

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

July 19, 2011

Pursuant to notice duly and properly given, the Third Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday July 19, 2011 at the Hotel Colorado, 526 Pine Street, Glenwood Springs, Colorado.

Directors present during all or part of the meeting:

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

Directors not present:

Steve Acquafresca	Tom Gray
Forrest F. Nelson	

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
John Currier, Chief Engineer, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
Jason Turner, Associate Counsel, CRWCD
Mary Kalmes, Senior Accountant/Administrative Chief, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Dave Kanzer, Senior Water Resources Engineer, CRWCD
Ray Tenney, Senior Water Resources Engineer, CRWCD
Don Meyer, Senior Water Resources Engineer, CRWCD
Mike Eytel, Water Resources Specialist, CRWCD
Dave Smith, Engineering Technician, CRWCD
Audrey Turner, Human Resources Specialist, CRWCD
Denise Hussain, Records Specialist, CRWCD
Jim Pokrandt, Communication and Education Specialist, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Ian Philips, Senior Accountant, CRWCD
Lorra Nichols, Paralegal, CRWCD
Alesha Frederick, Business Support Specialist, CRWCD
Lisa Wade, Intern, CRWCD
David C. Hallford, Balcomb & Green, P.C.

Chad Lee, Balcomb & Green, P.C.
Larry Sweeney, Colorado State Conservation Board
Alan Martellaro, Division 5 Engineer

Quorum.

President Sharp found a quorum and called the meeting to order at 9:10 a.m.

Review Agenda and Meeting Objectives.

By consensus, the Board accepted the agenda as presented.

Approval of Minutes and Actions Taken.

Jason Turner reported that an incomplete draft of the February 18, 2011 minutes was inadvertently included in the last Board packet and was approved at the prior quarterly meeting. The draft minutes were missing an action taken by the Board, and the Board currently has the correct version. Director Merritt moved, seconded by Director Mathis, to combine and approve agenda items 2. and 3.; Approval of Minutes and Actions taken at the Special Joint Meeting, Telephone Conference, February 18, 2011; Consent Agenda: Approval of Minutes and Actions Taken: Minutes of Second Regular Quarterly Meeting, April 19-20, 2011; and, Minutes of Information and Outreach Committee Meeting, April 20, 2011. Motion carried unanimously.

Financial Matters.

Acceptance of Treasurer's Reports and Check Registers for February, March, April and May 2011.

Director Alvey moved, seconded by Director Trampe, to accept the treasurer's reports and check registers for February, March, April and May 2011. Motion carried unanimously.

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):

Matters Proposed for Executive Session:

- i. Proposed Colorado River Cooperative Agreement- Implementation Issues.
- 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. 10,825 Proposed Agreements and Implementation Issues.
- v. Colorado River Wild and Scenic Stakeholders Group Proposal for Alternative Management Plan and Proposed CWCB Instream Flows.
- vi. Bluestone Project Water Rights Development.
- vii. River District Conditional Water Rights/Project Development.
- viii. River District Diligence Application for Rampart Reservoir, Second Fill, Case No. 10CW06, Water Division 6.
- ix. Colorado River Compact, Interstate and International Issues.
- x. Application of Busk-Ivanhoe, Inc., Case No. 09CW142, Water Division 2.

Director Mathis moved, seconded by Director Stavney, 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 the meeting into Public Session at 12:02 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 with the exception of agenda items 5. v., vi., and ix. which were not discussed:

- i. Proposed Colorado River Cooperative Agreement- Implementation Issues.
- ii. C-BT Project Operations, Windy Gap Firming Project and Upper Colorado Stream Flow Management.
- iii. Green Mountain Reservoir Administrative Fill and Climax C.A. 1710 Priority Issues.
- iv. 10,825 Proposed Agreements and Implementation Issues.
- v. Colorado River Wild and Scenic Stakeholders Group Proposal for Alternative Management Plan and Proposed CWCB Instream Flows.
- vi. Bluestone Project Water Rights Development.
- vii. River District Conditional Water Rights/Project Development.
- viii. River District Diligence Application for Rampart Reservoir, Second Fill, Case No. 10CW06, Water Division 6.
- ix. Colorado River Compact, Interstate and International Issues.
- x. Application of Busk-Ivanhoe, Inc., Case No. 09CW142, Water Division 2.

Mr. Fleming also reported that he was not present during the discussion of agenda item 5.x. He also relayed that the Board invited Special Counsel David Hallford and Chad Lee to participate in a portion of Executive Session.

Director Merritt moved, seconded by Director Alvey, to delegate to the Litigation Committee future litigation direction on the River District Diligence Application (Rampart Reservoir Second Fill), Case No. 10CW6, Water Division 6. Motion carried unanimously.

