

## MINUTES<sup>1</sup>

### 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

March 16, 2011

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Pursuant to notice duly and properly given, a special telephone conference joint meeting 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 Wednesday, March 16, 2011, at the offices of the Colorado River Water Conservation District, 201 Centennial Street, Glenwood Springs, Colorado.

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#### **Directors participating during all or part of the meeting:**

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

#### **Directors not participating:**

Stephen M. Mathis

#### **Others participating during all or part of the meeting:**

Eric Kuhn, General Manager, CRWCD  
Peter Fleming, General Counsel, CRWCD  
Dan Birch, Deputy General Manager, CRWCD  
Chris Treese, Manager, External Affairs, CRWCD  
John Currier, Chief Engineer, CRWCD  
Dave Kanzer, Senior Water Resources Engineer, CRWCD  
Laurie DePaolo, Executive Assistant, CRWCD  
Martha Moore, Public Affairs Specialist, CRWCD  
Jim Pokrandt, Communication & Education Specialist, CRWCD  
Jason Turner, Associate Counsel, CRWCD  
Kent Holsinger, Holsinger Law, LLC  
Shanna Koenig, Water Quality/Quantity Committee, Northwest Colorado Council of Governments  
Laura Locke, Corporate Advocates, Inc.  
Danny Williams, Corporate Advocates, Inc.

#### **Quorum.**

President Sharp found a quorum and called the meeting to order at 12:00 p.m.

#### **External Affairs.**

#### **State Issues:**

#### **Bills for Action:**

**HB11-1274 CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND**

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<sup>1</sup> 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.

#### **MAKING APPROPRIATIONS IN CONNECTION THEREWITH**

Chris Treese noted that HB 1274 is also known as the annual projects bill and recommended support despite the fact that no water projects are included in this year's bill for funding.

Director Merritt moved, seconded by Director Stavney to **SUPPORT HB11-1274**. Motion carried unanimously.

#### **Historical Water Projects Bill**

Chris Treese noted that a bill was expected to be introduced conditioning how the Colorado Historical Society operates when considering designation of irrigation ditches and related infrastructure as historic and to place them on the register of historic properties. The Board provided direction to strictly control how such listings may occur and to ensure all interests in a property proposed for listing would be provided notice and opportunity to stop such listing.

#### **Office of State Engineer (OSE) Authority regarding Groundwater Determinations**

Chris Treese drew the board's attention to the draft bill that revisits a concern the River District had with early versions of related bills (HB09-1303 and SB10-165) concerning water well permitting related to oil and gas development. The State Engineer is concerned that as a result of protests to his rulemaking and decisions under the rules he may be faced with 36,000 permit applications and the shut-down of operating oil & gas wells until a permit is secured from DWR. River District staff is concerned with the burden shifting to objectors of the State Engineer's decision in the proposed bill.

The Board heard from Kent Holsinger representing the Colorado Oil & Gas Association regarding this bill. He expressed support for the bill and also raised the specter of producing wells being shut-in due to a possible adverse court ruling on protests.

Substantial discussion and debate ensued which led to the following motion:

Director Acquafresca moved, seconded by Director Gray to take a neutral position on the bill. Directors voting in favor of the motion: Acquafresca, Ely, Martinez, Merritt, Nelson, Gray and Stavney. Directors voting against the motion: Alvey, Dewey, Newberry, Trampe and Hazard. Motion passed.

#### **Native Species Conservation Fund**

Chris Treese noted that the bill authorizing expenditures from the Native Species Conservation Fund is expected to be introduced. Funds are expected for the 10,825 water requirement for the endangered fish and for Gunnison Basin Selenium remediation.

Director Merritt moved, seconded by Director Trampe to **support in concept the Native Species Conservation Fund bill**. Motion carried unanimously.

#### **General Counsel Informational Items.**

Ray Tenney described the reasons why staff was requesting a waiver of the River District's general contracting requirement for professional liability insurance (errors and omissions) for the expert panel reviewing URS' analyses and conclusions to date on the settlement issue at Ritschard Dam. The work of the expert panel is not intended to result in implementable actions by the River District. Staff believes any action implemented by the River District will be based on analyses, recommendations and designs by URS, in which case URS' insurance will provide the River District the required coverage.

Director Stavney moved, seconded by Director Merritt to waive the River District's general contracting requirement for professional liability insurance (errors and omissions) for the expert panel reviewing URS' analyses and conclusions on the settlement issue at Ritschard Dam. Motion carried unanimously.

**General Counsel Informational Items:**

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):

- a. Matters Proposed for Executive Session.
  - i. Colorado River Basin Proposal, Blue River Decree and Moffat System Issues.

Director Merritt moved, seconded by Director Mueller 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 Executive Session need be kept based on his opinion that the discussion will constitute privileged attorney-client communications.

*President Sharp reconvened into Public Session at 1:31 p.m.*

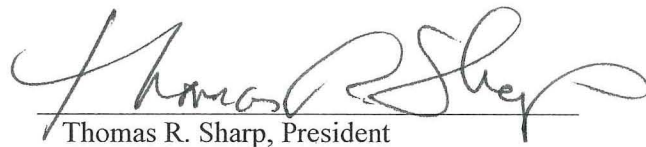
**General Counsel's Report - Public Session.**

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


- a. Matters Proposed for Executive Session.
  - i. Colorado River Basin Proposal, Blue River Decree and Moffat System Issues.

**Adjourn.**

There being no other business before the Board, President Sharp adjourned the meeting at 1:33 p.m.

  
Thomas R. Sharp, President

ATTEST:

  
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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.*

  
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Peter Fleming, General Counsel