005 CONCERNING A PROHIBITION ON MANDATES TO STATE AND LOCAL GOVERNMENTS WITHOUT ADEQUATE FUNDING

Calls on the federal government to “refrain from creating new unfunded mandates . . . on state and local governments.”


Adjourn.

There being no other business before the Board, Vice-President Newberry adjourned the meeting at 12:52 p.m.



Thomas R. Sharp, President

ATTEST:



R. Eric Kuhn, Secretary/General Manager