Mr. Fleming updated the Board on recent Colorado Supreme Court decisions that impact change of water rights proceedings, reservoir operations, new conditional water rights applications, and filings to make conditional water rights absolute.

Director Mueller moved, seconded by Director Trampe, to approve the proposed revision to section 2.12 of the River District's Employment Policies and Procedural Guidelines as presented. Motion carried unanimously.

It was reported that the Wild and Scenic Stakeholders' Group had reached agreement on a Wild and Scenic Alternative Management Plan for the Upper Colorado River including proposed instream flows. The Colorado Water Conservation Board (CWCB) noticed its intent to appropriate instream flows in the amounts recommended by the management plan. The Board expressed its appreciation to Peter Fleming for his efforts in bringing the process to a successful conclusion.

Director Martinez moved, seconded by Director Trampe, to ratify a Statement of Opposition in Application of Denver Water, Case No. 11CW21, Water Division 5. Motion carried unanimously.

Director Trampe moved, seconded by Director Alvey, to ratify a Statement of Opposition in Application of United States of America, Case No. 11CW31, Water Division 4. Motion carried unanimously.

Orchard Mesa Irrigation District (OMID) Efficiency Project Update.

Dan Birch reported that a land purchase contract with the Bureau of Reclamation (Reclamation) has been finalized for the OMID Efficiency Project and several other interrelated agreements are currently being drafted. The purpose of the project (which will be constructed by Reclamation) is to improve OMID's water delivery efficiency which will benefit water users as well as endangered fish species in the Colorado River.

Director Alvey moved, seconded by Director Stavney, to approve entering into a land purchase contract with the Bureau of Reclamation. Motion carried unanimously.

General Manager's Report.

Eric Kuhn reminded the Board that the CRWCD 2012 Budget Workshop is scheduled for September 14, 2011 in Grand Junction. He also noted that assessed valuations have decreased throughout most of the District which will have a direct effect on property tax revenues the District receives.

Colorado River Water Supply Issues:

Mr. Kuhn provided an overview of Colorado River studies that are currently underway. The CWCB-sponsored Colorado Water Availability Study (CRWAS) draft Phase I report is being finalized by the CWCB. There is concern that Phase I did not adequately address risk factors that may lead to future shortages and did not fully consider implications of permitted projects or existing projects that are not currently operating at full demand. This could substantially reduce the amount of Colorado River water that Colorado has left to develop.

The Bureau of Reclamation, in cooperation with the seven basin states and consulting agencies, is preparing a study of the Colorado River with the goal of developing solutions to meet ever-increasing demands with limited water supplies. The study will factor in changes in hydrology and climate as well as increased municipal demands.

Flaming Gorge Task Force:

Dan Birch attended the initial Flaming Gorge Task Force meeting and reported that the participants agreed not to pursue a separate stakeholder process and rather to begin a dialogue through the Basin Roundtables. The River District has a number of concerns with a Flaming Gorge Pumpback including cost/ability to finance, need, whether and how the project would be subject to Colorado water rights administration and whether water is available under the compact for such a large project.

HB-1177 Roundtables/IBCC Update:

Eric Kuhn reported that focus and action is being shifted from the IBCC to the Roundtables to once again become a "bottom up" process of developing strategies for water development and management. At the IBCC, discussions about risk management issues have yet to occur, which is a vital component in creating a statewide vision of future water development.

Emergency Assistance to Others:

Director Stavney moved, seconded by Director Alvey, to appropriate \$50,000 from the Capital Fund's 2011 budget for emergency grants to assist constituents with emergency repairs due to the record flows during the

runoff. Any emergency grant must be made before October 18, 2011 and is subject to the General Manager's spending authority and verbal approval of the President. Motion carried unanimously.

Technical Staff Activities:

John Currier and Eric Kuhn reported that staff continues to be involved in the workgroup process for developing numerical nutrient criteria. One area of concern has been nonpoint source discharges which could impact agricultural producers. Participation would be voluntary by nonpoint source dischargers unless it is determined to be ineffective. The next step would be for the Water Quality Control Commission (WQCC) to adopt control regulations specific to agriculture. The WQCC has scheduled a Rulemaking Hearing for adoption of nutrient criteria in March 2012.

Service Anniversaries Recognition:

Peter Fleming expressed the River District's appreciation to Lorra Nichols for 10 years of service. Eric Kuhn relayed the District's appreciation to Dan Birch for 10 years of service, and Chris Treese for 20 years of service. President Sharp followed suit by expressing the District's appreciation to Eric Kuhn for 30 years of service.

External Affairs.

Information and Outreach Update:

An update on current activities was provided by Martha Moore. Those activities include completion of six State of the River meetings (an inaugural meeting was held this year in the Eagle River Basin), the rollout of the Colorado River Cooperative Agreement with Denver Water, and subsequent presentations to explain the proposed agreement to various civic groups and water organizations. Upcoming events include the annual CRWCD seminar in Grand Junction on September 15, 2011 as well as the H2O Outdoors Water Camp at the Keystone Science School on October 15-17, 2011.

State Affairs:

Chris Treese recapped the 2011 state legislative session that was once again dominated by budget issues, which will be ongoing in 2012. More transfers from the CWCB's water projects fund to the General Fund occurred in 2011, with more of the same expected next year. The Legislature failed to reach consensus on Congressional redistricting and the matter has been submitted to the courts. Water-related bills were not significant this year; however, the Interim Water Committee will be holding meetings this summer and fall, unlike last year when off-session committees were not funded.

Federal Affairs:

Mr. Treese reported on the following: 1) Significant proposed budget cuts for FY2012 for the Environmental Protection Agency (EPA) and the U.S. Forest Service; 2) Growing concerns regarding the EPA's guidance document on what constitutes "waters of the United States" as related to the application and reach of the Clean Water Act (The River District has historically taken the position that defining the "waters of the United States" is the responsibility of the Legislative branch of government, not the Executive or Judicial branch); 3) A bill introduced in the Senate to extend funding authorization for the Upper Colorado River and San Juan River Recovery Programs; and 4) Congressman Scott Tipton (R-CO) is planning legislation to remove the mainstem of the Colorado River from Grand Junction to the Utah border from further evaluation under the Wild & Scenic Rivers Act; this bill would also expand the boundaries of the Black Ridge Wilderness Area while excluding the Colorado River.

Annual Policy Discussion.

Colorado River Compact:

Director Mathis moved, seconded by Director Dewey, to adopt the Colorado River Compact Policy with the deletion of the language “however, ambiguities and potential inconsistencies,” to be replaced with “disputes about the interpretation of” in the first sentence of paragraph 4 of the Background and Discussion section. Motion carried unanimously.

Colorado’s Allocation of Remaining Colorado River Basin Water:

Director Staveny moved, seconded by Director Mathis, to adopt the Colorado’s Allocation of Remaining Colorado River Basin Water Policy with the deletion of the word “delivery” in the first sentence of paragraph 2 of the Background and Discussion section. Motion carried unanimously.

Interstate Water Marketing:

Director Dewey moved, seconded by Director Merritt, to adopt the Interstate Water Marketing Policy as presented. Motion carried unanimously.

Colorado River Storage Project Act:

Director Hazard moved, seconded by Director Dewey, to adopt the Colorado River Storage Project Act Policy with the deletion of the word “all” in the first paragraph of the policy statement, and deletion of the language “surcharge paid by power distributors for the” to be replaced with “rate calculation for” in the second sentence of the second paragraph of the Policy Statement section. Motion carried unanimously.

Transmountain Diversions:

Director Mueller moved, seconded by Director Trampe, to adopt the Transmountain Diversions Policy with the following changes: Change “Colorado River Basin Proposal” to “proposed Colorado River Cooperative Agreement” in the 3rd bullet point on page; deletion of the last paragraph of the Background and Discussion section of the policy; and, deletion of the phrase “resued to their fullest legal extent” and replaced with “fully reused to extinction” in paragraph 4 of the Policy Statement. Motion carried unanimously.

Directors’ Concerns.

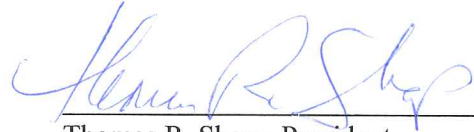
Staff was directed to locate another possible meeting venue for future quarterly meetings.

Future Meetings.

- a. Special Joint Meeting with Colorado Water Conservation Board, **September 14, 2011, Grand Junction, CO.**
- b. CRWCD 2012 Budget Workshop, **September 14, 2011, Grand Junction, CO.**
- c. CRWCD Water Seminar, **September 15, 2011, Grand Junction, CO.**
- d. Fourth Regular Quarterly Meetings, **October 18-19, 2011, Glenwood Springs, CO.**
- e. Other Meetings:
 - i. Western State Water Workshop, **July 20-22, 2011 Gunnison, CO.**
 - ii. CWC Summer Convention, **August 24-26, 2011, Steamboat Springs, CO.**
 - iii. CRWUA Convention, **December 14-16, 2011, Las Vegas, NV.**

Adjourn.

There being no further business before the Board, President Sharp adjourned the meeting at 4:05 p.m.

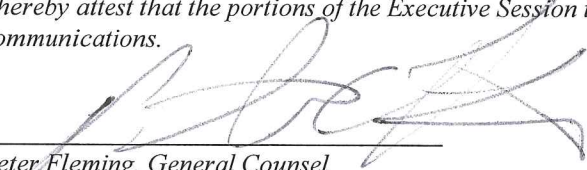

Thomas R. Sharp, President

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